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

## PROCEDURE ON CLOTURE MOTION TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the hour of 11 o'clock a.m. tomorrow, the 1 hour of debate on the motion to invoke cloture begin running.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

## PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at the hour of 10:30 a.m. tomorrow.

After the two leaders or their designees have been recognized under the standing order, the Senator from Minnesota (Mr. MONDALE) will be recognized for not to exceed 15 minutes.

Following the remarks by the Senator from Minnesota, the Senator from Florida (Mr. CHILES) will be recognized for not to exceed 10 minutes.

At the hour of 11 o'clock a.m. the Senate will resume the consideration of the unfinished business, S. 3044.

The time for debate on the motion to invoke cloture on S. 3044 will begin running at 11 o'clock a.m. Upon the expiration of 1 hour, the clerk will call the roll to establish a quorum.

Upon the establishment of a quorum, the Senate will vote by rollcall on the motion to invoke cloture. Therefore, the vote on the motion to invoke cloture will occur at about 12:15 p.m.

What will ensue thereafter will depend, of course, on the outcome of the motion to invoke cloture. If cloture is invoked, S. 3044 will be the unfinished business until it has been disposed of, with the exception of one item which I shall mention subsequently.

If the motion to invoke cloture fails, the Senate will then resume the consideration of amendments to S. 3044, with votes occurring during the afternoon.

In any event, at the hour of 2 o'clock p.m. tomorrow, the Senate will resume the consideration of the message from the House of Representatives on S. 1866. There will be a motion to concur in the House amendment to S. 1866, and there will be 30 minutes for debate on that motion. The distinguished majority leader has already secured the consent of the Senate that the yeas and nays may be ordered at any time thereon.

There will be a yea-and-nay vote on the motion to concur in the House amendment to S. 1866, and that vote will occur, if the full time of 30 minutes is taken, at about 2:30 p.m. tomorrow.

## ADJOURNMENT TO 10:30 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 previous order, that the Senate stand in adjournment until the hour of 10:30 a.m. tomorrow.

The motion was agreed to; and at 5:51 p.m. the Senate adjourned until tomorrow, Thursday, April 4, 1974, at 10:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate April 3, 1974:

INTERNATIONAL EXPOSITION ON THE ENVIRONMENT

James G. Critzer, of Washington, to be Commissioner for a Federal exhibit at the International Exposition on the Environment being held at Spokane, Wash., in 1974. (New position)

NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS

The following-named persons to be members of the Board of Directors of the National Corporation for Housing Partnerships for the terms indicated:

For the remainder of the term expiring October 27, 1974:

Henry F. Trione, of California, vice I. H. Hammerman II, resigned.

For the term expiring October 27, 1975:

Charles J. Urstadt, of New York, vice Walter James Hodges, term expired.

For the term expiring October 27, 1976:

Raymond Alexander Harris, of South Carolina, vice Ray A. Watt, term expired.

IN THE NAVY

Adm. Worth H. Bagley, U.S. Navy, for appointment as Vice Chief of Naval Operations pursuant to title 10, United States Code, section 5085, in the grade of admiral.

# HOUSE OF REPRESENTATIVES—*Wednesday, April 3, 1974*

The House met at 12 o'clock noon.

Rev. Mr. Charles A. Mallon, permanent deacon, St. Ambrose Church, Cheverly, Md., offered the following prayer:

*The Lord God has given me a well-trained tongue, that I might know how to speak to the weary a word that will rouse them.*—Isaiah 50: 4.

Almighty Father, bless this community of priests, prophets, and kings. As you begin Your daily work of renewal within each of them, help them to be reconciled to this calling.

Bring them to deeper understanding of this ministry of reconciliation which You have given each of them.

Father, grant to this body a holy and joyful acceptance of their individual and collective sufferings, frustrations, and defeats. Permit these hardships, Lord, to be counted among the redemptive sufferings of Your Son, our Lord, Jesus Christ, whose suffering continues to reconcile this Nation to You.

We trust, Lord, that this Nation and this body will continue to reflect the power of Your Holy Spirit, for we place ourselves as a nation subject to You and acknowledge that all glory and honor is Yours. 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 had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1017. An act to promote maximum Indian participation in the government and education of the Indian people; to provide for the full participation of Indian tribes in programs and services conducted by the Federal Government for Indians and to encourage the development of the human resources of the Indian people; to establish a program of assistance to upgrade Indian education; to support the right of Indian citizens to control their own educational activities; to train professionals in Indian education; to establish an Indian youth intern program; and for other purposes.

The message also announced that the Vice President, pursuant to Public Law 85–474, appointed Mr. GRIFFIN to attend the Interparliamentary Union Meeting to be held in Bucharest, Romania, April 15 to 20, 1974.

## THE REVEREND CHARLES A. MALLON

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

Mr. GREEN of Pennsylvania. Mr. Speaker, I rise to take just 1 minute to thank the Reverend Mr. Charles Mallon for delivering the opening prayer this morning. I have known the Reverend Mr. Mallon almost all of my life. His father was an administrative assistant to me and to my father in Philadelphia. Starting in 1949, Mr. Joseph Mallon served in our Philadelphia office until 1971. The Reverend Mr. Charles Mallon is also an employee of this House in the Sergeant at Arms' office and has been for 12 years.

Mr. Speaker, what we witnessed today was a very unique thing, because the Reverend Mr. Charles Mallon is a permanent deacon of the Catholic Church. The diaconate is a renewed ministry resulting from Pope John's convening of Vatican Council II.

This is the first time in the history of the House that a deacon of the Roman Catholic Church has ever given the opening prayer. The diaconate, as it was known in the early church, went out of practice or use about the year 423. Its renewal allows married lay Catholics the opportunity for a ministry. Deacons may baptize, marry, and preach. They may do everything a priest of the Roman Cath-

olic Church may do except celebrate Mass and hear confessions.

Reverend Mallon is now an assistant chaplain at the D.C. General Hospital on a part-time basis.

If I may be permitted a personal note I would like to extend my warmest personal wishes to his parents, Mr. and Mrs. Joseph Mallon, who are here today, to Charles' lovely wife, Arlene, his children, Charles, Colleen, Michael, and Mary Beth, who are on the floor today to witness this historic occasion.

Mr. Speaker, on behalf of the House I thank Mr. Mallon for his inspiring words this morning and note again the uniqueness of this occasion.

## MAKING IN ORDER CONSIDERATION OF CONFERENCE REPORT ON H.R. 12253, GENERAL EDUCATION PROVISIONS ACT AMENDMENTS, ON THURSDAY, APRIL 4, 1974

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that it be in order for the House to consider the conference report on H.R. 12253, to amend the General Education Provisions Act to provide that funds appropriated for applicable programs for fiscal year 1974 shall remain available during the succeeding fiscal year and that such funds for fiscal year 1973 shall remain available during fiscal years 1974 and 1975, on Thursday, April 4, 1974, since the report is unanimous.

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

There was no objection.

## CALL OF THE HOUSE

Mr. SCHERLE. 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 was taken by electronic device, and the following Members failed to respond:

[Roll No. 132]

| | | |
|---|---|---|
| Anderson, Ill. | Dorn | Patman |
| Badillo | Eckhardt | Pickle |
| Bevill | Esch | Poage |
| Biester | Fraser | Rees |
| Bingham | Frenzel | Reid |
| Blackburn | Gettys | Rooney, N.Y. |
| Blatnik | Gonzalez | Rosenthal |
| Brasco | Gray | Runnels |
| Broomfield | Hansen, Wash. | Ruppe |
| Buchanan | Hébert | Shriver |
| Camp | Heckler, Mass. | Smith, N.Y. |
| Carey, N.Y. | Hogan | Stark |
| Chisholm | Kastenmeier | Stephens |
| Clark | Kazen | Teague |
| Conlan | Kluczynski | Thompson, N.J. |
| Conyers | Lujan | White |
| Dellums | McKinney | Williams |
| Diggs | Mosher | Wolff |
| Dingell | Murphy, N.Y. | Wyatt |

The SPEAKER. On this rollcall 375 Members have recorded their presence by electronic device, a quorum.

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

## PERMISSION FOR COMMITTEE ON RULES TO HAVE UNTIL MIDNIGHT TO FILE CERTAIN PRIVILEGED REPORTS

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

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

There was no objection.

## PROVIDING FOR CONSIDERATION OF H.R. 13163, CONSUMER PROTECTION ACT OF 1974

Mr. LONG of Louisiana. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1025 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1025

*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 consideration of the bill (H.R. 13163) to establish a Consumer Protection Agency in order to secure within the Federal Government effective protection and representation of the interests of consumers, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed four hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Government Operations, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider as an amendment in the nature of a substitute for the bill the text of the bill H.R. 13810 as introduced in the House on March 28, 1974. At the conclusion of the consideration of the bill H.R. 13163 for amendment, 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 of the amendments adopted in the Committee of the Whole to the bill or to the 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 Louisiana (Mr. LONG) is recognized for 1 hour.

Mr. LONG of Louisiana. Mr. Speaker, I yield the usual 30 minutes to the minority Member, the distinguished gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1025 provides for an open rule with 4 hours of general debate on H.R. 13163, a bill to establish a Consumer Protection Agency.

House Resolution 1025 provides that it shall be in order to consider as an amendment in the nature of a substitute for the bill the text of the bill H.R. 13810 as introduced in the House on March 28, 1974.

The Consumer Protection Agency established by H.R. 13163 will be an independent agency within the executive branch of the Government, headed by an Administrator, who will be appointed by the President by and with the advice and consent of the Senate.

H.R. 13163 provides that the Consumer Protection Agency will have four principal roles: First, to represent the interests of consumers in proceedings and activities of Federal agencies; second, to receive and evaluate consumer complaints and to transmit them to the proper agencies; third, to gather, develop, and disseminate information relevant to consumer products, services, and problems; and fourth, to advise the Congress and the President on matters affecting the interests of consumers, and to recommend legislation needed to improve the operations of the Federal Government in the protection of the interests of consumers.

Mr. Speaker, I urge the adoption of House Resolution 1025 in order that we may discuss and debate H.R. 13163.

Mr. Speaker, I yield to the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Speaker, I think this is one of the more important bills the House will consider this session. We have been considering consumer agency legislation for quite some time and there has been considerable debate both pro and con. A number of questions have been raised relative to the various pieces of legislation. I think the bill this rule will make in order still needs considerable study by the House.

The purpose of H.R. 13163 is to establish an independent Consumer Protection Agency within the executive branch. The Agency is to be headed by an Administrator who is to be appointed by the President with Senate approval.

The functions of the Agency are the following: First, represent the interests of consumers before Federal agencies and courts; second, support research and testing leading to improved products; third, make recommendations to Congress and the President on consumer protection; fourth, inform consumers of matters of interest to them; fifth, conduct surveys on the problems of consumers; sixth, cooperate with State and local governments and private enterprise in protecting consumers; and seventh, keep the appropriate congressional committees informed.

In representing consumers, the Administrator may, of right, intervene as a party or otherwise participate in an Agency proceeding. He may institute or intervene as a party in a court proceeding involving judicial review of any Agency action affecting consumers. The administrator could act in court even where he did not participate in the Agency proceeding, unless this "would be detrimental to the interests of justice."

A number of amendments are going to be proposed. I am more than a little bit concerned about several features of this bill. The way this bill now stands this Agency, or representatives of this Agency, could practically tie this Government in knots and cause it to cease to function. I do not think we need an agency with such super power. This will be fully explained during debate.

Mr. Speaker, I think that the Members of the House should pay close attention to the debate on this legislation. I do not think this House gave adequate consideration to the legislation creating OSHA and EPA. I do not think I have to explain to the Members how these two agencies have on occasion needlessly injected

themselves into the proper functioning of this Government. We have all had these complaints. By creating this agency with the powers now in the bill, we will have complaints like we have not seen before.

The authority to support research particularly bothers me. The Consumer Protection Agency legislation previously before the Rules Committee placed an obligation on the Agency or the taxpayers to perfect the defects found in consumer goods. This was one of the reasons I opposed this legislation as I was concerned that the taxpayers might be picking up the tab for research on private products. I do not think the taxpayers want to get into perfecting defects found in private products.

Should there be something defective with a new automobile, I do not think it is the responsibility of the taxpayers of this Nation to support research to perfect that defect in order that General Motors, Ford, or Chrysler, or some of the other automobile manufacturers might reap greater profits. Research is a legitimate expense of private industry —not one to be passed on to the taxpayers.

Mr. Speaker, I think when this legislation is debated and we get into the 5-minute rule, that proper amendments should be adopted to protect our taxpayers from picking up the costs for private research. The way the legislation reads at present, I am fearful that they might have to do exactly that.

Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, the rule providing for the consideration of H.R. 13163 recognizes an amendment in the nature of a substitute which I intend to offer at the appropriate time.

At this point, I should like to outline briefly my alternative bill, so that it may be kept in mind during the general debate on this most important and timely legislation.

The substitute bill to create a Consumer Protection Agency is, with the exception of seven differences, exactly the same as the bill reported by the Government Operations Committee.

Five of these differences originated as amendments sent to the committee by the White House as necessary for administration support. I should note briefly that, in the spirit of compromise, the administration supported the compromise CPA bill passed by this body during the last Congress, only to find that compromise seriously compromised in committee this Congress.

The remaining two differences originated as amendments which my good friend and colleague DON FUQUA and I offered in subcommittee and which were also offered in full committee. These two amendments were considerably liberalized versions of unsuccessful amendments offered by us on the floor during the debate on this subject during the 92d Congress. We also saw the need to compromise and make our amendments stronger.

I hasten to point out that all these amendments which now form the substitute were defeated during the committee process, but not necessarily knowingly rejected. Many amendments were defeated at both subcommittee and full committee levels by the most extensive use of general proxy voting I have seen in all my years in the House.

At one point it got so bad that almost one half of the committee membership was being voted by proxy.[1]

My alternative CPA bill, therefore, is offered in this chamber where it cannot be preyed upon by proxies. The seven differences, in brief, are as follows, the first five having originated as the Administration's amendments:

First. The exemptions section of the Brown substitute and the Holified-Rosenthal bill differ in two respects. My bill will not exclude from CPA advocacy and appeal major interests or organized labor, as would the Holifield-Rosenthal bill. My bill would also fully exempt the Departments of Defense and State from CPA intervention, while the Holifield-Rosenthal bill would only grant partial exemptions for these agencies.

Second. The Brown substitute would allow existing agencies to deny the CPA access to their criminal investigation files; while the Holifield-Rosenthal bill would force Federal agencies to produce such files for CPA review.

Third. The Brown substitute would allow existing Federal agencies to refuse any CPA requests for them to use their subpena power to get information only of interest to CPA; while the Holifield-Rosenthal bill would force existing agencies to use their subpena powers against individuals and companies which the CPA, alone, is investigating.

Fourth. The Brown bill would allow Federal agencies to refuse CPA access to trade secrets and confidential information which were voluntarily given to these agencies; while the Holifield-Rosenthal bill would force these agencies to disclose to the CPA virtually all such material given to the Federal Government in confidence.

Fifth. The Brown alternative would provide that the Justice Department would litigate court suits for the CPA, except where the Attorney General determines otherwise; while the Holifield-Rosenthal bill would require that the CPA hire and use its own trial lawyers.

Sixth. The Brown bill would allow the CPA to seek judicial review only of another agency's decisions where that agency refused to grant the CPA access to information to which the CPA has a right under the bill or where the CPA has been denied party status or any other CPA-requested opportunity to advocate consumer interests as provided in the bill. The Holifield-Rosenthal alternative would allow the CPA to seek judicial review of virtually any action, including inaction, of another agency, whether or not the CPA appeared before it.

Seventh. And finally, the Brown bill would not allow the CPA to become a party with equal rights to an agency prosecutor in that very small number of Federal adjudications in which a person, who has been formally charged with a violation of law, is being prosecuted before a Federal agency. The Holifield-Rosenthal alternative would allow the CPA to be such a second prosecutor in most such situations, limiting the CPA's right to party status only where the forum agency, itself, directly imposes a fine or a forfeiture upon a person found guilty.

Mr. Speaker, these are the seven differences between the Brown bill and the Holifield-Rosenthal bill, explained in the briefest terms. Seven differences, each one rather small, but in total providing for, I think, a more responsible new CPA. I shall explain these differences and their rationale at greater length during the general debate.

Mr. ASHBROOK. Will the gentleman yield?

Mr. BROWN of Ohio. I am glad to yield to my colleague from Ohio.

Mr. ASHBROOK. I certainly wish to commend the gentleman for bringing this matter to the attention of the House.

While the gentleman might be a little reticent to say that these differences are not so important, I want to say that I think they are very important, and I believe that they change the impact of the legislation.

I appreciate his stating the matter so clearly and succinctly for us.

Mr. BROWN of Ohio. I will say in response to the gentleman that these seven amendments taken together in the substitute bill will change the thrust of this legislation which came from the committee from that which would create an agency that would delay the interests of consumers by excessive consideration of regulatory decisions by the courts and change it to an agency which would be clearly admonished to advocate the interests of consumers as the agencies should be which are currently involved in trying to protect the public interest.

I have some difficulty in my mind with the fact the assumption is made in the basic legislation that consumer interest and the public interest are at variance. It seems to me that consumer interests ought to be embraced in the public interest and ought to be presented for consideration and agency decisions ought to be made with the public interest in mind.

Mr. ASHBROOK. I think each one of the Members will find one part of the current bill more offensive than the other. Personally I find most offensive the concept that the Consumer Protection Agency should be involved at every level of decision making and the right of appeal and be involved in all agency actions. I can see more problems and red tape in that particular proposal than in any other.

Mr. BROWN of Ohio. Let me say that the bill as it comes out of the committee gives the Consumer Protection Agency the right to ignore its responsibility to advocate the interests of consumers and then take Federal regulatory agencies to court and delay their decision and put that decision not in a specialist agency which knows something about the unique problems of that agency but, rather, in the hands of other figures like judges and courts and others who do not have specialized knowledge such as the Federal Communications Commission or the

[1] March 21, 1974, Full Government Operations Committee markup on H.R. 13163, Transcript pp. 113–116. (19 proxies cast, 22 members present.)

Federal Power Commission or the Federal Trade Commission or the Securities and Exchange Commission or any one of the other agencies.

Mr. LATTA. Mr. Speaker, I would like to commend the gentleman from Ohio for his statement and for his work on this legislation.

I, as one Member of this House, appreciate his efforts.

Mr. Speaker, I have no further requests for time and reserve the balance of my time.

Mr. LONG of Louisiana. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Indiana (Mr. MADDEN).

Mr. MADDEN. Mr. Speaker, yesterday the Rules Committee, by a voice vote, held hearings on the pending rule which was reported to the House floor. I do hope that this rule, providing for the Congress to establish a permanent Consumer Protection Agency, is adopted without any major opposition.

I wish to commend Chairman HOLIFIELD, ranking minority member HORTON, Congressman ROSENTHAL, and other members of the Committee on Government Operations for the many days of hearings and hard work devoted to this consumer bill now under consideration.

During recent years, the Congress has made several efforts to pass legislation protecting the millions of consumers over our Nation from being victimized by some of the unscrupulous corporations, industries, conglomerate retailers, and others who have practiced profiteering and shady business operations resulting in great loss to the consumer public. Almost all segments of our economy, including big oil, chain retailers, manufacturers, and industry of all description have, on too many occasions, foisted on the consuming public inflated prices, misrepresentation, and inferior materials.

For the first time during my long service in Congress, a comprehensive, fair, and well-constructed consumer protection bill is being presented for enactment by this legislative body.

The American consumers, as a group, have never had a protection lobby in the legislative Halls of Congress. Some of our older colleagues remember, back in the historic Presidential campaign of 1948, one of President Harry Truman's most important planks was that he was proud to be a one-man institution in the executive department to exert every possible effort to be a "lobby" representative in the Federal Government in Washington for the millions of unprotected American consumers. This plank in his platform, more than anything else, brought about his unexpected victory in that close Presidential election race of 1948.

As on former occasions, lobbies representing special privilege interests are today exerting their powerful influence on Members of Congress to amend, weaken, and destroy this consumer protection legislation so that profiteering and special privilege groups over the country can continue to take unfair advantage of millions who constitute the buying power of our economy.

First. This bill establishes a Consumer Protection Agency as an independent department within the executive branch of the Government;

Second. To receive, evaluate, and respond to consumer complaints and to transmit complaints to Federal and other entities for appropriate action;

Third. To gather, develop, and disseminate information relevant to consumer products, services, and problems, and to promote testing and research by others in the interest of improving consumer products and services; and

First. To advise the Congress and the President on matters affecting the interests of consumers, and to recommend legislation needed to improve the operations of the Federal Government in the protection and promotion of the interests of consumers.

This legislation, after weeks of hearings and markup on the bill, was reported out of the Committee on Government Operations by a vote of 27 to 3, with general support from both Democrats and Republicans. I do hope this legislation is enacted, without any major changes, as recommended by the committee.

Mr. LONG of Louisiana. Mr. Speaker, I have no further requests for time.

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

The previous question was ordered.

The SPEAKER. The question is on the resolution.

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

Mr. BROWN of Ohio. 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 372, nays 20, answered "present" 1, not voting 39, as follows:

[Roll No. 133]

YEAS—372

| | | |
|---|---|---|
| Abdnor | Brinkley | Conte |
| Abzug | Brooks | Corman |
| Adams | Broomfield | Cotter |
| Addabbo | Brotzman | Coughlin |
| Alexander | Brown, Calif. | Cronin |
| Anderson, Calif. | Brown, Mich. | Culver |
| Andrews, N.C. | Brown, Ohio | Daniel, Dan |
| Andrews, N. Dak. | Broyhill, N.C. | Daniel, Robert W., Jr. |
| Annunzio | Broyhill, Va. | Daniels, Dominick V. |
| Archer | Buchanan | Danielson |
| Armstrong | Burgener | Davis, Ga. |
| Ashley | Burke, Calif. | Davis, S.C. |
| Aspin | Burke, Fla. | Davis, Wis. |
| Badillo | Burke, Mass. | de la Garza |
| Bafalis | Burlison, Mo. | Delaney |
| Baker | Burton | Dellenback |
| Barrett | Butler | Dellums |
| Beard | Byron | Denholm |
| Bell | Carter | Dent |
| Bennett | Casey, Tex. | Derwinski |
| Bergland | Cederberg | Devine |
| Biaggi | Chamberlain | Dingell |
| Bingham | Chisholm | Donohue |
| Blatnik | Clancy | Downing |
| Boggs | Clark | Drinan |
| Boland | Clausen, Don H. | Dulski |
| Bowen | Clay | Duncan |
| Brademas | Cleveland | du Pont |
| Brasco | Cochran | Eckhardt |
| Bray | Cohen | Edwards, Ala. |
| Breaux | Collier | Edwards, Calif. |
| Breckinridge | Collins, Ill. | Eilberg |
| Erlenborn | Conable | Esch |
| Eshleman | Lott | Evans, Colo. |
| Evins, Tenn. | Luken | Fascell |
| Findley | McClory | Fish |
| Flood | McCollister | Flowers |
| Flynt | McCormack | Foley |
| Ford | McDade | Forsythe |
| Fountain | McEwen | Fraser |
| Frelinghuysen | McFall | Frey |
| Froehlich | McKay | Fulton |
| Fuqua | McKinney | Gaydos |
| Giaimo | McSpadden | Gibbons |
| Gilman | Macdonald | Ginn |
| Goldwater | Madden | Gonzalez |
| Grasso | Mahon | Green, Oreg. |
| Green, Pa. | Mallary | Griffiths |
| Grover | Mann | Gubser |
| Gude | Maraziti | Gunter |
| Guyer | Martin, N.C. | Haley |
| Hamilton | Mathias, Calif. | Hammer-schmidt |
| Hanley | Mathis, Ga. | Hanna |
| Hanrahan | Matsunaga | Hansen, Idaho |
| Hansen, Wash. | Mayne | Harrington |
| Harsha | Mazzoli | Hastings |
| Hawkins | Meeds | Hays |
| Hébert | Melcher | Hechler, W. Va. |
| Heinz | Metcalfe | Helstoski |
| Henderson | Mezvinsky | Hicks |
| Hillis | Michel | Hinshaw |
| Hogan | Milford | Holifield |
| Holt | Miller | Holtzman |
| Horton | Mills | Hosmer |
| Howard | Minish | Huber |
| Hudnut | Mink | Hungate |
| Hutchinson | Minshall, Ohio | Ichord |
| Jarman | Mitchell, Md. | Johnson, Colo. |
| Johnson, Pa. | Mitchell, N.Y. | Jones, Ala. |
| Jones, N.C. | Mizell | Jones, Tenn. |
| Jordan | Moakley | Karth |
| Kastenmeier | Mollohan | Kemp |
| Ketchum | Montgomery | King |
| Koch | Moorhead, Calif. | Kuykendall |
| Kyros | Moorhead, Pa. | Lagomarsino |
| Landrum | Morgan | Latta |
| Leggett | Mosher | Lehman |
| Lent | Moss | Long, La. |
| Long, Md. | Murphy, Ill. | Murtha |
| Myers | Natcher | Nedzi |
| Nelsen | Nichols | Nix |
| Obey | O'Brien | O'Hara |
| O'Neill | Owens | Parris |
| Passman | Patten | Pepper |
| Perkins | Pettis | Peyser |
| Pike | Podell | Powell, Ohio |
| Preyer | Price, Ill. | Price, Tex. |
| Pritchard | Quie | Railsback |
| Randall | Rangel | Regula |
| Reuss | Rhodes | Riegle |
| Rinaldo | Robinson, Va. | Robison, N.Y. |
| Rodino | Roe | Rogers |
| Roncalio, Wyo. | Roncallo, N.Y. | Rooney, Pa. |
| Rose | Rosenthal | Rostenkowski |
| Roush | Rousselot | Roy |
| Roybal | Ruppe | Ruth |
| Ryan | St Germain | Sandman |
| Sarasin | Sarbanes | Satterfield |
| Scherle | Schneebeli | Schroeder |
| Sebelius | Seiberling | Shipley |
| Shoup | Shuster | Sikes |
| Sisk | Slack | Smith, Iowa |
| Smith, N.Y. | Snyder | Spence |
| Staggers | Stanton, J. William | Stanton, James V. |
| Steed | Steele | Steelman |
| Steiger, Wis. | Stokes | Stratton |
| Stubblefield | Stuckey | Studds |
| Sullivan | Symington | Talcott |
| Taylor, Mo. | Taylor, N.C. | Teague |
| Thompson, N.J. | Thomson, Wis. | Thone |
| Thornton | Tiernan | Towell, Nev. |
| Treen | Udall | Van Deerlin |
| Vander Jagt | Vander Veen | Vanik |
| Veysey | Vigorito | Waggonner |
| Waldie | Walsh | Wampler |
| Ware | Whalen | White |
| Whitehurst | Whitten | Widnall |
| Wilson, Bob | Wilson, Charles H., Calif. | Wilson, Charles, Tex. |
| Winn | Wolff | Wright |
| Wyatt | Wydler | Wylie |
| Wyman | Yates | Yatron |
| Young, Alaska | Young, Fla. | Young, Ga. |
| Young, Ill. | Young, S.C. | Young, Tex. |
| Zablocki | Zion | Zwach |

NAYS—20

| | | |
|---|---|---|
| Ashbrook | Dickinson | Quillen |
| Bauman | Fisher | Rarick |
| Burleson, Tex. | Goodling | Roberts |
| Clawson, Del | Gross | Steiger, Ariz. |
| Collins, Tex. | Jones, Okla. | Symms |
| Crane | Landgrebe | Wiggins |
| Dennis | Martin, Nebr. | |

ANSWERED "PRESENT"—1

Johnson, Calif.

NOT VOTING—39

| | | |
|---|---|---|
| Anderson, Ill. | Dorn | Patman |
| Arends | Frenzel | Pickle |
| Bevill | Gettys | Poage |
| Biester | Gray | Rees |
| Blackburn | Heckler, Mass. | Reid |
| Bolling | Hunt | Rooney, N.Y. |
| Camp | Kazen | Runnels |
| Carey, N.Y. | Kluczynski | Shriver |
| Carney, Ohio | Litton | Skubitz |
| Chappell | Lujan | Stark |
| Conlan | McCloskey | Stephens |
| Conyers | Madigan | Ullman |
| Diggs | Murphy, N.Y. | Williams |

So the resolution was agreed to.

The Clerk announced the following pairs:

Mr. Chappell with Mr. Arends.
Mr. Rooney of New York with Mr. Patman.
Mr. Bevill with Mr. Lujan.
Mr. Stark with Mr. Biester.
Mr. Carey of New York with Mr. Hunt.
Mr. Conyers with Mr. Kluczynski.
Mr. Murphy of New York with Mr. Diggs.
Mr. Reid with Mr. Madigan.
Mr. Rees with Mr. Anderson of Illinois.
Mr. Pickle with Mr. Blackburn.
Mr. Litton with Mr. McCloskey.
Mr. Carney of Ohio with Mrs. Heckler of Massachusetts.
Mr. Ullman with Mr. Camp.
Mr. Stephens with Mr. Shriver.
Mr. Gettys with Mr. Conlan.
Mr. Dorn with Mr. Williams.
Mr. Gray with Mr. Frenzel.
Mr. Runnels with Mr. Skubitz.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

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## STAFF REPORT OF PRESIDENT NIXON'S TAX RETURNS

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

Mr. MILLS. Mr. Speaker, I am transmitting to the House today, and Senator LONG is transmitting to the Senate, for the Joint Committee on Internal Revenue Taxation the following staff report, which represents an analysis of the President's tax returns for the years 1969 through 1972.

The committee has so far, and this is very important, examined only the introduction and summary of conclusions in this report. In releasing this report, the committee is doing so without expressing its own views on this report.

I say that is most important. The committee has not reached any conclusions in that respect, and I want to emphasize that this is the case, because I have said repeatedly that I could not reach a conclusion until I have had full time to study the report. We have not had that, but the joint committee felt that it was proper to release the report rather than have the report leaked.

There is a provision of law in the Internal Revenue Code which says that the committee cannot release information obtained with respect to a taxpayer's return until a report has been filed with the Congress. We are proceeding to abide by that provision of law, by now filing the report with the House, so it can subsequently be released to the public.

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

Mr. MILLS. Mr. Speaker, I yield to the gentleman from Pennsylvania.

Mr. SCHNEEBELI. Mr. Speaker, I thank the gentleman from Arkansas for yielding to me.

Mr. Speaker, I would like to state that the approval for the release of this staff report has the concurrence of the gentleman from Illinois (Mr. COLLIER) and myself, the Republican members of the committee from the House. I emphasize what the chairman has said, that the release of this report does not indicate any conclusions on the part of the committee or any expression of the committee with regard to the report.

Mr. MILLS. Mr. Speaker, I might further add that there will be copies of the report available around 2 o'clock this afternoon.

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

Mr. MILLS. Mr. Speaker, I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. Mr. Speaker, does the gentleman from Arkansas and the gentleman from Pennsylvania each agree with the mechanics of the way in which this report has been prepared and is being released?

Mr. MILLS. Mr. Speaker, we agree with the release of the report. I do not know anything yet about the mechanics. That is what we are trying to find out.

Mr. BROWN of Michigan. Mr. Speaker, does the gentleman from Arkansas and the gentleman from Pennsylvania each agree with the content to the extent that they have read the report?

Mr. MILLS. No, we have said specifically that we have not reached any conclusions with respect to any conclusion reached by the staff.

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

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

(At the request of Mr. BROWN of Michigan and by unanimous consent, Mr. MILLS was allowed to proceed for 1 additional minute.)

Mr. SCHNEEBELI. Mr. Speaker, I would like to emphasize that the committee has had just about an hour to review with the staff in a very preliminary way what the findings of the staff are. We are not in a position to draw any conclusion.

Mr. MILLS. Mr. Speaker, we are trying to make it as emphatic as we can, that none of the members of the joint committee have reached any conclusions or had the opportunity to reach any conclusion.

Mr. O'HARA. Mr. Speaker, will the gentleman yield?

Mr. MILLS. Mr. Speaker, I yield to the gentleman from Michigan.

Mr. O'HARA. Mr. Speaker, could the gentleman from Arkansas advise the House what the plans of the committee are with respect to reaching a conclusion?

Mr. MILLS. Yes, we will continue with the matter. We do not intend to shirk committee responsibility.

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

Mr. MILLS. Mr. Speaker, I will be glad to yield to the gentleman from Iowa.

Mr. GROSS. Does the press now have a copy of this report?

Mr. MILLS. The press does not. We cannot release it until there is transmission to the Congress.

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

(At the request of Mr. BURKE of Massachusetts and by unanimous consent, Mr. MILLS was allowed to proceed for 1 additional minute.)

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

Mr. MILLS. Mr. Speaker, I yield to the gentleman from Massachusetts.

Mr. BURKE of Massachusetts. Mr. Speaker, I just want to say I concur with the statements made by the chairman and the ranking minority member.

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

Mr. MILLS. Mr. Speaker, I will be glad to yield to the gentleman from Michigan.

Mr. BROWN of Michigan. Mr. Speaker, recognizing realistically that a report to the Congress of this nature results in broad dissemination, can the gentleman from Arkansas and the gentleman from Pennsylvania each say, once again, that they agree with the mechanics of the release?

Mr. MILLS. I said specifically that I agree with the release but I am not yet familiar with the contents, other than the summary. All I know is what is in the introduction, and I know what is in the summary. I do not know how any of these conclusions were reached by the staff and that involves the mechanics of the operation of the staff, I take it.

Mr. BROWN of Michigan. Mr. Speaker, if the gentleman will yield further, does not the gentleman from Arkansas and the gentleman from Pennsylvania each believe that at least you two gentlemen should be more familiar with the report before it is released than you have indicated?

Mr. MILLS. Ordinarily, as far as I am concerned, I would agree with the gentleman; but we are here and concerned about a provision of the Internal Revenue Code. Anyone who should release any of this information prior to its submission to the House would be guilty of having committed a crime. I know and the gentleman knows that if two people know anything here in Washington, it is no longer a secret.

Mr. BROWN of Michigan. I thank the gentleman, but renew my concern about this report being released before the two Members of the House having the authority and the responsibility of the House on this subject, have agreed to the release of a report with which they admittedly are unfamiliar. If the criminal law has any application, it should have been a deterrent to any premature release of the report, or any portion thereof, by a staff member or anyone else, prior to its specific approval by the Joint Committee. Every fairminded person, irrespective of his personal or political predisposition regarding this matter, should be very disturbed.

## CONSUMER PROTECTION ACT OF 1974

Mr. HOLIFIELD. 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. 13163) to establish a Consumer Protection Agency in order to secure within the Federal Government effective protection and representation of the interests of consumers, and for other purposes.

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

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. 13163, with Mr. BOLAND in the chair.

The Clerk read the title of the bill.

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

The CHAIRMAN. Under the rule, the gentleman from California (Mr. HOLIFIELD) will be recognized for 2 hours, and the gentleman from New York (Mr. HORTON) will be recognized for 2 hours.

The Chair recognizes the gentleman from California (Mr. HOLIFIELD).

Mr. HOLIFIELD. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, before I start my explanation of the bill, I just wish to say that it will be the intent of the managers of the bill on both sides to expedite the consideration of this bill as much as possible.

We will try to confine ourselves to as short debate times as we need concerning each point, because we know that there is a dinner tonight which the Members on the minority side wish to attend, and there are also other obligations to be met by Members on the majority side. Therefore, we will try to expedite this matter as quickly as possible.

Mr. Chairman, I rise in support of H.R. 13163, the bill to establish a Consumer Protection Agency. I will make several general points and then outline briefly the basic features of the bill.

First. This bill has had a long period of development. House and Senate committees have been working on such legislation for at least 5 years. In the 91st Congress, the Senate passed a Consumer Protection Agency bill; in the 92d Congress, the House passed such a bill (H.R. 10835) by a vote of 344 to 44. Now, I believe, the Congress wants this bill and both houses are prepared to act upon it.

Second. The bill reflects a broad agreement within our committee. As a new clean bill, it was reported unanimously and sponsored by all 12 members of the Subcommittee on Legislation and Military Operations. The bill is sponsored by 34 of the 41 members of the full committee. The committee vote in reporting the bill was 37 ayes, 3 noes, and 1 present. In short, the Committee on Government Operations overwhelmingly endorses H.R. 13163.

Third. The bill has broad support among consumer, labor, Government, and professional groups. Among the latter, the American Bar Association and the chairman of the Administrative Conference of the United States are on record in favor of the basic legislation.

Fourth. The administration supports this bill. Mrs. Virginia H. Knauer, the President's Consumer Adviser, in remarks to the National Press Club on March 19, 1974, made a ringing endorsement of the bill and called for its prompt enactment. In a letter to me dated the same day, the Honorable Roy L. Ash, writing in the capacity of Assistant to the President, stated:

> As you know, the President has on several occasions expressed his support for a consumer representative program such as that proposed in this legislation. The administration supports the objectives sought to be achieved in H.R. 13163.

It is true that Mr. Ash favors some amendments to this bill, which may be proposed on the floor today, but the administration's support for the basic legislation is clear.

Fifth. Important segments of the business community also support the objectives of this legislation and the basic provisions of the bill. Among these are Montgomery Ward, J. C. Penney, and Giant Food Stores. As in the case of the administration, I am not saying that they support every particular, but they support the bill in its essentials. I am not pretending, however, that business organizations generally favor this bill. In fact, their lobbyists have been working overtime to kill it.

Sixth. The bill is well balanced and carefully drawn. We have had many discussions and conferences with business and consumer groups, and Government and independent experts, in an effort to develop a bill that is effective for the consumer and also fair to all business, Government, and other interests that may be affected. I believe we have done very well in this matter, and I, for one, am very proud of our committee achievement.

Seventh. This bill deserves to be passed. Consumers need the protection it would afford. Although most business organizations—as I have said—have voiced their opposition to the bill, I truly believe that it will be of benefit to business as well as to consumers. Honest business has nothing to fear. Those who sell shoddy merchandise and try to trick the consumer, of course, will find no comfort in this legislation.

Now I will speak briefly to the basic features of the bill:

H.R. 13163 establishes a Consumer Protection Agency as an independent agency within the executive branch of the Government. It is to be headed by an Administrator, assisted by a Deputy Administrator, both of whom are to be appointed by the President by and with the advice and consent of the Senate. The bill provides that the Administrator must be "exceptionally qualified" to represent consumer interests by reason of his training, experience, and achievements.

The Consumer Protection Agency will represent consumer interests in proceedings and activities of Federal agencies, handle consumer complaints, develop and disseminate consumer information, and advise the Congress and the President in matters of interest to consumers.

The key function is consumer representation, which is described in section 6 of the bill. The CPA will not be a regulatory agency but a consumer advocate. It will be authorized to appear in agency proceedings and have the same rights as business and other parties. In regard to other Federal activities, the CPA will have the same opportunities as others to comment or consult. The bill makes it clear that the CPA, in dealing with other Federal agencies, will have to observe their rules, regulations, and procedures. It also makes clear that the regulatory agencies will retain full responsibility and undiminished authority for the administration of laws for the regulation of trade and commerce.

Taken together, the provisions in the bill insure that the Administrator will be able, in an orderly and proper way, to appear before other Federal agencies, or to convey significant information, in pursuance of consumer interests, whatever the type of Federal agency proceeding or activity involved and however termed—whether described as formal or informal, structured or unstructured, adjudicatory or rulemaking. He may intervene or participate as a party when party rights are applicable, and in other situations he may participate or communicate in the same manner as anyone else. The two categories—proceeding and activity—cover the variety of possibilities—except where exemptions or qualifications are specifically stated in the bill—for effective exercise of the consumer advocacy function.

In one particular category of Federal agency proceedings, the Administrator may not intervene as a party but is limited to an amicus curiae role; namely, in Federal agency proceedings which seek primarily to impose a fine or forfeiture which the host agency may impose under its own authority. Such proceedings would be few in number, since agencies ordinarily do not have authority to impose fines or forfeitures but must seek enforcing action through the courts. However, the committee put this limitation upon the CPA in order to avoid any appearance of "dual prosecution" against a respondent. Keep in mind that technically there would be civil and not criminal proceedings, and so prosecution is not the proper word to apply. In the course of debate, you will hear from opponents of this bill much about "dual prosecution." It is not the CPA role to prosecute but to participate in cases where participation is valid; that is, where consumer interests are involved.

The CPA is accorded the amicus privilege not only in Federal agency proceedings which may lead to the direct imposition of fines and forfeitures, but in Federal court actions—other than those for judicial review—where the United States or any Federal agency is a party. If the CPA believes that the court action may "substantially affect the interests of consumers," he may transmit information and evidence to the Government at-

torney handling the case, and may appear, in the discretion of the court, as amicus curiae to present written or oral argument.

The bill also authorizes the CPA to seek or intervene in judicial review of any agency action which substantially affects the interests of consumers. In this respect, he may appeal only to the extent that any other person if aggrieved would have the right of judicial review by law. As you know, the Administrative Procedure Act permits judicial review to parties suffering legal wrong due to agency actions which are arbitrary, capricious, abusive of discretion, contrary to law or agency procedures, or unsupported by substantial evidence.

In the course of debate, you will probably hear two kinds of arguments concerning judicial review. There are some who oppose granting this right to the CPA, notwithstanding the fact that other aggrieved persons now have such a right by law. Then, there are those who believe that if the right of judicial review is accorded, the CPA should be authorized to appeal only when it participated in the Federal agency proceeding. The committee position, embodied in the bill, is that to assure equal protection for consumer interests, it is only fair and right to accord the CPA judicial review, and that prior participation should not be a replacement for its exercise. If it were, the CPA would be forced to make pro forma appearance in numerous proceedings merely to protect its appeal rights. Furthermore, as the report points out, the courts have granted standing to aggrieved persons who are not participants in prior proceedings.

In the handling of consumer complaints, the bill provides that business parties complained against will have an opportunity to comment, and public listings will display their comments along with the complaints.

The CPA may gather information by general surveys, by assembling data from other Federal agencies, and by requesting other agencies to send out interrogatories.

It is important to understand that the use of other agencies' interrogatories by the CPA is carefully qualified. First, the host agency must have such authority. Second, interrogatories may be used only for specified purposes; namely, where the health or safety of consumers is involved, or where consumer fraud or substantial economic injury to consumers are indicated. Third, the host agency may reject a request if it determines that the information sought will not satisfy those purposes, or if the request is irrelevant or likely to be too burdensome to the agency or to the outside persons affected. Fourth, the recipient of an interrogatory is given 30 days to petition a Federal agency for reconsideration. And fifth, the recipient, if he believes the request is unwarranted, may seek injunctive relief in the courts.

As is apparent, the use of the interrogatory power of host agencies is carefully hedged. At the same time, it is a useful and necessary part of the CPA's information-gathering activities, and I will oppose amendments to eliminate this limited authority. Frankly, it is a compromise between those who wanted a direct subpena and/or interrogatory power in the CPA and those who wanted the CPA to have no such information-gathering authority whatever. I believe it is a reasonable and workable compromise.

The bill bars the CPA from disclosing trade secrets or commercial or financial information of a privileged or confidential nature. Federal agencies may deny the CPA access to information classified in the interest of national defense or security and may withhold certain other types of information.

The bill contains a blanket exemption for the Central Intelligence Agency, the Federal Bureau of Investigation, and the National Security Agency. It also exempts the following functional areas: The national security or intelligence functions—and related procurement—of the Departments of State and Defense and of the Atomic Energy Commission; and labor disputes or labor agreements within the meaning of applicable Federal statutes.

The question may be asked: How does H.R. 13163 differ from H.R. 10835, which passed this House by an overwhelming majority in October 1971? The changes, in essence, are these:

First. Organizationally, the bill is much simplified. We have eliminated a dual office and administration arrangement. The bill provides for a single organization—the Consumer Protection Agency;

Second. The CPA is clearly authorized to participate in Federal agency "activities," in addition to "proceedings," on the same basis as anyone else. In this way, we make it clear that the CPA will not be excluded from any area of valid concern to consumers associated with the operations of Federal agencies;

Third. We have provided for the CPA to make use of the interrogatory authority of other agencies under carefully prescribed conditions;

Fourth. We have made more explicit the conditions for disclosing information to the CPA and the public, and for withholding certain types of confidential information; and

Fifth. Some specific exemptions for agencies and functions have been written into the bill.

Our committee has worked long and hard on this legislation, and we are very proud of the results. This bill has been listed by the leadership in both Houses as a priority item. It has broad support. I am confident that it will gain the overwhelming endorsement of the House.

If there was ever a time when the consumer is taking it on the chin, it is today. The consumer's dollar was depreciated by inflation 10 percent in 1973. The rate of inflation is increasing in 1974.

In addition to the price inflation which affects the prices of all items handled by legitimate business, there is a more deadly attack on the consumer's dollar—

That attack is the hidden fraud practiced by those who operate on the fringe of legitimate business. Their methods are the methods of the fast-talk salesmen, the quickbuck operators who use high pressure tactics, engage in deceptive packaging, charge exorbitant prices for shoddy goods, and sell below-standard merchandise.

This bill will give the defrauded consumer a place to go to and complain to a Federal agency charged with a mandate to protect other consumers against such fraud and deception.

The Members of this Congress who are candidates for reelection can strike a blow today against the jackals on the fringe of legitimate business.

It will give each of you an opportunity to go home and tell your people that this Congress came out with a long overdue piece of legislation, which will put the Federal Government on the side of legitimate business and the consumer.

Senator Dirksen once said:

There is nothing so pregnant as an idea whose time has come.

The idea for consumer protection as a service of Government on behalf of the great unorganized millions of consumers will be born this year—in this 93d Congress.

Mr. HORTON. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, at the outset I would like to commend the gentleman from California (Mr. HOLIFIELD) for his leadership in bringing to the floor this bill H.R. 13163.

The time has come for this Congress to pass a Consumer Protection Agency bill and for the President to sign the bill into law. We have studied the problems of consumers for more than 12 years now. In the last two Congresses, we have seen one House—but not the other—pass appropriate legislation. Now we are in a period where the need for this legislation is more pressing than ever. It is incumbent upon this House, it is incumbent upon this Congress, and it is incumbent upon this President to enact a Consumer Protection Agency law now.

The committee bill quite simply corrects a problem that has long been recognized in our regulatory system; and that is that the interests of consumers are seriously under-represented relative to the interests of business. This problem does not call for new regulatory law or new regulatory agencies. Rather, it calls for an agency such as the one we are proposing; one which would be able to represent the consumers interests before the agencies of Government.

Our existing regulatory laws are built upon the concept that interested persons should present evidence in support of their positions and that the regulatory agencies, after considering the various points of view and the evidence presented, will make a final determination as to what is in the public interest.

This bill does nothing more than provide, for the first time, the proper level of representation for the consumer interest. But because it does this, it is probably the most important piece of consumer legislation since the regulatory agencies themselves were set up.

The bill presented to you by the Committee on Government Operations has broad support for two principal reasons: The first is that the committee made a

sincere effort to negotiate with as many parties as possible in developing this bill. The second reason is that almost all interests recognized the need to accommodate the strong feelings of opposing interests. This bill balances the objectives of strong consumer representation with the legitimate concerns of business. Support for the balance achieved in the committee bill has come from the most responsible consumerists, such as the President's Special Assistant for Consumer Affairs, Virginia Knauer; the consumer affairs adviser to Giant Foods, Esther Peterson; the reputable Consumer Union; just to name a few.

My colleagues should also be made aware of the great pains the Government Operations Committee took in drafting this bill and that it has received the support of the major professional organizations involved in administrative practices. Its provisions have been studied by both the Administrative Conference of the United States and the American Bar Association; and they support the bill as written. The provisions of this bill have been sensibly designed and carefully drawn. H.R. 13163 is ready for enactment now.

Mr. Chairman, the committee bill is not some wild-eyed dream responsive to a few zealots disgusted with American society. And equally important, this bill is not an empty promise designed as a palliative for those who argue that more attention must be paid to the interests of consumers.

The Consumer Protection Act of 1974 was reported by the committee after long years of study and very careful deliberation. It would create an agency able to do a job that needs doing. It would create an agency able to rectify the dangerous imbalance that has developed in the attention given to business interests as opposed to the consumer interests by our governmental agencies. It is a bill which holds great promise for improving governmental policies affecting every one of your constituents.

Let me tick off the advantages of this bill to our constituents as consumers:

They will have an agency able to speak out for them in the councils of Government. They will have an agency to whom they can turn for information about what Federal programs exist to correct illegal or fraudulent activities on the part of that small segment of business which is unscrupulous. The CPA itself, of course, cannot directly act to prevent abuses or to make any governmental decisions solely in the interests of consumers. But it can urge those governmental agencies which have those responsibilities to fully meet them.

I think business will benefit from the creation of an effective and responsible consumer advocate. The CPA will be able to objectively analyze the facts and represent consumer interests in a fair, reasonable, and timely way in agency proceedings affecting business.

I think the CPA will be a strong voice speaking for more sensible governmental policies than we now find coming from self-appointed consumer representatives.

Finally, an agency of this sort would correct the impression of many that the regulatory agencies of Government are strongly under the influence of business. By creating an effective consumer advocate, we will demonstrate the Government's willingness to listen to the interests of the little man in the same way it now listens to the interests of business.

As I noted earlier, the committee has been working with numerous business and consumer groups and the administration to develop a bill that would be worthy of the widest possible support. We started out by informally agreeing with the administration on a series of principles to guide our decisions on what powers the CPA should have. These principles can be stated as follows:

The bill should create an advocate able to effectively argue the consumer interests before the agencies of Government whose actions affect those interests;

The Consumer Protection Agency's powers and responsibilities should be comparable to those of other interest advocates;

The CPA should serve as a focal point in the Government for information about Federal programs and studies of interest to consumers;

The Agency should be able to help consumers with complaints and locate the Government agency best able to help them; and

The CPA Administrator should advise the Congress and the President on improvements possible in Federal consumer programs and on needed legislation.

These principles define the objectives of the Consumer Protection Agency. We also agreed to principles which would define the scope of CPA authority. They are as follows:

The CPA is not to be a regulatory agency; it should not be able to issue rules, and it should not be able to order business to do anything;

The creation of the CPA is not to change any statutory authority or responsibility for the regulation of business, or for the administration or enforcement of any such law;

The Agency should not be able to usurp any powers or responsibilities of existing agencies. They should remain fully able to carry on their programs and control their proceedings just as they do now;

The powers of the CPA should be carefully tailored so that the new agency fits into the existing administrative system of the Federal Government, and does not disrupt or delay administrative proceedings;

The CPA should not be able to independently issue interrogatories or subpenas to anyone, or to harass business;

Trade secrets and other confidential information, particularly of business, should be firmly protected; and

Every precaution should be included to protect the legitimate rights of business to represent itself, and to allow business to protect itself under the principles of due process and procedural fairness.

All of these principles are reflected in the bill. Almost all consumer groups, some business groups, and the administration support these principles. Because of these principles and because these people care about enacting Consumer Protection Agency legislation as soon as possible, they are supporting this bill.

Of course, with a bill of this complexity, we were not able to please everyone on every provision. There remain some disagreements about the best way to implement these principles. OMB Director Roy Ash wrote our committee on March 13 requesting that we reconsider certain amendments. The committee did not choose to accept his suggestions for the reasons I outlined in a letter reprinted at page 9436 of yesterday's CONGRESSIONAL RECORD. I will not support these amendments today, should they be offered, because I believe the committee bill provides for more effective consumer advocacy and gives better protection to legitimate business interests. I invite my colleagues to study the arguments; I think they will see the wisdom of the committee bill.

I would also like to state that the bill which Mr. BROWN of Ohio will offer as an amendment in the nature of a substitute, H.R. 13810, does not fall within the category of minor alterations. His substitute contains three amendments which were offered at the subcommittee and full committee level and were decisively defeated. Provisions of his substitute would put the consumer advocate at a severe disadvantage in representing the interests of consumers. His substitute, in my opinion, would not create an effective consumer advocate. It would, in fact, destroy the principal concept of the bill—to equalize the powers of and representation ability of the consumer advocate with those already enjoyed by other interests. I have included my comments on these major three points in the material inserted in yesterday's CONGRESSIONAL RECORD.

As Virginia Knauer, the President's Special Assistant for Consumer Affairs, said the other day:

> The consumer can't wait another year; it's been too long already.

She talked of the attempts that were being made by the chamber of commerce and the Grocery Manufacturers of America to stop this bill. She said we must not allow this to happen. I quote her now:

> Statements that the CPA would give the consumers unfair advantage and excessive power are cynical distortions of professional lobbyists who know better. They know and I know that speedy action on the CPA bill is the only way to balance the kind of advocacy presently available to special interest groups and unavailable on the consumer side.

There is one further misimpression that I feel must be clarified as the House considers H.R. 13163. It is widely assumed that every time any government agency has to decide between further strong Federal intervention or nonintervention in a particular industry that the Consumer Protection Agency would automatically become an advocate for the strongest possible Federal role and the stiffest possible Federal regulation applied to industry. I think it should be pointed out that in a large number of conceivable cases, heavy handed Federal regulation would be against the best interest of consumers just as it would be against the best interest of certain industries. We all know that each time a Federal agency imposes a new set of stiff

regulations on any industry the costs of complying with these regulations are passed on to American consumers. I feel one of the most compelling reasons for adopting this bill today is the outcry that is being heard across our land about the rapid rise in inflation and in the price of everything our consumers must purchase in order to live. Therefore, it is my judgment that the positions he takes on a myriad of Federal regulatory questions will be tempered with a serious concern for the resultant cost to consumers of the regulations that are being considered. I do not feel for example that a CPA would be expected to automatically push for stronger, more detailed and more costly Federal safety regulations as they apply to automobiles.

If the CPA were to be truly responsive to consumer opinions on a subject such as this, it may be that the CPA's voice would be raised against some of the mandatory Federal safety devices that are already required in currently manufactured cars. Who knows what position a CPA may take on a question like requiring air bags in automobiles? My guess is that on many such questions, we might find the CPA joining business in advocating that the Federal Government go slow in invading more and more areas of individual choice and individual freedom which consumers as well as business in America have come to cherish. That is why I say that a Consumer Protection Agency as conceived in the committee bill would provide a far truer and more tempered reflection of consumer interest and consumer opinion than we now find is being advocated by some self-appointed consumer spokesman outside of Government.

The Committee on Government Operations bring to this House for action a bill that is worthy of the support of every Member. The evidence in thousands of pages of testimony, the evidence in thousands of letters that have come in to each and every office of the Congress that the consumer needs an effective advocate to protect his interests; that he needs someone to help him through the maze of Federal agencies, is overwhelming.

This bill is one of the most important pieces of legislation to come before this Congress. It is one of the most important pieces of consumer legislation ever. I urge every Member of the House to support the committee bill.

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

Mr. HORTON. I will be glad to yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague's yielding to me.

I was interested in the gentleman's comments and also in the comments of the gentleman from California concerning the problems of inflation. Is it not true that this Congress really shares that responsibility when we constantly appropriate more dollars than there are in the Treasury, and that really the major contributing factor toward inflation today is an overinflated Federal Government?

What is this Consumer Protection Agency going to be able to do about that?

Mr. HORTON. Mr. Chairman, I do not think that the Consumer Protection Agency, the CPA, is designed as a regulatory or policymaking Agency. The Agency's role is to be an advocate for the interests of the consumer.

Mr. ROUSSELOT. In order to cut the expenses of the consumer or what?

Mr. HORTON. In addition, it is to be designated to appear before the various Federal agencies and departments of the Government to explain and to present the views of consumers.

So to the extent that it would present the views of consumers, it might very well have some impact on inflation.

Mr. HOLIFIELD. Mr. Chairman, I yield 10 minutes to the gentleman from New York (Mr. ROSENTHAL).

Mr. ROSENTHAL. Mr. Chairman, I rise in support of this bill.

It would be inappropriate to speak here today without commenting on the very prodigious, diligent, and enormous efforts made by my two colleagues on the Committee on Government Operations, the gentleman from California, Chairman HOLIFIELD, and the gentleman from New York, FRANK HORTON, the ranking minority member.

Without their cooperation, without their work, without their forceful support of the principles behind this bill, we would not be here today. This bill, this piece of legislation, will remain, I believe, as a monument to the gentleman from California (Mr. HOLIFIELD), a very distinguished monument. It will remain, I think, as his greatest achievement in this Congress. And for that service and that effort, I thank him. I thank him for his generous support and for his kindness, his cooperation, and his understanding in bringing this bill to the floor.

Mr. Chairman, there are three reasons why I think this bill is necessary. Perhaps I could rather briefly touch upon them, because I think each of those reasons has such significance and such merit that this bill warrants the support of every Member of the House and of this committee.

It is equally true that I would hope and expect that every member of this committee will join in defeating not only the substitute bill, but the amendments that will be offered to dilute the CPA's powers. I do not say that lightly.

This bill is like a fine watch. The committee has had virtually 5 or 6 years to consider this Agency; we have had 8 days of hearings in this Congress alone. We have been to the well three times. We have had reverses in the past, both in this body and in the other body.

Mr. Chairman, the legislation we bring to the Members today is a bipartisan compromise; it is a finely honed, well balanced bill that takes into account the needs and interests of all elements of our society.

It is my view that whether a Member perceives himself as a dedicated liberal or a dedicated conservative, and regardless of the fact that a Member sits on one side of the aisle or the other, all of us ought to be pleased with the opportunity we have to vote for this bill today.

The gentleman from New York (Mr. HORTON) has suggested that this is one of the most important pieces of consumer legislation the Congress has ever considered. It is my view that this is the most important piece of legislation the U.S. Congress has considered in our generation. Let me tell the Members why.

First, I think we ought to understand why there is a vital need for this kind of bill. Why is there a need for another agency? Do we not have a proliferation of agencies now? Are there not hundreds of pieces of legislation relating to consumers on the books? Why do we need another one?

There are essentially three reasons why I think we are here today. The first is the rapid development of technological changes in our society. We should be very pleased that we have gained this enormously high standard of living in America, but what that has meant is that the average person, because of the technological growth and development in our country, is unable for himself to make value judgments in some cases because of the mechanical complexity of the products and services he is buying.

He knows nothing about the product's durability, its quality, or how long it will last. None of us has the technical expertise that is necessary to understand the mechanical and technical complexities of the products we buy, whether it be automobiles or television sets or radios or washing machines or refrigerators or tires or hundreds of other items.

Mr. Chairman, so many products are in this category—tires, for example. We go out and buy these things, and none of us has the slightest idea what we are buying or how much we should be paying or whether we are getting quality merchandise.

In the days of George Washington, when a man brought his horse in to be shod, he could stand around and watch and if he found the job to be unsatisfactory by his standards, he could simply say, "Try it again."

Well, nowadays when you bring your car in to be repaired you dare not cross a white line because the bell starts to ring and the insurance company runs out and a fellow in a white coat with no grease on his apron says you cannot talk to the man who repaired your car because maybe you will find out something.

Mr. Chairman, our society has developed in an enormously sophisticated technological age so that our 210 million consumers frequently lack the capacity to make the judgments which we ought to have in order to be able to make an independent and informed choice.

The second factor that makes a consumer agency essential is the enormous growth of monopoly and lack of competition in so many key industries of our society. Four automobile companies, for example, manufacture 85 percent of the automobiles made in this country. In many areas there is nothing even re-

sembling either price or quality competition. We buy gasoline and we have no notion necessarily of the octane rating or the quality differences, if any, of the gasoline we buy. Even the price competition in many of these areas is extremely modest. In the purchase of food in the supermarkets in many communities in the United States there is no meaningful competition.

The consumer there suffers in several ways: one, in the inability to tell what is in the package or in the product and in the inability to have price and quality competition. Thus the consumer frequently is the victim of the motivational researcher and the Madison Avenue computer and the enticing television ads that all of us succumb to, both children and presumably sophisticated buyers. We are in many areas the victims of the marketplace because of monoply power.

Now, what about the Federal Government? The Federal Government has about 33 agencies and about 400 bureaus and subagencies presently managing consumer programs. In addition to that we have virtually a half a dozen or a dozen regulatory agencies that the Congress established with the avowed purpose of protecting not only the consuming interest but the public interest.

The fact of the matter is, the hard, cold, regrettable fact is, that there is a total lack of coordination among all of these programs. The regulatory agencies, I am sad to say, have been, in many cases, taken over by the industries they regulate. In many cases they are arbiters of competing industries. For example, the CAB, when it decides which airline to certify between Chicago and Miami or between New York and Los Angeles, decides which carrier it wants to keep economically viable and not which can provide the cheaper or the better quality service for consumers. The Federal Power Commission in deciding which of two companies should get a gas transmission line between Oklahoma and the Northeast does not decide as to which can provide better quality or more economical service but as to which of these competing economic forces it wants to reward in that kind of a case. The Agricultural Marketing Service, the Food and Drug Administration, the Federal Trade Commission, the Securities and Exchange Commission, all have a mandate to respond to the public interest, and in many cases they have failed to do that.

However, the single and most glaring omission in the Federal decisionmaking apparatus today is the "empty" chair weakness. All of the regulatory agencies have a quasi-judicial role to play. They really cannot be advocates for one side or the other. When they make decisions they sit behind a bench similar to a judge's bench in a courtroom and at one table is the business applicant or the proponent of the special point of view, the company, who has an absolute right to be there.

They are usually well represented by squadrons of lawyers, platoons of economists, battalions of investigators, and frequently the most sophisticated lobbyists in the country who are resident here in our great Nation's Capital.

At the other table, the consumers' side, there stands an empty chair.

All of us, Mr. Chairman—and I am sure that there is not a person in this Chamber who would not be shocked if he walked into a courtroom and saw that the plaintiff had a lawyer, but that the defendant did not; or saw that the prosecutor or the district attorney was represented, but that the defendant was not. And that all we have established through all of these past 40 years is a one-sided, inadequate system where special interests get represented, but consumers do not.

Essentially, the principal thrust of this bill is to fill that empty chair with a consumer's advocate, a consumer's ombudsman, who has the wherewithal and the capacity and the financial support to bring together necessary evidence, to bring together and to garner the facts to help present the point of view of the consumer, in that way enabling these regulatory agencies to make a decision in the public interest by taking into account the consumer's point of view.

The CHAIRMAN pro tempore (Mr. MOAKLEY). The time of the gentleman has expired.

Mr. HOLIFIELD. Mr. Chairman, I yield 5 additional minutes to the gentleman from New York (Mr. ROSENTHAL).

Mr. ROSENTHAL. Mr. Chairman, your committee designed this bill so that it would have no regulatory or decisionmaking power whatsoever. All it has is the power of reason and persuasion. The power to appear before other Government agencies and regulatory bodies, across the board, with a wide ability to present evidence, to gather information so as to make a credible case to put forth an intelligent and persuasive argument on behalf of the interests of the the consumers.

It has no ability to make decisions, all it is going to do is to present the consumers' point of view.

Why did we do that? Because we think that this mechanism, this device will balance the enormous influence of special interest lobbyists over the regulatory agencies because they do have the ability to make decisions. All we want from this agency is to adequately present the consumers' point of view.

The substitute to be offered by the gentleman from Ohio (Mr. BROWN) and some of the other amendments, all they would do is chip away at the modest opportunity of the CPA to present evidence and to present arguments.

So I urge the Members to resoundingly defeat not only the substitute bill, but all of the weakening amendments, because they would destroy the principles of this bill.

This bill is to give this agency the means to give the American consuming public a credible voice here in Washington. Outside consumers do not have the capacity or the wherewithal or the resources, or frequently the intellectual motivation, to represent the American consumer. We did not choose other vehicles to represent their point of view because this agency will make the apparatus work. It will be a balance wheel here in Washington. It will provide the oil and the grease for the creaking machinery that we have developed over these past 40 years. It will bring justice in the marketplace to all 210 million consumers. It is the most balanced and the most thoughtful and I think the most useful piece of legislation that the 93d Congress has yet to produce.

Mr. HOLIFIELD. Mr. Chairman, I yield such time as he may consume to the gentleman from Kentucky (Mr. BRECKINRIDGE).

Mr. BRECKINRIDGE. Mr. Chairman, I want to thank the gentleman from California (Mr. HOLIFIELD) and the ranking minority member, the gentleman from New York (Mr. HORTON) and in particular the gentleman from New York (Mr. ROSENTHAL) and commend them for bringing before this House this legislation which I think constitutes landmark legislation. I rise in support of this bill.

Mr. HORTON. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana (Mr. LANDGREBE).

Mr. LANDGREBE. I thank the gentleman from New York for yielding at this time.

Mr. Chairman, I rise in opposition to this bill. If enacted, I believe that this bill will create another bureaucratic Frankenstein that will threaten the well-being of this country. The agency established by this bill would not be, as I understand it, charged with making regulations for private industry. That function has been reserved for other independent agencies like the Consumer Product Safety Commission. This agency would have power to oversee the actions of other Government agencies and to use their powers for collecting information.

If anyone thinks the myriads of executive agencies operate in near disorder now, let him consider what a superagency like the CPA would do. It would, for instance, have the power to compel private citizens to furnish information; it would exercise this power indirectly through other agencies. It would have the power of participating fully in litigation that involved other Government agencies and private companies, and even of reopening litigation that had been terminated by the decision of a court. This power alone will create chaos in the courts, as this new agency, which is granted by law the full status of an aggrieved party, intervenes in cases in which it decides the consumer has an interest.

This bill appears to be harmless to many. Its funding is modest compared to the amounts this Congress has appropriated for other agencies. It is also assigned some duties that may seem relatively insignificant when compared with the duties assigned to regulatory agencies. But appearances are deceiving in this case, just as they were in 1969 when Congress enacted the National Environmental Policy Act which contained a sleeper provision requiring government agencies to file environmental impact

statements before undertaking any activities that might have a significant effect on the environment. Through that one provision of that one act, the environmentalists have virtually halted construction of many powerplants and delayed the construction of the Alaska oil pipeline.

Now with this bill, we are confronted with a similar provision that will enable the consumerists to cripple further our economy by overseeing the activities of the regulatory agencies and forcing them, if they need any further persuasion, to harass and intimidate the businessmen of this Nation until they go out of business. The consumerists will not be satisfied until they have made business failures, unemployment, and shortages permanent features of the American economy. They will not rest until consumers have nothing left to consume. They will not stop their efforts to increase Government control of the economy until every producer—without whom the consumers could not exist, for there can be no consumption without prior production—is out of business, or owned by the Government.

I believe that not only should Congress refuse to enact this bill, but also that those regulatory agencies like OSHA and the Consumer Product Safety Commission should be put out of business before they put business out of business.

Mr. HORTON. Mr. Chairman, I yield 10 minutes to the gentleman from Ohio (Mr. BROWN).

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

The CHAIRMAN. The Chair will count. Evidently a quorum is not present. The call will be taken by electronic device.

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

[Roll No. 134]

| | | |
|---|---|---|
| Anderson, Ill. | Fulton | Patten |
| Archer | Gettys | Pickle |
| Arends | Gray | Poage |
| Ashley | Gubser | Podell |
| Badillo | Hanna | Rees |
| Bevill | Hansen, Wash. | Reid |
| Blackburn | Heckler, Mass. | Rooney, N.Y. |
| Blatnik | Kazen | Runnels |
| Burke, Calif. | Kluczynski | Satterfield |
| Camp | Kuykendall | Shriver |
| Carey, N.Y. | Landrum | Stark |
| Chisholm | Leggett | Stephens |
| Clark | Lujan | Teague |
| Clay | McFall | Thompson, N.J. |
| Conlan | McKinney | Udall |
| Conyers | Martin, Nebr. | Williams |
| Corman | Murphy, Ill. | Wilson, Charles H., Calif. |
| Dorn | Murphy, N.Y. | |
| Esch | Nichols | |
| Frenzel | Patman | |

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BOLAND, 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. 13163, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 375 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. BROWN) for 10 minutes.

Mr. BROWN of Ohio. Mr. Chairman, most of us still can remember the heated debate on the Consumer Protection Agency bill when it came before us during the last Congress.

That 1971 bill was a bit too strong to suit me completely. Others felt it to be too weak. We all had strong feelings on the bill.

In fact, its floor manager, the distinguished chairman of the Government Operations Committee on which I serve, stated during the debate that he felt like the man in the revolution who is put against a cellophane wall and shot at from both sides.

But that 1971 proposal, the so-called Holifield bill was offered as a compromise, a compromise which did not satisfy everyone, yet could get the job done.

I joined in that spirit of compromise, as did a vast majority of us. We voted the bill out of the House by an impressive 344 to 44 majority.

I consistently have supported the concept of creating a Consumer Protection Agency to advocate the interests of consumers within the sprawling Federal Government. I reiterate my support for a CPA today.

I think consumers need such an independent Federal advocate to make sure their case is presented when important and far-reaching decisions affecting the consuming public are made.

I do not think, however, that consumers need a CPA of the type which is in the Holifield, Horton, and Rosenthal bills before this body.

I have the uneasy feeling that the great majority of consumers have absolutely no idea of what is being proposed in their good name under that bill, and would be dismayed if they were completely apprised of its intricate provisions.

I shall offer, at the appropriate time, a substitute bill for the Holifield-Rosenthal bill, the Brown substitute which is recognized as in order under the rule. But before comparing the two bills, it is necessary to state loudly and clearly what the CPA will not be under either of the alternative bills which are before us.

I want to put a stop to something which could result, indirectly, in our perpetration of a fraud upon consumers with either of these bills—thus further frustrating the bewildered American buyer.

Many of the Members and consumers I have talked with about this bill have somewhere gotten the impression that the CPA will somehow solve all their day-to-day problems: The local service station that fails to properly fix their car; the aluminum siding salesman who gets a mortgage on their house; the dishonest used car salesman; the slick bait-and-switcher in the appliance store; the plumber who never comes.

The new consumer agency will have no immediate impact on any of these day-to-day consumer problems. Rather the CPA is intended to be a salt seed in that huge billowing cloud of Federal bureaucracy, not an ombudsman for individual consumer complaints—we have Virginia Knauer for that at the Federal level, and hundreds of Virginia Knauers at the State and local levels.

Rather, the CPA will be involved in very complex and lengthy Federal administrative proceedings and court appeals involving such things as antitrust cases, rate settings, drug approvals, agricultural marketing orders, and a multitude of other complex matters which take months and even years to resolve.

The CPA will get results for consumers, but by assuring that existing Federal agencies do their jobs, existing agencies which often do not have the jurisdiction or the money or the time to chase fly-by-nighters.

The CPA will also be a very small agency, estimated in the committee report to average only 350 employees over a 5-year period. Why, there must be over 350 different Federal agency proceedings affecting consumers listed in one daily copy of the Federal Register, alone.

We must not expect miracles; the CPA will have to pick and choose its spots carefully for the greatest benefit to the most consumers.

Having said this, however, I do not want to leave the impression that the CPA under either of the bills will be a 98-pound weakling. Quite the contrary. As Oliver Wendell Holmes eloquently put it:

> The prize of the general is not a bigger tent, but command.

The CPA is to have unusual, and in some cases extraordinary powers with which to assure that the existing regulatory agencies take actions in the interests of consumers. Powers which are not generally understood outside this city, powers to act forcefully and relatively invisibly behind the bureaucratic facade to guarantee the results the CPA wants.

Which brings me to an appropriate point for returning to the history of the bills before us. The 1971 Holifield compromise bill was reintroduced without change during the first few days of this Congress. After hearings last spring, that was the last many of us on the committee who voted for that bill in 1971 saw of it. It went underground.

At our first subcommittee markup we were given a new bill and told it was a compromise. That is, a compromise of the Holifield compromise which had been worked out in staff negotiations not open to some of us who had bills in. We were also presented a series of so-called staff technical amendments to the new compromise, amendments which would have made a sensitive man blush at having to call them technical.

This was rather surprising to those of us on the subcommittee who had voted for the original Holifield bill in the spirit of compromise and who had openly advocated the changes we wished to see in the bill this Congress. Even more surprising was the fact that all major amendments offered by members were defeated in subcommittee, many, if not most, by

proxy. Those of us with differing opinions never stood a chance.

In full committee, numerous amendments were offered attempting to return the Holifield-Rosenthal compromised compromise to something closer to the bill which passed this body in 1971.

But, again, the power of the proxy reigned supreme. After three all-morning markup sessions, sometimes heated and often confused, the full committee was able to approve only one amendment—we changed an "and" to an "or" to correct a printer's error.

The Holifield-Rosenthal bill will raise no cellophane walls. It is a neat ball of complex legalities—a ball many may be afraid to unravel because of its complexity and their unfamiliarity with the issues.

Without a complete alternative, I felt, the membership in considering the Holifield-Rosenthal compromise would be placed in a difficult situation similar to that which we faced in committee.

After all, this bill was only reported last week, received its rule only yesterday, and here we are with a complex new bill creating an entirely new agency of the Federal bureaucracy which will impact on every agency.

If it were the same bill as the one which passed last Congress, that would be one thing, but this bill has been compromised on the very points which were fought hardest and soundly defeated during the last Congress. This is some compromise.

For example, section 10(a) of the Holifield-Rosenthal compromise provides that the CPA may force any regulatory agency to use its subpena-type powers to obtain information for the CPA's own investigation of persons or companies.

A 1971 amendment would have granted the CPA the same type of subpena-by-proxy power, but, unlike the present bill, would have severely limited the CPA's use of that power to gaining information to inform the Congress, and only informing Congress about where another Federal agency failed.

Does anybody remember that Chairman HOLIFIELD characterized that amendment during the 1971 debate as the "Nader-Rosenthal amendment?"

Does anybody remember what the chairman, speaking for the majority of the Government Operations Committee and the administration, said about that Nader-Rosenthal amendment?

Here is what he said:

MASSIVE SUBPENA POWER

The amendment would enable the Consumer Protection Agency to require 50 Federal agencies to make their subpena power available to it for its own investigations. Business firms, labor unions, and other organizations would be subject to the collective subpena powers of the Federal Government at the instigation of the Consumer Protection Agency.

TRADE SECRETS JEOPARDIZED

The amendment would sidestep the protections in the Freedom of Information Act by requiring any Federal agency, on demand by the Consumer Protection Agency, to transmit confidential business information in its possession on the grounds that such information was needed to respond to a congressional request. Any Congressman could publicize the information.

AGENCY OPERATIONS DISRUPTED

The amendment would greatly expand the investigatory powers of the Consumer Protection Agency, backed up by the collective subpena powers of the Federal Government. It would enable the Agency to order all other Federal agencies, including regulatory commissions, to give first priority to its demands. The whole regulatory system of Government could be disrupted. (117 Cong. Rec. 9570, October 14, 1971, daily edition.)

And that 1971 amendment pales next to its 1974 compromise counterpart.

Who could ask for a better argument against the Holifield-Rosenthal compromise? I and the administration still agree with the House's original position on this power—we voted the amendment down in 1971 by a 218 to 160 majority

We are now offered a compromise on this issue—accept CPA subpena-by-proxy power for the CPA to use as it sees fit to protect the health or safety of consumers or to detect consumer fraud or substantial economic injury to consumers—in short to use whenever the CPA wishes. There are no safeguards worthy of the name in this provision.

The Brown substitute differs from the Holifield-Rosenthal compromise in this subpena-by-proxy area—our bill is silent on the subject, as was the 1971 bill. The CPA could request use of such power, and regulatory agencies would be left the discretion to comply.

The Brown substitute also differs with the Rosenthal-Holifield compromise in six other areas.

As to the scope of coverage, the Brown substitute does not have the prohibitions on CPA involvement in Federal action affecting labor disputes such as dock strikes and secondary boycotts which are found in the Holifield-Rosenthal compromise.

What is the committee afraid of, seeking and gaining such a blatant exemption as a compromise? After all, how many times have we heard that the CPA shall only intervene in matters substantially affecting the interests of consumers. Why exempt big labor?

If we are to believe the ardent proponents of the Holifield-Rosenthal bill, we need not worry about the CPA sticking its nose into something which does not affect consumers substantially or doing anything unusual with its powers.

I will tell you what big labor is afraid of—big labor is afraid of the same thing big business is afraid of, and little business is afraid of, and the administration is afraid of, and every agency in this city is afraid of, and I am afraid of—big labor is afraid of the tremendous power contained in the Holifield-Rosenthal compromised compromise. Big labor wants out.

Big labor does not want the CPA any where near the NLRB.

Excluding labor-oriented actions which substantially affect consumer interests would be the rankest form of hypocrisy, and we will have none of it in the substitute bill. Many labor disputes do affect consumers.

If we are going to exempt anyone, especially now that the compromise allows the CPA to participate in the informal, unstructured innerworkings of Federal agencies, we should fully exempt the Departments of Defense and State.

The Brown substitute does this, while the Holifield-Rosenthal alternative would only grant a partial exemption.

Do you realize that the Middle East negotiations clearly will result in a substantial impact on the interests of American consumers? Do you realize that the Holifield-Rosenthal compromise allows the CPA to intrude into such sensitive trade negotiations as a matter of right, and to review all of the papers generated by them and to appeal Secretary Kissinger's actions in this regard?

What, you say? Impossible, you say? Farfetched, you say? I say, tell that to the committee which exempted big labor.

I say we are creating an agency here to oversee other agencies which are acting in ways we did not expect.

If you believe in historic experience, the CPA will be no more reliable in this regard than any bureaucracy, and less so than most because of the great independence we grant the new unit.

The third difference between the Brown bill and the Holifield-Rosenthal alternative lies in a most sensitive area. The substitute would allow Federal agencies to refuse the CPA access to their criminal investigation files, the Holifield-Rosenthal compromise would force Federal agencies to turn over their criminal investigation files to the inquisitive CPA.

Who needs another Federal nose stuck into such sensitive matters, matters of which the person being investigated has no knowledge. The CPA should wait until formal charges are brought, just like anyone else—including the person charged—before learning all the details.

The fourth difference goes back to one of the original concerns expressed by the committee leadership and the administration during the debate in the last Congress—legitimate protection of trade secrets and confidential business information in the hands of Federal agencies.

The Brown substitute would allow Federal agencies to refuse the CPA access to trade secrets and confidential information given voluntarily to them in return for assurance of confidentiality.

The Holifield-Rosenthal alternative would prevent existing agencies from giving such assurance of confidentiality by forcing these agencies to turn over such information to the CPA where they could have gotten it through their subpena or other mandatory power.

It is just plain commonsense that the Holifield-Rosenthal compromised compromise would result in a severe burden being placed upon existing agencies.

These agencies will have to go to court for every scrap of sensitive information they want—only an idiot would voluntarily give a Federal agency his trade secrets and confidential information knowing the CPA could have them just for the asking.

Fifth, the Brown bill requires that the CPA, as with most agencies, shall be represented in court by the Justice Depart-

ment unless the Attorney General decided that it would be inappropriate for the Department to represent the CPA in a particular case. The Holifield-Rosenthal compromise forces the CPA to hire its own trial attorneys.

Does anybody realize the scope of Federal activities affecting consumers? Consider the number of agencies and the literally millions of different actions they take.

Are we to believe that the CPA is to hire trial lawyers with expertise in food and drugs, securities, communications, import requirements, deceptive advertising, maritime laws, housing, transportation, and on and on and on—when the Justice Department has experienced litigators in every district in the country? No wonder, the bar asosciation is for it.

These five differences in the Brown substitute originated as administration amendments recommended in committee—amendments which never had a chance. They are explained in greater detail in a letter sent by Presidential Assistant Roy L. Ash to the Government Operations Committee, a copy of which is enclosed in the committee report, beginning on page 31.

I should note that one of the areas of the administration amendments, the one which would limit the CPA's power to seek judicial review, is omitted.

It is not that I do not agree with the administration's view that the far-reaching power in the Holifield-Rosenthal bill to allow the CPA to take other agencies to court should be restrained.

Substituted for the administration amendment is language contained originally in another amendment on this subject—an amendment originally offered by Congressman FUQUA and myself to allow the CPA to take other Federal agencies to court only to enforce its rights to represent consumers before these agencies and its rights to information.

Under the Holifield-Rosenthal alternative, if the final Government public interest decision of a regulatory agency does not satisfy the CPA, the Government, that is, the Consumer Protection Agency, will appeal that final Government regulatory decision to the Government courts. This is hardly a blow struck for decisive, effective, and consistent administration of our laws. Who will, who does, speak for the Government, the courts? Such public interest regulatory are set up by Congress because they are involved in specialized fields of highly technical matters needing special knowledge.

And, even more irrationally, under the Holifield-Rosenthal bill, the Consumer Protection Agency can appeal the final decisions of these other Federal agencies even when it has slept on its rights and has not acted as an advocate of the consumer interest in the original proceedings which led up to the public interest agency's decision.

Should the CPA be thus permitted to doze off, and then to delay the exercise of governmental decisions by a demand to the regulatory agency for an administrative rehearing or an attempt to unfinalize the decision in the courts?

Such a "justice delayed" process hardly seems designed to advance the interests of consumers, taxpayers, or the public. It is the kind of bureaucratic ambivalence, confusion, and indecisiveness which makes the redtape of the Federal Government so much of a laughingstock to our constituents.

I believe that we would rue the day that we put such judicial review power in the hands of nonregulatory agency cushioned from substantive responsibility—a lawyer with itself as a client.

In essence, no decision of the Federal Government would be final until we knew whether the Government's CPA would allow it to be implemented without challenge in a Government Court. Is it any wonder that our constituents hold in such low esteem the Congress and the Federal bureaucracy which we continue to complicate and fail to adequately oversee?

The seventh, and last, difference also originated in an unsuccessful Fuqua-Brown amendment offered in committee. It involves that very small handful of Federal agency adjudications of violations of law.

Under the Brown bill, the CPA is precluded from being a full party with rights equal to those of the Federal agency lawyer already prosecuting the case, but the CPA could participate as of right as a limited intervenor.

Under the Holifield-Rosenthal alternative, the CPA could enter virtually all such proceedings as a party and use all the prosecutorial tools available to the Government lawyer handling the case.

I find offensive the idea that an American, charged with an alleged violation of Federal law, should be prosecuted by two federally financed prosecutors with two different mandates in the same legal proceeding.

To my way of thinking, elementary fairness, not to mention common sense again, demands that the Federal Government, at least in the adjudication of a violation of law, should speak with one voice. And that should be the voice of the regulatory agency Congress created to adjudicate the violation in the public interest.

If an agency charged with protection of the public interest is not attuned to consumer interests in such adjudications, the most economical method of accomplishing that worthy motive would be to correct the flaw directly by legislation assuring that that public interest agency considers the consumer viewpoint in determining what is the public interest.

A less efficient, but still acceptable method would be for a Consumer Protection Agency to be allowed to present the consumer interest in such adjudications of law so that the consumer interest is clearly drawn to the host agencies' attention before they make a public interest decision.

But, the least efficient and most dangerous method is to establish the Consumer Protection Agency as it is in the Holifield-Rosenthal alternative as a second Federal prosector, "competing" against the host agency and, even more strangely, competing, in effect, against the public interest.

Consider the implications: To the extent that the host agency prosecutor follows a prosecution consistent with the CPA's prosecution, there will be wasteful duplication; to the extent that the two prosecutions are inconsistent, the accused will be trapped in a hearing room at the mercy of a schizophrenic Government.

And, remember, I am talking only about adjudications of alleged violations, not rulemaking, not ratemaking, not the vast majority of Federal actions.

Mr. Chairman, I would like to point out that, as a member of the Interstate and Foreign Commerce Committee, which has jurisdiction over most public interest regulatory agencies, I have been deeply disturbed by the bill. I have been disturbed by the willingness of those on the Government Operations Committee who have championed the compromised provisions in the Holifield-Rosenthal alternative to change in a fundamental way the functioning of governmental entities with which they have no committee familiarity and over which thier committee has no jurisdiction.

As you may know, the Senate CPA legislation was jointly referred to that body's Commerce Committee as well as to its Government Operations Committee—a wise precaution which of course cannot be taken in this House.

Finally, Mr. Chairman, let me give you my last reason for going to all this trouble—and undergoing possible political risk—to offer the membership a viable alternative. This last reason is not easy to admit, but I shall.

I remember clearly my reservations when the NEPA and OSHA legislation passed this body. But many of us left these reservations mostly unstated because those bills, as with the two before you now, were conceived out of goodness and we were too busy to learn their every little detail. Also, I confess, because they were very popular pieces of legislation.

The OSHA and NEPA bills could have been amended to prevent many of the problems they have generated, and yet could have remained viable pieces of legislation. But most of us didn't have the fortitude to take on all that responsibility and work. And we were wrong not to do so—whether or not we would have been successful.

But, problems arising out of NEPA and OSHA will be insignificant compared to the problems that would be generated by the Holifield-Rosenthal compromised compromise.

For those who share my concerns, you are offered a responsible alternative and an opportunity to stand up and be counted with those of us who support a reasonable substitute bill.

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

Mr. BROWN of Ohio. I yield to the gentleman from Indiana.

Mr. DENNIS. Mr. Chairman, I would ask the gentleman from Ohio has the gentleman from Ohio any idea what explanation was given in this distinguished committee as to why we should subject big business and, as I understand it, small business, to the provisions of this bill, and at the same time exempt big

labor, where consumer interests are concerned?

Mr. BROWN of Ohio. Mr. Chairman, in reply to the inquiry of the gentleman from Indiana, let me say that I would be glad to yield to the chairman of the committee or to the ranking member of the committee to make that explanation, or perhaps I should do so after I finish my statement.

Mr. DENNIS. I think it should be made by somebody, because to my way of thinking that is a very great discrepancy.

Mr. BROWN of Ohio. I am sure that point will want to be made, and I am sure it was just through an oversight that it has not been covered in the presentation that we have had up to this point.

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

Mr. BROWN of Ohio. I am happy to yield to the gentleman from Illinois.

Mr. CRANE. Mr. Chairman, I commend the gentleman from Ohio (Mr. BROWN) for the substitute that the gentleman has drafted. I think it is certainly in order, and is an attempt to correct some of the deficiencies, in my judgment, that exist in this bill.

But, with respect to the question raised by the gentleman from Indiana (Mr. DENNIS) in the opinion of the gentleman from Ohio does the gentleman not think that down the road that even organized labor will not come under the influence of this so-called Consumer Protection Agency?

Considering the premises involved in the establishment of this new agency, regardless of whatever concessions may have been made to exempt big labor in exchange for support for this bill, down the road would not the consumer czar ultimately get big labor, too?

Mr. BROWN of Ohio. I am sure that impact is possible in the way that CPA is set up. If the gentleman will permit me, I will go on and tell of some other things that we are into now.

Mr. CRANE. I thank the gentleman for yielding.

Mr. BROWN of Ohio. I will discuss the problems which will be created if this bill is passed as proposed by the subcommittee.

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

Mr. BROWN of Ohio. I yield to the gentleman from Ohio.

Mr. DEVINE. I thank the gentleman for yielding.

I wish to commend him for his substitute. Recognizing that he is a very effective member of the Committee on Interstate and Foreign Commerce, I wonder if he has directed his attention as to how this supposed substitute would affect the Department of Transportation as contrasted with what the Holifield-Horton bill would do? I know those agencies come under the jurisdiction of DOT, such as the Federal Aviation Administration, the Federal Highway Administration, the Federal Railroad Administration, and the National Highway Traffic Safety Administration and so forth.

I understand the computer readout runs into hundreds of thousands of cases where this would affect it; is that true?

Mr. BROWN of Ohio. Not only that, but it would be impossible, if the Consumer Protection Agency in the Holifield-Horton bill had not entered into the protection of consumers early on, to wait until the decision by the agency involved was made, say, the ICC, and then appeal the decision of that agency for review, and then failing to get that review, appeal it to the courts.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HORTON. I yield 10 additional minutes to the gentleman from Ohio.

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

Mr. BROWN of Ohio. I yield to the gentleman from Ohio.

Mr. DEVINE. I recognize the vast implications here, and I would commend the attention of the House to the substitute offered by the gentleman from Ohio.

Mr. HORTON. Mr. Chairman, I yield 1 additional minute to the gentleman from Ohio.

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

Mr. BROWN of Ohio. Mr. Chairman, I yield to the ranking minority member of the Committee on Interstate and Foreign Commerce, the gentleman from Ohio.

Mr. DEVINE. Mr. Chairman, under the Holifield-Rosenthal bill, can the Consumer Protection Agency hire and use its own trial lawyers in court?

Mr. BROWN of Ohio. Mr. Chairman, it would be able to under the bill before us, the Holifield-Rosenthal bill; be able to hire its own lawyers, and its lawyers would be free to operate as they see fit under the legislation as has been proposed.

Mr. DEVINE. That is not true under the Brown substitute?

Mr. BROWN of Ohio. Under the Brown substitute, the cases would be prosecuted under the Justice Department.

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

Mr. BROWN. Mr. Chairman, I yield to the gentleman from Indiana.

Mr. DENNIS. Mr. Chairman, on that point, one of the things that concerns me with legislation of this character is the burgeoning bureaucracy we create, and the additional controls we impose over private enterprise and individual liberty in this country.

Mr. Chairman, the gentleman has mentioned OSHA and NEPA. We have all had that experience.

Mr. Chairman, the other thing that bothers me is on the very point of counsel, because I do not like to interfere with the constitutional symmetry of this Government which our forefathers created. We had three branches of Government, and we have built up a fourth.

Now, the normal way for the Government to go to court is through the Department of Justice, and I just wonder why we not only have to build up a new bureaucracy here which intervenes everywhere, as far as I can see, but also cannot even use the normal judicial branch of the Government. What is the reason for that?

Mr. BROWN of Ohio. Mr. Chairman, I share the gentleman's concern. I am not a lawyer, but I assume that this will provide work for numbers of lawyers. I will be glad to yield to our chairman of the full committee or the ranking member of the committee for an explanation, because I am sorry to say that I cannot give it.

Mr. DENNIS. Mr. Chairman, I thank the gentleman, and I hope someone does give us an explanation.

Mr. HOLIFIELD. Mr. Chairman, I yield 10 minutes to the gentleman from Florida (Mr. FUQUA).

Mr. FUQUA. Mr. Chairman and Members of the Committee, I would first like to pay tribute to the distinguished chairman of the Committee on Government Operations, the gentleman from California.

I know of no committee chairman with whom I have enjoyed working any more than the gentleman from California. Nor do I know a more diligent and cooperative chairman. We have worked to bring about a bill to protect consumers. He has been most generous and kind in protecting my rights as a member of the committee because there are some areas in which there are disagreements as to how the consumer advocate can work more efficiently.

I do want to commend the gentleman for his time and patience and hard work on behalf of this bill.

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

Mr. FUQUA. Mr. Chairman, I yield to the gentleman from California.

Mr. HOLIFIELD. Mr. Chairman, I just want to say too that every member of the committee has appreciated the attitude of the gentleman from Florida. He is one of the most gentlemanly and cooperative members that I have ever served with on the committee. So he is certainly entitled to all the courtesies that have been accorded him by the Chair or by the other members of the committee.

Mr. FUQUA. Mr. Chairman, I appreciate the chairman's generous remarks.

Mr. Chairman, I want to say at the outset that I am a cosponsor of this bill and I voted for it in subcommittee and in full committee to report it to the floor. I supported the bill because I believe that we should have, as the gentleman from New York (Mr. ROSENTHAL) pointed out, someone to sit in that vacant chair at Federal agency hearings to represent the interests of consumers. That concept I accept and I support. I believe that it is in the best interests of consumers in this country.

However, I feel that this bill has some basic flaws that will cripple its effectiveness as an operating agency of government and will, on the other hand, not only clutter up the courts but put us in a position where Government is fighting Government. I think it is appalling that we will have Federal court cases, "The U.S. Government versus the U.S. Government."

Why cannot the Federal agencies arrive at a decision as to what the Government's position shall be? One of the problems I find today among my con-

stituents and, I imagine, among the constituents of other Members, is the feeling that Government cannot function.

I think it is the responsibility of this Congress to try to see that Government does function efficiently, and we should not put another wrench in the wheel of effective Government.

Mr. Chairman, this Congress has created every one of the regulatory agencies that we have in this Government to protect the public interest. This Congress has the oversight over those regulatory agencies. If they are not carrying out the mandate of Congress in representing the public interest, as well as the consumer interest, whom do we blame? Should we come along and set up still another agency with power to take these regulatory agencies to court in order to review the mandate of Congress?

I do not think that is what Congress intended to do, and I do not think that is what we want to do today. We are saying that the CPA or the Consumer Protection Agency advocate has full authority to intervene in the regulatory agency's proceedings and activities.

That is fine. But somewhere we must decide where the final agency decision is to be made.

In the bill that we have before us today, one of the major flaws I find is the fact that the CPA can then appeal the final agency decision. After the advocate has participated in the regulatory proceeding, he can appeal the final decision to the courts for judicial review. That is in effect saying to the American people that we, the Congress, cannot provide adequate oversight for these agencies, and we are taking from the regulatory agencies, many of them handling extremely complicated matters, much of their authority—the Civil Aeronautics Board, Interstate Commerce Commission, Federal Power Commission, Tennessee Valley Authority, and the Food and Drug Administration, as well as many others that we have created.

We are saying that they are incapable of making a decision, and we are going to transfer that responsibility to the courts.

We have many talented and dedicated men who serve on the courts of this country, but many of these administrative areas are very intricate and are areas for specialists.

Mr. Chairman, I think the CPA should have a right to intervene in the decision-making process, but the final decision must be with the regulatory agency so far as the Government is concerned.

I feel that is one of the problems we have to face.

Another problem is identifying the consumer interest.

What is the consumer interest in automobiles? Is it safety, or is it cost, or is it the number of miles per gallon of gasoline we get? In the area of energy and gasoline, is it the availability, is it the cost, or is it the octane rating?

What will be the position of the CPA?

Mr. Chairman, I wish to point out to the Members what we are creating here and the powers of this new agency. We are not creating a Battle Monument Commission; we are going much further than that, I can assure the Members. One of the problems I think we will find is related to a very basic tenet of our Government. Under this bill we fail to understand the very fundamental difference between the Government's duty to protect the people and the people's right to challenge the Government.

We do not give the Federal regulatory agencies the same rights that we give Ralph Nader, the Sierra Club, Common Cause, or other various interest groups such as the ABA. Certainly the ABA supports this bill. They came before the committee. The president of ABA happens to be a very good friend of mine.

I can understand his interest in supporting this measure, as the gentleman from Ohio pointed out. This is lawyer's bill.

We had other people who testified before us, including the administrative conference. They said that probably the CPA should have the right of appeal, but we should be very careful and Congress should be very concerned about granting this authority.

Mr. Chairman, I think that we should adopt the amendment that I plan to propose, which gives the CPA the right to intervene and to present its arguments before the Federal regulatory agencies, but limits it to that so that a final Government decision can be made.

If we come back in later years and make a determination, as we have on many other pieces of legislation, that additional authority is needed we can then review its effectiveness and at that time grant that additional authority.

There was some concern expressed recently about another consumer-oriented agency, the Consumer Products Safety Commission, regarding congressional oversight. The committees charged with oversight in the House and the Senate got into a public argument with the CPSC recently as to whether Congress even had a role to play in overseeing that agency's activities.

I think we do have some very serious problems in the field of judicial review. Congestion of court calendars and basic question whether we should vest an agency with the same rights as the private citizen. We speak of parity between the rights of the private citizen and the CPA. The individual in this country should always have the right and the superior right to challenge the Government. This is distinctly different than government challenging government.

Mr. Chairman, my other concern relates to the dual prosecutor aspect of the bill. This sets up a case where the business man may have been charged with an alleged violation of law by one of Federal regulatory agencies. The regulatory agency may take one position vis-a-vis the individual and here comes the Consumer Protection Agency advocate possibly taking a different position on the matter. The poor businessman or citizen is being hit by both sides. Furthermore, if the final agency decision exonerates the individual, the CPA can appeal the decision to the courts.

Historically we have limited the Government to one position. I do not think we should modify that. Many times the consumer interest is not necessarily the same as the public interest.

I hope at the proper time, Mr. Chairman, to present these amendments to the House when we get under the 5-minute rule, and I certainly ask your most favorable consideration of them at that time.

Mr. HORTON. Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Chairman, a month or 6 weeks ago I stood in this very spot and said then what I was about to say was an exercise in futility. I want to repeat that statement today.

I said also Members of this body—at least too many of them, in my opinion—have lost all sense of fiscal responsibility. I want to stress that point with all of the power at my command.

I also said the chairman of the Committee on Appropriations, Mr. MAHON, had just told us a few days prior to that time that by the end of this fiscal year the interest on our national debt would be $29.1 billion per year. I did a little figuring, and my figures indicated that for every minute of every day of every week we will be spending $55,655 in order to pay the interest on that national debt.

Now, Mr. Chairman, turning to page 29 of this bill I read these three lines:

> There are hereby authorized to be appropriated such sums as may be required to carry out the provisions of this Act.

I would like to yield to somebody on the committee to indicate to me and to the Members of this House just what the price tag of this bill may be. Can anybody give us that figure?

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

Mr. GOODLING. I yield to the gentleman from New York.

Mr. HORTON. Mr Chairman, in reply to the inquiry of the gentleman from Pennsylvania, according to the report—does the gentleman from Pennsylvania have the report before him?

Mr. GOODLING. Mr. Chairman, I do not have a copy of the report in front of me at the moment.

Mr. HORTON. Mr. Chairman, will give the gentleman a copy of the report.

Mr. Chairman, I would refer the gentleman from Pennsylvania to the bottom of page 20, where it says:

> Your committee estimates the costs to be incurred under the provisions of H.R. 13163 over a 5-year period at approximately $50 million, based on the assumption that the CPA will employ an average of 350 persons.
>
> Estimate per year is as follows:

| Fiscal year: | |
|---|---|
| 1974 | $1,000,000 |
| 1975 | 9,000,000 |
| 1976 | 10,000,000 |
| 1977 | 10,000,000 |
| 1978 | 10,000,000 |
| 1979 | 10,000,000 |

Mr. GOODLING. Mr. Chairman, I want to thank the gentleman from New York for giving us those figures.

If I were a gambling man, Mr. Chairman, I would be willing to give pretty good odds that those figures will probably multiply many times above those quoted in the report.

Mr. Chairman, the gentleman from Ohio (Mr. BROWN) spoke of duplication, and there is no question in my mind—and I am sure there is no question in the minds of others that there is entirely too much duplication in Government.

The gentleman from Ohio also stated that there will probably be 250 employed during the next 5 years. Here again I would be willing to give big odds that this is wishful thinking to think they will employ only 250 employees. We are duplicating. We have Virginia Knauer, who is performing pretty much the same function we are proposing here. I do not know how many employees she has.

Mr. Chairman, just this morning I attempted to secure other information, and I trust the Members will listen to these figures:

In October of 1972 we set up the Consumer Products Safety Commission. This was created as late as 1972. As of November 1973, there were 667 employees.

In looking over this list, and the list that I have here is supposed to be confidential, but I do not know why salaries in the Federal Government should ever be confidential, but it looks to me as though we have entirely too many chiefs for the Indians employed.

I will just go down this list and tell the Members how many people are employed in certain grades:

There are 17 in grade 3, 54 in grade 4, 74 in grade 5, 44 in grade 6, 136 in grade 7, 10 in grade 8, 39 in grade 9, 73 in grade 11, 58 in grade 12, 53 in grade 13, 53 in grade 14, 51 in grade 15, and 3 in grade 16.

Mr. Chairman, I had hoped to do a little figuring to determine the total dollar figure, but I did not have the time to do that.

As I say, we are building and building bureaucracies. Very recently we had four witnesses before a committee on which I serve, and I shall not mention the Department from which they came.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HORTON. Mr. Chairman, I yield 3 additional minutes to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, I thank the gentleman for giving me this additional time.

Mr. Chairman, when this bureaucracy came into being it was not much of a bureaucracy. The budget, as I recall, was $4 million. Today the budget of that same department is $440 million.

I told the witnesses—and they probably did not like what I said—but I told them I am amazed that I have lived as long as I have. There was no bureaucracy to tell me when to comb my hair, when to brush my teeth, or when to wash behind my ears.

Here we are, building bureaucracy upon bureaucracy. We have a home economist in, I would say, every county in the entire United States. We do in my Commonwealth of Pennsylvania. We have many, many of them. We have extension services doing a terrific job in this field of consumer education. Every high school today has home economists. They too are teaching home economy and consumer education to our students. The average consumer, in my opinion, does not need to have very much protection. I have dealt with consumers for many, many years, and I find that most of them are pretty intelligent and that they do not need people in Washington to tell them what to buy and what not to buy.

But thanks to some advocates, we have taught consumers to believe that some Great White Father lives in Washington, and only he can tell them what they shall or what they shall not buy. As I say, I consider this a very bad legislation, adding bureaucracy to bureaucracy. I trust that the bill will be defeated.

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

Mr. HORTON. Mr. Chairman, I yield 10 minutes to the gentleman from Alabama (Mr. BUCHANAN).

Mr. BUCHANAN. Mr. Chairman, it is always a pleasure to follow my distinguished colleague, the gentleman from Pennsylvania, and I am pleased to follow him in the well today and to follow the philosophy that he has here expressed.

Mr. Chairman, we are fortunate in having on the Committee on Government Operations a chairman of real statesmanship who is a gentleman and a scholar, and who has always conducted the work of our committee with wisdom and with fairness. I must say that this bill is a lot less worse at this point than when he started with it. However, I am afraid I cannot share the enthusiasm which he and my distinguished leader on the Republican side, the gentleman from New York, feel for this bill in its present form. There are some reasons why I have these reservations.

In the first place, I am not certain that we are doing right in the very creation of another agency, another bureaucracy, to further interfere with and intervene for or against the people of the United States. The Congress has created a multiplicity of bureaucracies. We find ourselves as American citizens confronted with a government that has grown so large and so complex that no one even understands it, much less control it. Here, to try to solve some problems that may be real, we are adding another agency, another bureaucracy, to the multiplicity of already existing government units.

The new federalism which the President proposed to Congress is an approach that I think is a good approach in government. He said we need to trim down the size of the bureaucracy; we need to straighten it out; we need to get it into an efficient condition by reorganization. Through reorganization and through the revenue-sharing approach that he proposed to the Congress some years ago, we were to try to make the whole Federal establishment serve the people more efficiently and serve them better. We were going to try to return more power to the people and to lower levels of the government. We were going to try to straighten out this mess which Congress has made by the creation of all of these special-purpose bureaucracies stumbling over each other here in Washington and elsewhere around the country.

In this legislation we create a new bureaucracy and to add to those many agencies already charged with protecting the consumer interest—and those agencies of the Government, each one charged with protecting the public interest—another bureaucracy which will protect, we say, the consumer interest. I am not certain just how the consumer interest is at variance with the public interest, but I would assume that all of the regulatory agencies with which this agency will deal, being charged with the public interest and its protection, being charged with serving the people, are charged with protection of the consumer interest as well.

And I have real concern that we may be heading in the wrong direction. This concern is shared by at least some of the agencies of the Government.

There are powers given to this Consumer Protection Agency which will make it something of a super power among the agencies in that, unlike the rest, we can through the powers given to intervene in this agency find the Government taking itself to court or find an agency attempting to overrule the decisions of regulatory agencies that have expertise in very specific and technical fields, and transferring that authority to the Federal judiciary.

Perhaps Congress finds the judiciary is not heavily enough loaded already. Perhaps the Congress finds we need more bureaucracy or that the judiciary is in better condition to make technical judgments than the agencies with which the Congress has charged those judgments in the first place.

But there is reason for concern that this agency, instead of serving consumers or all the people, which is the way we define consumers, will instead further throw a monkey wrench into the wheels of Government and interfere with the functioning of the present bureaucracies and in their ability to serve the public interest.

My colleague from Alabama (JAMES ALLEN) from the other body wrote the Justice Department out of his concern about what a very similar Senate bill, that contained almost the identical provisions to this, would do, and the powers which the Justice Department addressed itself to in the letter, from which I am going to read excerpts, were contained in that Senate bill and are present in this bill as well. The response to my colleague in the other body from the Justice Department I will read in part pertaining to the concern of the Justice Department with some of the provisions that are also contained in this bill. The letter reads in part:

S. 707 provides that, upon written request of the Agency's Administrator, all Federal agencies are authorized and directed to allow access to all documents, papers, and records which the Administrator deems necessary for the performance of his functions. Access may be denied: 1) if the information requested is classified in the interest of national security or defense; 2) if the information requested consists of policy recommendations

by agency personnel for internal agency use; 3) if the information requested concerns routine executive and administrative functions, not otherwise a matter of public record; 4) if the information requested consists of personnel and medical files; 5) or if the agency is specifically prohibited by law from disclosing such information [§207(c)]. Trade secrets and commercial or financial information shall not be disclosed to the Administrator unless the Administrator informs the agency that disclosure of such information is necessary in order to protect public health or safety, or to protect against imminent substantial economic injury due to fraud or unconscionable conduct. [§207 (e)]. Disputes over the disclosure of trade secrets or financial information shall be settled by the presumption that the Administrator is entitled to such information unless the Federal agency involved petitions the U.S. District Court for the District of Columbia for an order limiting or modifying the request.

The broad information-gathering powers of the Agency is a matter of grave concern to the Department of Justice.

The primary function of the Department is that of prosecutor; in the course of its duties, it conducts thousands of investigations which do not result in prosecution or any official action. We have always taken the position that prosecutorial files are privileged, and we believe it would be improper, in most instances, to open these files to other agencies. The need to protect confidential sources, danger of flight to avoid prosecution if the fact of investigations were known prematurely, and the unfairness of damaging innocent reputations of suspects ultimately exonerated are among the policy reasons supporting secrecy of investigative files. Yet this policy could be undermined by the broad information-gathering powers of the Administrator under this bill. The fact that the Department's main investigating branch, the Federal Bureau of Investigation, is exempted from the provisions of this bill does not exempt the Department's own investigative files, and hence does not eliminate the Department's objections to the Agency's overbroad information-gathering powers. [§ 405].

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

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

Mr. BROWN of Ohio. Is the gentleman saying that the Justice Department files and the FBI files would be available to the Consumer Protection Agency?

Mr. BUCHANAN. In the opinion of the Justice Department, yes.

Mr. BROWN of Ohio. The gentleman does not mean the Internal Revenue Service files and the FBI files are not exempted?

Mr. BUCHANAN. The FBI files are exempted, but Justice is concerned that this exemption does not cover the Department's own investigative files.

Mr. BROWN of Ohio. I thank the gentleman.

Mr. Chairman, the agency's right to intervene in agency activities and actions raises serious questions peculiar to the functions of the Department of Justice.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HORTON. I yield the gentleman from Ohio 5 additional minutes.

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

The CHAIRMAN. The Chair will count.

Evidently a quorum is not present. The call will be taken by electronic device.

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

[Roll No. 135]

| | | |
|---|---|---|
| Adams | Hanna | O'Neill |
| Arends | Hansen, Wash. | Patman |
| Badillo | Harsha | Pickle |
| Bevill | Hébert | Pike |
| Blackburn | Heckler, Mass. | Poage |
| Blatnik | Ichord | Rees |
| Camp | Jones, Ala. | Reid |
| Carey, N.Y. | Jones, N.C. | Rooney, N.Y. |
| Chappell | Kazen | Runnels |
| Chisholm | Kemp | Shriver |
| Clark | Kluczynski | Sisk |
| Collier | Landrum | Stark |
| Conlan | Leggett | Steiger, Ariz. |
| Conyers | Lujan | Stephens |
| Diggs | McFall | Stokes |
| Dingell | McKinney | Stuckey |
| Dorn | Macdonald | Teague |
| Esch | Martin, Nebr. | Williams |
| Ford | Mathis, Ga. | Young, Alaska |
| Frenzel | Melcher | Young, Ga. |
| Gettys | Murphy, N.Y. | |
| Gubser | O'Hara | |

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BOLAND, 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. 13163 and finding itself without a quorum, he had directed the Members to record their presence by electronic device when 368 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. The Chair recognizes the gentleman from Alabama (Mr. BUCHANAN).

Mr. BUCHANAN. Mr. Chairman, at the time the quorum call intervened I was discussing a letter from the Justice Department to my colleague from Alabama in the other body, JIM ALLEN, who had written concerning legislation in that body which had provisions almost identical to those in this legislation, and the responses were equally appropriate. I had read to the committee the quote:

The broad information-gathering power of the agency is a matter of grave concern to the Department of Justice.

Mr. BROWN of Ohio. Mr. Chairman, I asked the gentleman earlier, and I would like the gentleman to reiterate to me the substance of what it is that the gentleman is saying: Is it that the Department of Justice feels that its confidential criminal records would be compromised by the power of the Consumer Protection Agency under this legislation whereby they could go into the records of the Department of Justice; and would that apply to the FBI files, and would it apply to the files of the IRS, and other agencies?

Mr. BUCHANAN. It would not apply to the FBI except that the Department expressed concern that this exemption does not exempt the Department's own investigative files, and hence does not eliminate the Department's objection to the agency's overbroad information gathering powers.

The Department also expressed concern over other aspects of this legislation, and I quote:

S. 707 provides that whenever the Administrator determines that a Federal Agency proceeding subject to 5 U.S.C. §§ 553, 554, 556, or 557 may substantially affect an important interest of consumers, and where intervention is necessary to adequately represent an important interest of consumers, he may intervene as of right as a party or otherwise. [§ 203(a)]. The Administrator appears to have the choice of whether to intervene as a party or in a more informal posture.

In those agency activities which are not covered by § 203(a), be they formal or informal [see § 401(4)], the Administrator may as of right participate where the important interests of consumers may be substantially affected. This participation is limited in nature and allows the Administrator to submit information and briefs, but the Agency's position is not that of a party. [§ 203(b)].

The Agency's right to intervene in agency activities and actions raises serious questions peculiar to the functions of the Department of Justice. The principal purpose of S. 707 seem to be to afford representation of the consumer interest in rulemaking and adjudicatory proceedings of the regulatory agencies. Yet the broad definition of agency activity in § 401(4) would appear to allow the Agency to intervene whenever it is not intended that the Agency should participate and have a voice in prosecutorial decision-making, but that certainly may be an effect of S. 707.

Section 203(d) authorizes the Administrator, in the interest of consumers to request another Federal agency to initiate a proceeding or activity. If the agency declines to act, the Administrator must be notified in writing of the reasons for the agency's decision and the reasons shall be made a matter of public record.

The Department of Justice vigorously opposes this section of the bill. There is nothing in this bill which would prevent the Agency from requesting the Department to initiate a criminal prosecution. Although we handle criminal prosecutions on referral from many agencies, we rarely make public our reasons for not wishing to prosecute. Prosecutorial decisions are often based on fine distinctions of law, and technical judgments as to admissibility and probative weight of facts. A prosecutorial judgment might appear incorrect to the lay public. A prosecutor's decision might be made with an eye towards public opinion, rather than on the law and his professional judgment, if his reasons for not acting are to become part of the public record. Moreover, the prosecutor's duty to protect the innocent is undermined by the publicity incumbent in such a proposal.

A key aspect to S. 707 is the Administrator's right to obtain judicial review of any agency action if he participated below, or to intervene in a pending review of any agency action whether or not he participated below, unless his intervention or participation would be detrimental to the interests of justice. [§204(a)]. Where the Administrator has not participated in the agency proceedings, before he may obtain review he must petition the agency for a rehearing or reconsideration if such is required by law of any person. [§204(b)]

This right to obtain review appears to include review in all courts, including the Supreme Court. As such it runs counter to the traditional responsibility of the Solicitor General to authorize appeal or intervention by a government agency in any appellate court, and to present the government's position in the Supreme Court. We believe this would be an unwise departure from a proven practice. The Solicitor General's control over Federal appellate litigation insures that the government shall take consistent positions on common issues of law, and that only issues of overriding public importance will be presented to the appellate courts by the government, in factual postures which maximize

the likelihood of a successful result. In recognition of this screening process, the courts, and especially the Supreme Court, have tended to give careful and sympathetic hearing to issues the government has chosen to present.

It is true that this Department, as the government's principal legal office, occasionally challenges an action of another Federal agency in a Federal Court. There are also occasions when the Department confesses error on an agency it is charged with defending, while permitting that agency to present its own position in court. But even in these rare situations it is the Solicitor General who determines that it is appropriate that one agency should oppose another in court. He makes such a decision only when he is persuaded that close and important issues of public policy, peculiarly appropriate for judicial resolution, are involved, and he has given due weight to the policy considerations outlined above.

If this independent authority is vested in the Agency, separate government agencies will be contending against one another in Federal courts on a regular basis, each asserting its own version of the "public interest". This unseemly spectacle can only undermine judicial respect for the integrity of the government and its agencies as litigants, and thus is likely to adversely affect government litigation over a broad spectrum. We believe that the Agency should not be authorized to initiate or to intervene in judicial proceedings to review agency action, except to enforce its own authority. Rather we would prefer a provision which would permit the Agency to submit information and views to a court in a pending proceeding to review agency action, but would not authorize initiation or intervention as a party in any such proceedings.

The bill provides that the Agency shall be represented by its own attorneys, except that when the Agency is sued the Administrator may request the Department of Justice to represent the Agency "pursuant to the direction of the Administrator to the same extent and in the same manner as it represents other Federal agencies". The traditional rule is that agency litigation is conducted by the Department of Justice under the direction of the Attorney General. 28 U.S.C. §516. We see no reason for treating the Consumer Protection Agency differently than other Federal agencies. Where agencies seek to take differing positions in court, it is the proper role of the Attorney General, as the government's chief legal officer, to determine which shall be the position of the government. In appropriate cases he can authorize one agency to present its own position, through its attorneys, while the Department presents the other agency's position as that of the government.

We would have no objection to representing the Agency when it is sued; however, the bill provides that such representation shall be at the direction of the Administrator but in a similar manner as we represent other agencies. This creates an ambiguity at least, and perhaps a conflict. When the Department represents other Federal agencies we maintain full control over the litigation and we do not act at the direction of the agency involved. Of course we always cooperate fully with the agencies in seeking to achieve their objectives in litigation, but we must oppose legislation which grants another agency final authority to direct litigation which we are conducting. Therefore, we would suggest that § 210(d) be amended by deleting the phrase "pursuant to the direction of the Administrator."

The Department therefore expressed concern with a number of areas of this bill's proposed powers for CPA, which would be corrected by the substitute to be offered by the gentleman from Ohio (Mr. BROWN) and which version I would commend to my colleagues on the committee.

I am concerned lest this bill, for all its good intentions, do further damage to the Government, taking away from the regulatory agencies their rightful functions and transferring them over to the overburdened Federal judiciary; that it further inhibits the power of the whole Government to serve the whole people and the public interest. I am also concerned that this bill, as presently constituted, shall be another heavy burden on the free enterprise system of this country, which is the best friend consumers have had in the world, and the blow will fall most heavily upon the Nation's small businesses, already overburdened with regulatory and other Government agencies with powers to intervene in their lives. In this connection, I call the attention of my colleagues to the minority report signed by the gentleman from Arizona (Mr. STEIGER) and by the gentleman in the well.

Finally, Mr. Chairman, I would urge my colleagues to take a hard look at the Brown substitute, because I believe that is the way we can best make the whole Government serve the people of the United States, who are not only consumers, but who are the citizens and the taxpayers, and who deserve the whole Government serving the whole public interest effectively, as this bill might help it not to do as well. I believe that the Brown substitute would provide an agency which might serve the interests of the consumers without damaging the interests of the people as citizens and as taxpayers.

I urge that when the time comes that the committee will give its support to the Brown substitute.

Mr. HOLIFIELD. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey (Mr. PATTEN).

Mr. PATTEN. Mr. Chairman, the legislation being considered by the House today—the Consumer Protection Act—is truly historic, because it will help and protect every consumer in America.

I am happy and proud that I am a cosponsor of this bill, because I have always believed the rights of consumers are ignored, and that they do not receive the protection they need and deserve.

Since I entered Congress, thousands of my constituents have complained about the quality and performance of some of the products they purchased. Their voices of protest have been ignored and consumer laws have not been properly enforced, not only because consumers are not effectively organized, but also because they lack real representation before Federal agencies.

Under H.R. 13163, the voices of consumers will be heard—and respected. Consumer interests will be represented before Federal agencies for the first time. Mr. Chairman, due to this legislation—and the strong and courageous leadership of its chief sponsors, Mr. HOLIFIELD, Mr. HORTON, and Mr. ROSENTHAL—the consumers of America will finally have representation and protection never enjoyed before. This is a day I will always remember—and so will consumers.

Mr. HOLIFIELD. Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts (Mr. MOAKLEY).

Mr. MOAKLEY. Mr. Chairman, I rise in support of H.R. 13163, the Consumer Protection Act of 1974.

Consider the American consumer.

Orphaned at birth by business, adopted reluctantly by Government, the consumer is told that those incestuous handmaidens of technology, the regulatory agencies, can protect him adequately—that he does not need an independent voice at the Federal level.

FAA, SST; FTC, DDT; FPC, O-I-L.

This alphabet does not spell protection. It spells neglect.

Clearly, the American consumer is not adequately represented in our Government. Congress must take this step to protect the rights of the largest and least represented special interest group in the Nation.

Congress has been dragging its feet on consumer legislation. There is no longer any excuse for delaying passage of this bill. The bill before us today is a compromise worked out in committee. It is weaker than many of us would like it to be, but it is strong enough that we can live with it. Some would like a weaker bill, but they too should be able to live with this compromise. It is a good compromise.

We must reject any attempt to further weaken this bill by amending it, or by accepting a substitute measure. Unless the Consumer Protection Agency is left with the power to be a litigant and an advocate, this bill is a farce. This issue is too important to the people of this Nation, and to my neighbors in Boston for us to weaken this bill.

Prices have been skyrocketing, and quality has been rapidly diminishing. We must act now, because the American consumer cannot afford to lose much more.

Already many people cannot afford to eat properly, or to live comfortably. Even more feel cheated because they are paying exhorbitant prices for inferior goods and services.

Clearly, the American consumer has been poorly represented. We must turn the tide on this critical problem. We must rectify this deplorable state of affairs immediately.

I urge my colleagues to support this bill as it was reported from committee. I commend the committee for arriving at such an equitable compromise.

Mr. HOLIFIELD. Mr. Chairman, I yield to the gentlewoman from New York (Ms. ABZUG).

Ms. ABZUG. Mr. Chairman, first I would like to commend the chairman, the gentleman from California (Mr. HOLIFIELD) and my colleagues on the Com-

mittee, Mr. ROSENTHAL and Mr. HORTON, for their leadership and their long arduous labor in developing this landmark legislation. Although I would have preferred a bill endowing the Consumer Protection Agency with more affirmative powers, I cosponsored H.R. 13163 because I felt that it would create an effective and responsible CPA which would assure adequate consumer representation at the Federal level and because I felt that this bill could be enacted into law with the broadest possible support. The American consumer has waited too long for representation in the halls of Government. After 5 years struggle and efforts to overcome opposition both from the administration and from business interests, the consumer can at last start to have his or her day in court. Passage of H.R. 13163 will represent a step forward and I urge my colleagues to support it.

In response to the fears expressed by my colleague from Ohio (Mr. BROWN) I would remind him that all of the people in our country, taxpayers and citizens, are consumers. Contrary to what he fears, it will be very much in aid of the free enterprise system if we reconcile the role that each of us plays as citizens, as business people, farmers, and workers, with our fundamental role as consumers.

I think this bill is long overdue. It is a significantly interesting compromise of people of many different viewpoints. Because of that, many of us may have differences with it, but if we care about the situation of all Americans, this is the kind of bill that we should support.

The substitute, I think, is very timid. It really negates the obligation that we have at last to take care of the consumers of this country, who are really all of us. I oppose the substitute and urge that we defeat it so that we can go on and do our job.

I thank the chairman for yielding.

Mr. HORTON. Mr. Chairman, I yield 5 minutes to the gentleman from Iowa (Mr. MAYNE).

Mr. MAYNE. Mr. Chairman, I want to thank the gentleman from New York for yielding.

I rise to express a warning to the Members of this House who have been stampeded too often in recent years to go along and rubberstamp legislation which seemed very advantageous at the time, but which wound up putting very onerous, unworkable burdens on small businessmen, independent businessmen, and on the farmers of this country.

I should like to remind the Members of our experience with OSHA, the Occupational Safety and Health Act. We went down that primrose path without giving due consideration to its details and ramifications, and literally hamstrung a lot of small, independent businessmen so that it was literally impossible for them to continue in business.

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

Mr. MAYNE. I yield to the gentleman from New York.

Mr. HORTON. I thank the gentleman for yielding.

There has been a lot of talk about OSHA here today. I certainly recognize the gentleman's concern, but I should like to point out to the gentleman, first of all, that there was a lot of work done by the committee over a long period of time in developing this bill.

No. 2, this bill does not provide for a regulatory agency. A regulatory agency was what was provided for in the OSHA bill. All that is provided for here is an advocate to represent the consumers' interests. The only small businessman who is going to be hurt here is going to be the small businessman who is fraudulent, who is doing something to injure or hurt the consumer. All this agency can do is appear and represent the consumers' interests before these agencies.

Mr. MAYNE. I am also concerned about the impact of this bill on the ability of the Nation's farmers to produce adequate food.

I recall another bill which we passed overwhelmingly, the Environmental Protection Act, without realizing how sweeping were its provisions. The EPA came along and tried to establish some reasonable regulations which would make it possible for family farmers engaged in small livestock feeding operations to be exempt from the permit requirements of the act. But now so-called public interest law firms are suing the EPA to block these reasonable regulations, contending that the act provides absolutely no discretion to the Environmental Protection Agency for the exemption of any farmer in America from these onerous requirements.

I am very concerned that the same thing is going to happen, and that the farmers' ability to produce will be hampered further if this bill is enacted in its present form and fully implemented.

I see here in the Chamber my good friend, the gentleman from New York, the distinguished Congressman, BENJAMIN S. ROSENTHAL.

I am reminded that the present bill is to a very great extent based on his H.R. 14 and his proposals in the committee. To discover the intent of the proponents of this legislation we need only look to Congressman ROSENTHAL's statement to the House on the opening day of the hearings upon H.R. 14—pages E5820 through E5822 of the September 17, 1973, CONGRESSIONAL RECORD.

The distinguished Member from New York made it clear in his remarks last September that he intended to create a Consumer Protection Agency that would have authority to intervene in virtually every Federal Agency decision regarding agriculture production and marketing. He expressed concern that county and State agricultural stabilization and conservation service committees—ASCS committees—were elected by farmers and were composed only of farmers, and that they influence and administer important programs vital to consumers such as feed grain programs, acreage allotments, marketing quotas and long-term land retirement programs, and he voiced the objection that "there were no consumers and no consumer representation involved in those process."

He deplored the lack of consumer representative participation in agricultural policymaking at the Washington agency level, citing as examples Department of Agriculture decisionmaking regarding acreage production restrictions, import controls, export policies, grain sales, set-asides, land use programs designed for voluntary production adjustment, resource protection, and price, market, and farm income stabilization, USDA quality grade standards for meats, milk marketing orders, regulations regarding use of preservatives in meats, promotion of sale abroad of agricultural commodities such as soybeans and wheat. He contended enactment of his H.R. 14 would definitely end this situation, for it would enable the Consumer Protection Agency to intervene in Agency proceedings as a party, whether the proceedings are formal or informal, and whether or not they are attended by hearings.

It is clear from Congressman ROSENTHAL's remarks last September regarding H.R. 14 that it was his intent to grant the Consumer Protection Agency carte blanche authority to intervene and participate not only at the Washington level in agency proceedings, but also in the informal administrative processes of county and State ASC committees as they consider individual farms and farmers, and that he intended to grant the Agency power to appeal as a matter of right, and to litigate in the courts, any administrative decisions that the CPA considered as having an affect on consumers, whether or not the CPA had participated in the hearing or informal proceedings of the committee or agency.

I believe that same intent pervades the present bill, which is to a large extent based on H.R. 14, and the prospect of enacting legislation to establish a super agency, the Consumer Protection Agency, with authority to intervene in virtually every administrative decision of the USDA and of other agencies which affect farmers in their day-to-day operations and which regulate the small and independent businesses of this Nation is frightening to me.

In the floor debate on consumer legislation in the 92d Congress, Chairman HOLIFIELD admitted that administrative chaos would be guaranteed were agencies to be required to consult with the Consumer Protection Agency before any informal decision is made. He further stated that the CPA should not "attend every informal action, sit in on every conference of the commissioners or examiners of the agency, read every office memorandum that passes back and forth from one agency to another, and be around, day and night, to look over the shoulders and breathe down necks of agency officials."

But what is there in the present bill which would in any way prevent or inhibit this new Consumer Protection Agency from so exercising its powers and from unduly harassing not only the regulatory agencies so that they cannot effectively do their jobs—including protection of the consumer—but also the farmer and the small businessman so

that they cannot efficiently produce needed foods and fibers or provide the market mechanism which has so efficiently provided the needs of American consumers in our system?

I am in sympathy with consumer protection, but I am not convinced that the present bill and the super agency it would create would ultimately benefit the consumer. The bill would give the new agency broad sweeping powers: to intervene into any U.S. Department of Agriculture meeting or action found by the CPA to be affecting consumer interests; to appeal any decision made by USDA officials, with the effect of tying up the daily operations of the Department for extended periods of time, reducing the Department's ability to take speedy action in order to meet emergencies; to subpena both departmental and private data for the CPA Administrator, whether or not that information was confidential; and to go to court to litigate any USDA action not to the liking of the CPA Administrator.

This legislation would establish a Consumer Protection Agency with such wide ranging powers that it could override the autonomy of USDA's internal operations. USDA and many executive branch agencies could well lose their right to make final decisions, to control their own internal actions, and to preserve their books and files. The broad grant to the CPA of the power to intervene in the affairs of established regulatory agencies would add complexities and could seriously impede actions favorable to consumers, particularly where the regulatory agency has been actively advancing consumer interests.

It is argued that the Consumer Protection Agency is needed because existing agencies have failed to adequately protect the consumer. But is it sound government to create one more agency when dozens of others allegedly are not doing their job? Is not the market system—with vigorous competition—a far more reliable protector of consumer interests and of the public interest?

I am very concerned that this bill is so sweeping that our farmers are going to be further handicapped in trying to meet the great crisis of production which confronts not only our Nation but also the whole world. I am afraid that well meaning consumers advocates are going to wind up with not enough food, because this bill is going to lead to another army of bureaucrats impeding the American farmers' ability to produce in a free enterprise system. This is serious most of all to the consumers. We have got to have a free agriculture able to function and meet this crisis.

I sincerely hope that we will adopt amendments here today or tomorrow which will place needed curbs and reasonable limitations on this proposed new agency so that it will not become an administrative monstrosity creeping into every phase of agriculture and business.

The bill in its present form would be a millstone about the neck of the American farmer and independent small business now. The American farmer already has enough Federal bureaucrats riding herd on him—he certainly has no need of still another Federal agency to tell him how to farm. If Congress continues to enact overreaching, "overkill" legislation such as the present proposal, we are not going to have any family farmers or small, independent businesses left—and consumers will not have to worry about the price of bread and meat and milk, for there will be none to be had.

Mr. HORTON. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. CRANE).

Mr. CRANE. Mr. Chairman, in the August 17, 1970, issue of Barron's magazine, Caspar W. Weinberger said:

> There is a curious belief growing up that consumers are some group apart and that there are some specially anointed people who are the only ones who can speak for them. Neither you nor I can speak for consumers, they feel, unless we belong to the required organizations . . . well, I don't believe it. We are all consumers. We are all equally important because we all have an equal interest.

Consumers are mistakenly viewed—and so treated in the pending legislation—as a homogeneous group of individuals all with the same motivations. desires, needs, et cetera. Starting from such an erroneous assumption is bound to lead to erroneous conclusions. The interest of consumers is identical to the public interest, for the general public and the consumers are all one and the same. And unless I am mistaken the regulatory agencies we have set up over the past 70 years were designed to protect the public interest.

In a democracy, consumer needs and desires come to bear upon government through the elective process. It is therefore, the responsibility of the Congress to translate the divergent needs and desires of the people—consumers—into consensus programs and courses of action.

If executive agencies fail to follow the intent of Congress, the responsibility then comes back to the legislative body to clarify or make its instruction specific. To propose a Consumer Protection Agency is an admission that the executive agencies have failed to follow the intent of Congress and rather than meeting our responsibility we are pushing it off to another level of government. Why should the Congress seek to abrogate its responsibility to the electorate in the area of consumer affairs through legislative fiat, such as that contained in the proposed bill? Surely the transfer of power to the executive branch, due to congressional default, has reached dangerous proportions already. The tide needs to be turned in the opposite direction.

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

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

Mr. ROUSSELOT. Mr. Chairman, I thank the gentleman from Illinois for yielding.

I wish to follow up a point the gentleman has made. I am sorry to see so many Members of the Congress suddenly have come to believe that we as Members of the Congress are incapable of representing the consumer. We are elected every 2 years and as elective representatives have better and more regular contact with consumers than unelected bureaucrats. We have an adequate input to the agencies about which all complaints have been made by my good friend, the gentleman from New York, who says the regulatory agencies do not represent the consumer.

But that is the job we in Congress have. Why do we have to set up another executive agency that will be further away from the consumer? Why cannot we as Congress be the consumer representatives? I always thought we had been. That is what our congressional casework is all about.

Mr. HORTON. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Chairman, the only point I wish to follow up on is that I think this Congress is a "consumer representative" better prepared to help consumers. I think that we are far better capable to represent the consumer as 435 Members who are elected every 2 years than another bureaucratic agency that Congress has created and to which we have given too much power.

My good colleague, the gentleman from New York, has constantly complained that we are shifting too much power to the executive branch. I agree with him. I think though this agency will do exactly the same thing.

This Congress has the capability of representing the consumers. We are close to them. That is our job. Most of the Members in this House go home every week or 2 weeks to make sure that we are in touch with the consumers.

I do not believe there is anybody better capable of representing the consumer than the House of Representatives.

Now here we are going to spread out even further in the executive branch more power to interfere with the free market system. My colleagues say that it will only be 350 people. My guess is that in less than 5 years it will be 2,000 or 3,000 bureaucrats, if it is anything like our past experience. With other independent agencies. So to try to make the argument that this is just a small little agency which will work for the little consumer flies in the face of history.

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

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

Mr. CRANE. Mr. Chairman, I simply want to commend the gentleman from California for his observations, and to remind Members of this body that it was Ralph Nader himself who cautioned Members of Congress a couple years ago that we are failing to exercise the appropriate legislative oversight responsibilities that we have. That goes to the point that my colleague, the gentleman from California, has made.

One further observation I might add: Institutionally, the free market has been the best protector of the consumer, bar

none. Congress has often gotten in the way of consumer interests, particularly when it has bred a nasty brood of regulatory agencies and now it proposes to create the regulatory agency's agency.

The CHAIRMAN. The time of the gentleman has expired.

Mrs. SULLIVAN. Mr. Chairman, the bill H.R. 13163 "to establish a Consumer Protection Agency in order to secure within the Federal Government effective protection and representation of the interests of consumers" reflects many years of hard work and dedicated effort by innumerable consumerists in and out of elective office or public life. I am hopeful that this year we can finally enact legislation which will guarantee one of the cardinal principles of the consumer bill of rights first enunciated by President John F. Kennedy in his consumer message to Congress on March 15, 1962; that is:

The right to be heard: To be assured that consumer interests will receive full and sympathetic consideration in the formulation of Government policy, and fair and expeditious treatment in its administrative tribunals.

The other three articles in President Kennedy's consumer bill of rights were:

(1) The right to safety: To be protected against the marketing of goods which are hazardous to health or life; (2) The right to be informed: To be protected against fraudulent, deceitful, or grossly misleading information, advertising, labeling, or other practices and to be given the facts he needs to make an informed choice; and (3) The right to choose: To be assured, wherever possible, access to a variety of products and services at competitive prices; and in those industries in which competition is not workable and Government regulation is substituted, an assurance of satisfactory quality and service at fair prices.

EXPLOSION OF CONSUMER LAWS SINCE 1962

The Kennedy message of March 15, 1962, outlining a broad range of needed consumer legislation, was the first Presidential consumer message ever sent to Congress. Presidents Johnson and Nixon both subsequently sent consumer messages to Congress which generally adopted the Kennedy consumer bill of rights as their keystone. And, since 1962, we have made tremendous progress in writing into law many far-reaching proposals to implement the consumer bill of rights. This was particularly true under President Johnson whose consumer measures, which he vigorously pushed and prodded through Congress, constituted some of the most important achievements of his administration. But Presidents Kennedy and Nixon were also involved in the passage of some important consumer laws.

Among the landmark consumer measures enacted since the Kennedy consumer message of 1962 were:

In the field of health and safety—the Drug Safety Act of 1962, the Clean Air Act of 1963, the Drug Abuse Control Act of 1965, the Water Quality Act of 1965, the Highway Safety Act of 1966, the Child Protection Act of 1966, the Wholesome Meat Act of 1967, the Wholesome Poultry Act of 1968, the Toy Safety Act of 1969, the Environmental Quality Improvement Act of 1970, the Consumer Product Safety Commission Act of 1972;

And in other areas of consumer protection, stressing the right to be informed and the right to choose—the Consumer Credit Protection Act of 1968 which includes the Truth in Lending Act, the Fair Credit Reporting Act of 1970 which opens up credit bureau files to those whose reputations are jeopardized by the information contained therein, and the Fair Packaging Act of 1966. Undoubtedly, I have not covered the entire field. But the measures listed above illustrate the remarkable explosion of consumer legislation which followed the Kennedy message of 1962.

On the other hand, vital recommendations of President Kennedy to rewrite the Food, Drug, and Cosmetic Act of 1938 along the lines of a bill I have been introducing in each of the last seven Congresses as H.R. 1235 have still not been enacted.

ORIGINS OF CONSUMER PROTECTION AGENCY BILL

The bill now before the House, H.R. 13163, gives concrete legislative support to the idea put forward by President Kennedy a dozen years ago that the consumer has a right to be heard in all of the councils of government and in all of the deliberations of the regulatory agencies. I strongly support this bill, as I did a similar bill we debated and passed in the 92d Congress, but which did not become law, and one which was reported from the committee in the 91st Congress but died in the Rules Committee.

As I look back on the long history of this legislation—and it goes back a long time—I believe its origin lay in suggestions made by one of the outstanding pioneers of the American consumer movement, Dr. Colston Warne, president of Consumers Union since its founding in 1936, who had advocated establishment of a Department of Consumer Affairs which would bring together in one agency of Government many of the programs administered by a variety of Cabinet departments and executive agencies, programs which are supposed to operate primarily in the consumer's behalf, but often do not. Such legislation was introduced and ably promoted by Congressman BENJAMIN S. ROSENTHAL, but some others of us in the consumer field had misgivings about the vulnerability of such a department and its programs from the concerted attacks of all of the business lobbies concentrating their fire on one department.

I was therefore glad to join former Congressman Florence P. Dwyer of New Jersey, then the ranking Minority Member of the Committee on Government Operations, and the valued and fair-minded ranking minority member of my Subcommittee on Consumer Affairs of the House Committee on Banking and Currency, in a different approach in 1969, proposing to establish an agency sufficiently staffed with qualified experts to serve as a watchdog of and intervenor before all of the other Government agencies having regulatory authority in the consumer field, to make sure they did their jobs properly in the consumer's behalf.

The approach provided in the Dwyer-Sullivan bill eventually won wide support—the idea of an agency which would not itself regulate or operate consumer programs as such but would look over the shoulder of every Federal agency involved in such activity.

AMPLIFYING THE CONSUMER'S VOICE

The work done by Esther Peterson, Betty Furness, and Virginia Knauer as Special Assistant to the President for Consumer Affairs proved that this kind of operation can often be effective even with only a single dedicated woman and a few staff assistants to do the work, and indicated that with adequate funding and sufficient staff and broad statutory authority, a consumer watchdog agency could provide the consumer, finally, with an avenue for exercising his right to be heard in all of the councils of government where decisions are made which vitally affect every citizen as a consumer. The proposed new agency will have the power to amplify the consumer voice to a level where it must be heard.

I congratulate the chairman of the Committee on Government Operations, Mr. HOLIFIELD, and the ranking minority member, Mr. HORTON, and the other members of the committee who have introduced H.R. 13163, based on the extensive hearings held in that committee since the 1960's when Congressman ROSENTHAL began his drive for a Department of Consumer Affairs and set up the first of many hearings on this subject. I think we all recognize the many contributions made to this legislation by Ralph Nader and those associated with him, and I also want to cite the courageous support provided by Virginia Knauer and her willingness to fight for this legislation within the executive department.

Mr. Chairman, I urge approval of H.R. 13163 without crippling amendments. Too many people have worked too hard for too long on this legislation to have it die a third time because of imagined fears over its impact on business and industry. In all of the deliberations of Government agencies, business has always had full opportunity to be heard, and it will continue to have that right. But it is time for the consumer also to be heard in those councils—loud and clear—through an agency able to speak not only knowledgeably but with authority.

Mr. FASCELL. Mr. Chairman, I rise in strong support of H.R. 13163, the Consumer Protection Act of 1974. I was pleased to join with Chairman HOLIFIELD as a sponsor of this bill and to lend my support during consideration by the Government Operations Committee.

The fight to establish an independent consumer protection agency has been a long and difficult one, but I feel confident that the bill reported by the committee and under consideration today is a reasonable and effective approach in giving the consumer adequate representation in Government proceedings. This legislation is a vital part of the action which Congress must take to insure the American public access to Government, and an equal opportunity to present the consumers' case in Federal administrative and court proceedings involving issues which directly affect them.

Under the bill, the independent Consumer Protection Agency would be au-

thorized as a matter of right to intervene as a party in formal and informal Federal agency proceedings and activities whenever the CPA Administrator determines that a "Federal agency proceeding or activity may substantially affect an interest of consumers." When the CPA is a party in a Federal agency proceeding, it would be authorized to request, and the Federal agency directed to issue, subpenas.

Of particular importance, is a provision which would authorize CPA to request a Federal agency to initiate a proceeding if the CPA Administrator determines it would be in the interest of the consumer and no such proceeding is under way. If the agency so requested fails to act, it must report its reasons to CPA for the public record.

The CPA would have the right to seek judicial review of an agency's refusal to act. It would also be authorized to seek judicial review of action taken by a Federal agency, as would any other party.

Under H.R. 13163, CPA would be authorized to receive, evaluate, develop, and act on individual consumer complaints by transmitting them to appropriate Federal or non-Federal sources. Further, the CPA would be authorized to compile and disseminate consumer information, and to encourage and support the development and application of methods and techniques for testing products.

An important and controversial provision of H.R. 13163 would authorize CPA to request any Federal agency to transmit to specified persons written interrogatories for information within that agency's jurisdiction. Such request would make clear the consumer interest involved in the request and the purposes for seeking the information. The bill requires the Federal agency to transmit such interrogatories unless it—the agency—makes a determination that the request: First, does not seek information that substantially affects the health or safety of consumers or is necessary to the discovery of consumer fraud or substantial economic injury to the consumer; second, is not relevant to the purpose for which the information is being sought; or third, is unnecessarily or excessively burdensome to the agency or the persons specified in the request.

Reservations have been expressed about this authority, and some have indicated they feel the interrogatory power might jeopardize business competition by disclosing confidential information transmitted to CPA. However, the bill expressly prohibits the public disclosure of trade secrets and other confidential business information. The bill also provides other guidelines for releasing test results to safeguard competition.

It is not the intent of the legislation to thwart development of the business community. The objective is quite to the contrary. A competitive business community is most clearly in the public interest, and I am confident that the CPA will exercise its authority in the manner most advantageous for the consuming public.

Mr. Chairman, I hope that the House will act favorably on this bill. The consumer must have the same representation capability that private organized interests have in agency proceedings. Establishment of an independent Consumer Protection Agency will provide such capability.

Mr. PODELL. Mr. Chairman, I rise in favor of H.R. 13163. It is not difficult to be in favor of such a proposal. The history of this country for the past 10 years has been one of increasing awareness by each and every citizen of the need for vigilance in his dealings with business and governments.

Informed consumers make for an informed electorate. Informed consumers make for a more efficient market system. They can make the system of supply and demand really work; perhaps for the first time there will be a market that will be truly responsive to the consumer's demands. Informed consumers were responsible for many of the more innovative actions taken by this Congress in the last several years.

Creation of a Consumer Protection Agency is simply the logical extension of a movement that has been growing and gaining adherents constantly over the last decade. The Federal Government is already to some extent in the business of safeguarding consumers' interests. The FDA, EPA, and a host of other Federal agencies have as part of their duties an obligation to see to it that consumers are protected.

But regrettably, these agencies often do not do a thorough job. It may be for lack of manpower, or for lack of money, or for any number of other reasons. Be that as it may, there are still a distressingly high number of products on the market that are not fully tested and not completely safe. There are still all too many businesses engaging in unfair trade practices. There are still too many instances in which the consumer is being given the run-around in trying to get a complaint corrected.

The Consumer Protection Agency we seek to create here today will not be a regulatory agency, but rather it will function as an ombudsman, representing the interests of consumers before Federal agencies and the courts. CPA, in its power to intervene in agency and court proceedings, will make sure that the small consumer, the man or woman who has scrimped and saved to buy a house, a car, or a piece of furniture or appliance only to find out that they got second-rate merchandise at first-rate prices, will be heard.

The administration is already gearing up to subvert the purposes of this legislation should we be bold enough to pass it. Apparently, President Nixon thinks business needs protection from consumers and not the other way around. Apparently the President and his employees at OMB never bought a defective piece of merchandise and then spent months trying to get their money back or have it repaired.

Apparently no one on the President's staff was ever injured by a defective product, and then had those physical damages compounded by the difficulty of trying to get some restitution for damages suffered.

Apparently neither the President nor anyone on his staff truly understands what it means to be a consumer in this country. It means that there is very rarely any place to turn when you have trouble. And then, if you do find an agency or organization who can help you, the administrative odds are stacked so strongly against you that you will likely give up in disgust and just write off the loss as tuition in the school of experience.

This should not be. There should be no reason why a dissatisfied consumer cannot gain satisfaction. There is no reason why potentially harmful or defective products should be released for sale to an unsuspecting public. There should be no reason why a consumer should have to buy a product in total ignorance of what it is, what it does, or what it contains.

Creating a consumer protection agency will certainly not harm business interests. To the contrary, I firmly believe that American business will improve a thousandfold as a result of this agency's activities. Do you know that in a recent public opinion poll, only 29 percent of American citizens had any confidence in American business? This figure is appalling, but perhaps the reason lies in the essential unresponsiveness of American business to the needs of the consuming public.

I can only say that if we do not pass this legislation without weakening amendments, we will be doing a great disservice to our consituents. I for one do not understand how we will be able to go home and campaign for reelection later this year, before crowds in which every person is a consumer, and say that we voted against legislation that would for the first time give official recognition and protect to their legitimate interests. I know I speak for the majority of Members here when I say that I am casting my vote proudly for H.R. 13163.

Mr. BROYHILL of North Carolina. Mr. Chairman, I support the substitute bill to be offered by Mr. BROWN of Ohio, H.R. 13810. I am gravely concerned about the broad powers provided in the committee's bill which would have the effect of disrupting the regulatory processes of the Federal Government.

The committee bill would provide the proposed Consumer Protection Agency with extraordinary powers to intercede in all Federal agency proceedings and would place this agency above the normal party of interest in rulemaking process which is followed by all Federal regulatory agencies. The Agency would be given vast powers to subpena information through the host agency whenever it participated in any Federal agency proceeding. In addition, the Agency would be able to appeal to the courts any final Federal agency action, whether or not it took part in the action to be reviewed.

The possession of such extensive power to control the regulatory processes of every Federal agency would, I feel, have the effect of providing an effective vote by this agency over decisionmaking powers which should, by law, be retained by the regulatory agencies. I am concerned that the powers to intercede provided the Agency in the committee bill will result in the setting of priorities not by the

regulatory agencies which are charged with this function, but by the Consumer Protection Agency and the courts.

The committee bill appears to me to delegate to the Consumer Protection Agency many of the oversight functions which should properly be retained by the Congress. The legislative oversight power is one of the most important powers which the Congress possesses. In my opinion, we do not always exercise this power closely enough or often enough. But we should not delegate away this oversight authority over consumer interests and programs by the creation of a new and untried Government agency.

Let me give you an example of recent congressional activity in exercising oversight authority.

Last week, the Interstate and Foreign Commerce Committee's Subcommittee on Commerce and Finance, on which I am ranking minority member, held its first oversight hearings on the Consumer Product Safety Commission. This Commission was created by the Consumer Product Safety Act of 1972 and came into existence in May 1973. I was a cosponsor of the act which created this Commission and played a large role in the writing of the act.

The Commission was given broad powers to write rules setting safety standards for consumer products, to ban unsafe products by the rulemaking process, and to obtain swift court action for imminent hazards. The Commission was provided with a broad range of regulatory tools to obtain action to carry out its function. This newly established agency is moving expeditiously to examine a number of proposals, set priorities, and formulate consumer product safety standards in many areas. I am concerned that the powers provided to the proposed Consumer Protection Agency by the committee bill would unduly interfere with and delay the Commission's progress in these areas, and that we would find final decisions being made by the courts on matters which should be made by the Commission. In effect, the Consumer Protection Agency would have, by its power to appeal final agency action to the courts, the oversight authority over the Consumer Product Safety Commission which the Congress is now exercising.

The Commerce and Finance Subcommittee has held 2 days of oversight hearings on the Consumer Product Safety Commission and additional sessions are planned. Section 32(a) of the Consumer Product Safety Act provides for a 3-year authorization for the Commission, through fiscal year 1975. Before that time, the committee will be obligated to review the activities and operations of the Commission before granting it a new authorization of appropriations. The entire Congress will have the opportunity to vote on this matter at that time.

In order to strengthen the congressional oversight function of this new agency, I will offer an amendment to this measure to provide for a 3-year authorization of such funds as may be required to carry out the provisions of this act. This amendment would replace the present open-ended authorization contained in the bill and would, in effect, insure periodic congressional oversight over the Consumer Protection Agency and its activities. I intend to offer this amendment at the appropriate time, to both bills, and I urge its serious consideration and acceptance by the House.

Mr. Chairman, let us adopt the Brown substitute. This would establish a Consumer Protection Agency with adequate power to intervene in agency administrative proceedings and would avoid many of the problems created by the committee bill.

Mr. BINGHAM. Mr. Chairman, in February 1973, with the price of meat and poultry at record high levels, the Department of Agriculture advised turkey farmers to reduce production in the latter half of 1973, to assure "reasonable prices" to consumers. When the Department was considering this "public interest recommendation," who spoke for consumers?

Last spring when the price index of 31 foodstuffs jumped 21 points in 4 months, the Cost of Living Council began to consider what action to take to limit food price increases. During those deliberations, who spoke for consumers?

In December 1973, the Federal Energy Office made decisions about how to deal with the energy crisis, and drafted regulations to govern fuel allocations and a possible gasoline rationing system. During the decisionmaking process, who spoke for consumers?

In February 1974, the Federal Power Commission acted on a vote of 3 to 2 to aprove the sale of natural gas at 55 cents per thousand cubic feet, the highest price ever approved. When the FPC was considering that decision, who spoke for the consumer?

The answer, of course, is not one. And the same answer applies in thousands of Federal agency actions each year which directly affect the economic, health, and safety interests of consumers.

The spiraling cost of living clearly tops the list of pressing concerns of most people in this country. But individually, the consumer is practically powerless to affect the forces of the marketplace and he lacks the resources to make his voice heard effectively in the regulatory process. Congress has gotten into the unfortunate habit in recent years of delegating increasing discretion and action authority to executive agencies with only the broadest guidelines for protecting the consumer's, or the public's interests. Clearly, the American consumer needs a voice to represent his interests.

That voice cannot be provided adequately by privately financed consumer organizations. Many local, State, and national consumer organizations will attempt to speak for the American consumer this year on a variety of issues ranging from no-fault automobile insurance to mandatory wheat reserves to energy policy. But their budgets and the efforts they support cannot hope to compete with the might of special business interests. The American Petroleum Institute has a $15.7 million budget and employs 11 full-time lobbyists to make the voice of industry clear on future energy policy. The six major oil companies spend over $165 million a year on advertising alone, much of it designed to influence decisions of public policy. Every major business interest has full-time representation in Washington spending substantial amounts of money to make sure that their association and corporate needs are adequately heard before the agencies of Government. The result is that consumers will this year, as last year and the year before, be largely ignored and left out of Government policymaking.

Consumers do not lose out because the American Government is corrupt, but simply because all policymaking is an adversary process and in the day-to-day dealing of Federal departments, agencies, and regulatory commissions, no one represents the American consumer on a systematic basis. The Consumer Federation of America may file a comment on a proposed drug regulation; Consumers Union may testify at Product Safety Commission hearings on a product safety hazard; or a Nader group may issue a report on the regulatory failures of the CAB, the FTC, or the ICC. But these efforts are a drop in the bucket compared to the number of industry advocates. Robert Pitofsky, former Director of the Consumer Protection Division of the Federal Trade Commission, has described the ratio of business to consumer representation before that Commission as being approximately 100 to 1.

Today, as we did last year and the year before and the year before that, we are considering legislation to redress this inequity through the creation of a Consumer Protection Agency. I have sponsored such legislation in the 91st, 92d and 93d Congresses. In 1970 a consumer protection agency bill passed the Senate 74 to 4, but the House Rules Committee, by a tie vote, refused to let it go to the floor. In 1972, the House passed a bill but the Senate filibustered it in the last days of the session. Now we are trying again, and I hope this effort ultimately results in success.

H.R. 13163 is a carefully constructed compromise which establishes a Consumer Protection Agency as an independent agency within the executive branch of Government to protect and promote consumer interests before Federal agencies and courts by conducting studies and tests leading to a better understanding of consumer products, services and information, and by recommending legislation to Congress and informing the public on consumer issues.

The Agency would have the power to represent consumers by intervening as a matter of right as a party, or by participating in formal and informal proceedings and activities. Carefully drawn limits to such intervention by the CPA have been incorporated in the bill, including exemptions for such agencies as the FBI and the CIA from the purview of the Agency: limits on the disclosure of information by CPA to the public, States and local agencies; prohibitions on testing or issuing comparative ratings on products; careful procedures which must

be used when CPA seeks to have other Federal agencies gather information in its behalf; and a prohibition on CPA intervention in State or local proceedings.

The Agency would have the right to go to court in its own name and with its own attorneys, rather than relying on the Department of Justice and its lawyers. CPA would receive, develop, and transmit consumer complaints to appropriate agencies. It could gather information by submitting written interrogatories to any Federal agency for transmission to businesses, and through direct access to documents, records and papers in the possession of Federal agencies except for limited kinds of documents such as classified papers, policy recommendations, personnel or medical files, or certain trade secrets.

A substantial attack on H.R. 13163 has been launched by certain business interests and, at their behest, the Office of Management and Budget, which has proposed a series of weakening amendments to the bill. The points of controversy revolve around the CPA's ability to intervene in court and agency proceedings, both formal and informal, and its access to information from business, industry, and government. These are all the old controversies which have arisen time and again in connection with this legislation. Opponents have charged that to give the consumer an advocate within Government will have the various agencies fighting with one another. They have charged that the agency cannot do its job because there is no one consumer interest, but many interests which may conflict. They have charged that such an agency will impose a burden upon legitimate businessmen.

All of these arguments have been answered before. Yes, the Consumer Protection Agency may end up in an adversary relationship with another agency of the Federal Government, but that already happens. It is nothing new for the Department of the Defense and the General Services Administration to appear before other agencies in proceedings where they have an interest. It is also not out of the ordinary to have two Federal agencies taking conflicting positions on public issues, as have the Departments of Justice and Commerce on the issue of patent rights in federally subsidized energy research and development.

It is also true that occasionally there may be a conflict between various consumer interests, in the field of trade for example. However, an advocate tries to determine a position that will best serve the broadest range of interests. Where that cannot be done, the advocate must try to reconcile conflicting interests. The CPA is being asked to do no more than is asked of the Department of Commerce, for example, when it must testify on legislation that may affect big businesses and small businesses differently. Furthermore, conflicts between consumers arise in only a small percentage of cases. No consumer benefits by false advertising. No consumer benefits from hazardous products.

Will the Consumer Protection Agency unduly burden businessmen? There are numerous protections from irresponsible action by the CPA written into the proposed legislation, some of which I have already mentioned. However, it is clear that some businesses have been engaged in fraudulent activities, have used misleading advertising, have marketed hazardous products. Is it unreasonably burdensome for the Government to protect the consumer against those businessmen?

Finally, let me point out that we are discussing here a fairly small agency. The bill authorizes "such sums as may be required," and the committee estimates the cost at about $10 million a year. It is not likely that such an agency will be out harassing too many honest businessmen. It is going to have its hands full just trying to handle the most flagrant cases that come before it.

No one who has followed the path of the regulatory process in Washington can believe that the consumer is presently being protected adequately by the many agencies and commissions that are supposed to regulate business but in fact are regulated by them.

The bill before us today can provide that protection. I urge my colleagues to support this legislation, and to oppose all weakening amendments so that we can at last create an agency to fight for the consumer.

Mr. BOLAND. Mr. Chairman, I would like to add my voice to those who have already spoken so persuasively in favor of H.R. 13163, which establishes a Consumer Protection Agency of independent status within the executive arm of Government. This leigslation is truly a landmark in buyer-seller relations in this country. It recognizes the obligation that Government has to protect in some basic way the American consumer from misrepresentation, chicanery, and substandard goods. In particular, it attempts to provide information to the consumer which will enable him to purchase more wisely and conserve more often.

The Consumer Protection Agency, as it will be called, will have four principal roles: It must represent the interests of consumers before Federal agencies and in the courts. It will process consumer complaints and invoke action by other Federal agencies where necessary. It will provide an information service relative to all products and services. Finally, it will advise the Congress on matters affecting consumer interests.

The powers the CPA will have to perform these duties will involve interrogatory power and the ability to appear in an amicus curae status before Federal courts pursuant to seeking judicial review of decisions by other Federal agencies. To the degree that it employs its powers, the CPA will perform what is essentially an ombudsman's task in representing citizens rights against even the Government itself. This is a bold and far-reaching experiment which will have implications in many aspects of consumer-vendor relations. Yet it comes at a time when ever higher prices and declining real income make viable, well founded choices by our citizens a vital priority.

Mr. Chairman, I feel that the bill now before us is a strong one. It is a measure nonetheless which will not allow the haphazard or willful disclosure of trade secrets or other confidential information. At a cost of an estimated $10 million per year, we will have afforded the consumers of this country the very real possibility of saving many times that amount in careful choices, made from a worthwhile selection. In addition to the abundance that has so long distinguished the history of the United States, we will have helped insure that from our abundance all will prosper in their dealings—be they buyers or sellers.

Mr. Chairman, the time for this legislation is long since due. The arguments for and against have been vented in both this Congress and in the last. I am convinced that the distinguished chairman and members of the Committee on Government Operations have rightly gaged the need for consumer protection in voting so convincingly for this measure. I urge its passage without amendment.

Mr. BADILLO. Mr. Chairman, the bill before us is the expression of a long overdue congressional commitment to the rights of the American consumer. Passage of the legislation will signal our recognition that the Government and all its entities spring from and do in fact belong to the people of this country, and should be keeping the public interest paramount in all official deliberations. Those business interests opposing the act are doing nothing less than attempting to deny to the people an effective advocate in Government proceedings substantially affecting their rights, an advocacy which those same special-interest groups already enjoy for themselves.

Apart from the efforts of Members of this body to represent the broader interests of their constituents, there is no instrument of Government presently mandated to protect the public in the complex and often obscure proceedings of agencies of the Federal Government. The Federal Trade Commission has from time to time seized upon an issue on behalf of the public interest, but we have never given that agency sufficient funds to range across the whole spectrum of the massive Federal bureaucracy.

In fact, it is an indictment of our inability to pass such legislation for two Congresses that present efforts to represent consumers are largely conducted by volunteer nonprofit private organizations. The Consumer Protection Act will remedy that deficiency by finally creating an institutionalized ombudsman to represent, respond to, and seek redress for the vast majority of Americans who have no organized lobby pursuing their interests here in Washington.

The Consumer Protection Act of 1974 will create a new agency to serve as consumer advocate in all Federal proceedings, to receive and investigate consumer complaints, to gather and publicize information on consumer products and services, and to advise the President and Congress on consumer interests, specifically regarding legislative recommendations.

Some of these functions, such as product testing, are already being performed by one Government agency or another, but public access to the results has always been impeded as much as possible

by special interest advocates with close ties built up over years of relationships with Government bodies and officials. The Freedom of Information Act was one effort to loosen up the secrecy of the bureaucracy, but that statute of course requires affirmative action by an interested citizen, whereas the Consumer Protection Agency will have a continuing and prominent mandate to follow Government activities and give the widest public dissemination to developments of interest to the consuming public.

This legislation will authorize the Administrator of the Consumer Protection Agency to intervene in formal and informal proceedings of the Government, to communicate, advise, protest, and request consultations with appropriate officials. It will make subpena power available to the CPA, and enable it to introduce evidence in all hearings, examine and cross-examine witnesses, submit oral and written arguments, and initiate action where a legitimate consumer right is being denied or abused. Any Federal agency refusing CPA's request for action must state its reasons in writing for the permanent record, and the Consumer Protection Agency may then seek judicial review of such failure to act.

The new Agency will be empowered to appear as a friend of the court in proceedings involving attempts to levy fines or forfeitures and may also appear as amicus curiae in Federal court cases, though it would be denied interrogatory rights in both instances. The CPA will have access to all Government documents and records presently available to the public under the Freedom of Information Act, but it will also be able to procure certain confidential information it deems necessary if such information would normally be obtainable through compulsory process.

In keeping with its statutory role, the Consumer Protection Agency itself will be as public as possible in its activities and with its records. Consumer complaints will be kept on file in public reading rooms and be readily available, along with the record of actions undertaken in response to those complaints. It will not conduct product tests itself, but will be authorized to have such tests conducted by appropriate agencies and then to publicize the results of such testing.

Only the activities of the CIA, the FBI, and the National Security Agency—along with national security and intelligence functions of the Atomic Energy Commission and the Departments of State and Defense—will be exempt from the scrutiny of the CPA, which outside of these specific areas may even become involved in Government procurement or contract negotiations upon a showing of a substantial consumer interest.

I believe that this legislation is necessary, and I am convinced that it is comprehensive enough to bring into being a Consumer Protection Agency with real teeth and with a strong congressional mandate to represent the public interest at all levels of the government. There are signs of an increasing alienation of the American people from the activities of a Federal Government which appears to them ever more remote and less responsive to the public interest. The Consumer Protection Act of 1974 is an important bridge to regaining the public confidence without which government is irrelevant. I urge an overwhelming vote of approval for this measure.

Mr. BIAGGI. Mr. Chairman, I rise to speak in support of H.R. 13163 to establish a Consumer Protection Agency. This is a good bill, on behalf of a cause which I believe will soon become one of the most important domestic issues: the rights of the consumer.

The bill recognizes the need for better, more organized promotion of consumer interests, and pinpoints where this effort must begin: in the all important process of administrative decisionmaking in the Federal Government. Clearly, the private citizen does not have the resources to pursue his own and his fellow citizens' interests with great regularity. It costs to much money. Nor does the private citizen have the resources for ferreting out the innumberable instances of consumer abuse. What he needs is a lobby right at the center of power which can represent his interest both by finding the abuse in the first place, and then pursuing it with the resources needed to reach a just resolution.

The creation of an independent Consumer Protection Agency will do these two important things very well. Necessarily, any such agency must have broad power to intervene in all agency proceedings, and this bill gives the agency that right. Necessarily, any such agency must know the issues of concern to the citizens it will speak for. This bill meets this requirement by making the Consumer Protection Agency the focus to receive, evaluate, and respond to consumer complaints, as well as to be the transmitter of these complaints to other Federal agencies for action.

These two functions, advocacy and complaint handling, will concentrate in one place a considerable degree of expertise on the whole range of consumer problems. It is therefore right that the Consumer Protection Agency proposed in the bill be the prime source of continuing information on consumer matters. Accordingly, the bill makes the agency responsible for gathering, evaluating, and disseminating information beneficial to consumer products and services. It is also right that the Consumer Protection Agency be the policymaking adviser to the President and Congress on consumer affairs. The proposed agency will have a monopoly of experience and information and is, therefore, well suited to the position.

For all the reasons I have mentioned, I believe this is a sound and sensible bill. But that does not completely cover the question. We are, after all, proposing to create another Federal bureaucracy at a time when we have too many agencies and departments intruding into the lives of our citizens and trying to govern in the midst of a complex maze of conflicting Government bodies. It cannot be doubted that, when we can do without another Federal agency, we should.

But the cause of consumers is not just another cause. It is, as I have mentioned, capable of becoming and probably will become, one of the top domestic issues in this country. It will do so, I believe, because it is a cause whose success affects everyone. We are all consumers, whether we be businessmen, lawyers, doctors, or politicians. There are really no divisions of interest on the question of the rights of consumers. What benefits one is sure to benefit all.

We must, I think, recognize that in a time when the living standard of our country, high as it is, is being eroded by inflation that the value received for the money spent by our citizens is an important question. It is not just important in terms of purchasing the necessities of life, but in terms of fundamental fairness. A purchase is, or ought to be, a contract which both parties fulfill. There is no justice when the buyer must meet his side of the bargain, but the seller is not compelled to meet his. This breeds a disrespect for law and a contempt for fairness that is intolerable in our free society. Consumers do not have enough rights and remedies today to insure a mutual and fairly observed bargain. Only a massive consumer protection effort such as the one mandated in the bill under consideration today can do the job.

Moreover, we should not neglect the problems of safety involved in the interests of consumers. Every man, woman and child who buys a product in this country ought to have an absolute right against injury to them by that product as a result of someone else's mistake or carelessness. We must value life over property if we are to be a just society.

It is clear, then, that the cause is important. And there can be no doubt among those of us who make the laws in this country about the effectiveness of lobbying at the right time, and in the right place. Often we make laws on the basis of insufficient information because some interest or cause goes unrepresented. Today, as all of us know, the consumer's cause, the public's cause, goes unrepresented except by the overburdened member of the legislature himself. There is no other alternative than to create an institution which will serve that cause on a continuing basis.

Mr. Chairman, I urge the Congress to quickly pass this legislation and put a weapon into the hands of the people with which they can gain their just rights.

Ms. JORDAN. Mr. Chairman, the bill before us today, the Consumer Protection Agency Act, has been before the House of Representatives before and few new substantive issues, pro or con have emerged in the interim. The basic principles of the a Consumer Protection Agency are the same now as they were in 1970: An independent agency, fiscally autonomous from the Office of Management and Budget, headed by an Administrator appointed by the President and confirmed by the Senate, granted standing to obtain judicial review of any agency action reviewable under law, authorized to collect and disseminate information on its own initiative, capable of representing itself in all judicial proceedings, and commissioned to act on consumer complaints.

What has changed, and changed dras-

tically, since this bill was last before the House of Representatives, is the plight of the consumer. We have seen the U.S. Government sell wheat to the Soviet Union without any concerted attempt to determine the resulting impact on the American family. We have witnessed a diminution of antitrust investigations in the energy and transportation industries, and we hear only after the fact, of decisions emanating from the Cost of Living Council—decisions which adversely affect our pocketbooks the very day we learn of them. A viable Consumer Protection Agency would be able to represent consumers inside the Government and mitigate some of those costly decisions. Only with the establishment of a strong Consumer Protection Agency will Federal agencies think twice before denying due administrative process, limiting public participation, closing meetings, and announcing decisions without prior notification in the form of proposed rules.

The House Government Operations Committee, under the leadership of its distinguished chairman, has reported to the floor a bill which I fully support. The basic concept of the bill is centered in section 6, enabling the Consumer Protection Agency to represent the interests of consumers in Federal agency proceedings and activities. The Administrator will have the authority to represent the consumer before Federal agencies during both formal and informal proceedings. Just as a corporation or an individual may request a conference with Federal agencies in order to discuss pending policies. The Consumer Protection Agency will have the same opportunity to request a conference on behalf of the consumer. I do not believe such authority will cause the Consumer Protection Agency to, unnecessarily, meddle in the ongoing affairs of Federal agencies. The Consumer Protection Agency is not to be a watchdog but a responsible advocate of consumer interests.

One of the issues which the committee faced, and which will be before the House in the form of amendments, is the issue of judicial review. The basic question is whether the Consumer Protection Agency should have the right to appeal an agency decision when the Consumer Protection Agency was not a party to the decision at a prior time. Amendments may be considered which would restrict CPA's right to judicial review to only those cases in which the CPA participated in the Federal agency proceeding below. I believe the Congress would unnecessarily be restricting the rights of an aggrieved individual, or the Federal agency authorized to act in his behalf, if such an amendment were adopted. As pointed out by both the American Bar Association and the Administrative Conference, to deny access to the courts to a party aggrieved by a Federal agency decision just because that party did not participate in a prior administrative proceeding may be a denial of due process. Although it has been alleged that the bill would confer the unprecedented status of a permanent aggrieved party and thus standing in the courts, to CPA. I fail to see any such language in the bill. If the party is not aggrieved, why would he seek court review in the first place? If the party is aggrieved, should the Congress deny him access to the courts merely because he is a consumer who did not participate in a prior administrative proceeding? I think not. I urge my colleagues to reject any amendments which restrict the CPA's rights of judicial review.

Mr. DONOHUE. Mr. Chairman, as a cosponsor of a measure identical to this bill before us, H.R. 13163, and as a member of the Government Operations Committee that favorably reported it, I most earnestly urge and hope that this long overdue consumer protection legislation will be overwhelmingly accepted and adopted without any weakening amendments.

It seems ironic, Mr. Chairman, that when we hear so much talk these days about equal rights and justice, and when every group and organization is demanding equality of treatment before the law and a listening ear within the Halls of Government, the largest single group, the consumer, has never had, and does not now have, equal representation within our Federal Government. A few years ago, you may recall, the late Senator Robert F. Kennedy, reminded us of this fact when he pointed out, that business has the Department of Commerce representing it, the farmer has the Department of Agriculture, workers have the Department of Labor, and most other groups have effective lobbyists to speak for them but the consumer must rely entirely upon the Congress.

Keeping this in mind, let us also remember the American public's right to be free from unnecessary and unreasonable risks and injuries. The discussion that has already taken place here clearly indicates that the American consumer has, for too long and in too many instances, been plagued with products that are unsafe and transactions that are unfair. Reliability and dependability, in too many situations, are forgotten qualities.

Thus it seems to me, Mr. Chairman, now is the time for this House to take the necessary steps, to effectively and reasonably correct the situation.

Let us remember that we are not alone in our concern. A very large number of labor, consumer, senior citizen, and women's groups share this concern and support the bill's passage.

Adoption of the legislation would result in the creation of a Consumer Protection Agency as an independent and nonregulatory agency within the executive branch, which would be authorized to represent the interests of consumers in proceedings and activities of Federal agencies, within certain limits. Also, the Consumer Protection Agency would be authorized to gather, develop and disseminate information that is relevant to consumer products, services, and problems.

In the light of our very recent experience with legislative difficulties arising out of the lack of specific information about oil and fuel supplies and reserves, this authority and service alone, Mr. Chairman, would seem to be sufficient to warrant our favorable judgment. The bill would further authorize the Consumer Protection Agency to receive, evaluate and respond to consumer complaints, and where necessary refer such complaints to other agencies for their appropriate action. Finally it would seek to promote testing and research by other agencies in the interest of improved consumer products and services.

In advocating this legislation, Mr. Chairman, I do not intend to imply fault or criticism of the very large responsible majority within our business community. We recognize and commend the conscientious effort they make to manufacture and produce goods that are safe and dependable, and conduct their affairs honestly and fairly. This bill is not directed toward them. Rather it is simply and solely directed toward the unprincipled and unscrupulous.

Mr. Chairman, the record will show that in the past I have supported similar legislation and because of my abiding interest in the consumer, I am again urging the House to place the consumer on a more equal footing with the seller. By approval of this bill, we will be giving the consumers a voice for their legitimate concerns, and an instrument wherein they can seek justice; we will be providing an effective means for reducing and preventing injuries associated with harmful and unsafe products; we will be protecting the conscientious and fair minded business community from the unprincipled and unscrupulous; and finally we will be making it possible for the American people to renew their faith and confidence in our free enterprise system. Therefore, I hope that this bill will be promptly and resoundingly adopted in the national interest.

Mr. KOCH. Mr. Chairman, the need for the creation of a Consumer Protection Agency, as proposed in H.R. 13163, is urgent. In recent years public awareness of consumer rights has skyrocketed. The findings of various consumer advocacy groups have received much attention. I doubt that this House will fail to create a consumer agency in the face of the public's interest in protecting itself from many of the ill effects of our massive, corporate production system. The question before this House is whether the public will be provided with that protection by a strong, effective agency, or whether it will merely be placated with an agency empowered to be little more than a public relations organization.

H.R. 13163 provides a major beginning of what is necessary to empower a Consumer Protection Agency to effectively contribute on the Federal level to the protection of the American consumer. Under H.R. 13163, the Consumer Protection Agency would represent consumer interests in formal and informal Federal agency proceedings. It could request subpenas and the initiation of proceedings—but only through a Federal agency which would have the option to decline the request. Under this bill, the CPA would have the right to seek judicial review of any Federal agency's actions with certain limitations including a provision that the new agency must petition the Federal agency for reconsideration of the disputed action before it can institute judicial proceedings.

Although my own feeling is that the Agency needs strong powers, these limitations are the result of an exemplary instance of the kind of compromise so necessary to the functioning of this Congress. I commend the success of Chairman HOLIFIELD and Mr. ROSENTHAL in fusing their differing legislative approaches to this matter. Unfortunately there are those who do not subscribe to the spirit of compromise with which this bill is offered. The weakening amendments which have been offered for this bill would fully emasculate the Agency. Mr. BROWN'S substitute amendment would force the CPA to lean on the Justice Department and deprive the new Agency of any independence by forcing it to draw litigation services from that Department. It would severely limit the CPA's ability to gather information by taking away the Agency's ability to use interrogatory power. The substitution amendment would drastically limit the CPA's power to request judicial review and would relegate the Agency to amicus status in Federal agency proceedings as well as in court. I would like to mention my pleasure over the House's acceptance of the amendment proposed by Ms. ABZUG banning sex discrimination.

Mr. BROWN'S substitute amendment and the other amendments offered to back up specific sections of the substitute represent an attempt on the part of special business interests to subvert a compromise bill whose provisions are demanded and needed by the public and the individual consumer. The administration has privately tried to pressure H.R. 13163's sponsors into altering the bill, while the administration's Assistant for Consumer Affairs has publicly offered support for the unamended bill. The administration knows what the vast majority of people want and need, but privately it has bowed to the same interests which are trying to turn this needed and potentially effective agency into a powerless bureaucracy. Labor, women's groups, ecologists, consumer advocates, and senior citizens' organizations support this legislation. The vast majority of Americans are frustrated consumers, they deserve effective protection. The Congress must not let them down.

Mr. WOLFF. Mr. Chairman, I rise in support of H.R. 13163, the Consumer Protection Act. As one who has cosponsored legislation to create a Consumer Protection Agency during the past two Congresses, I feel the time is long overdue for American consumers to have someone to represent them before Federal agencies and before the courts. For the past two Congresses, a substantial majority of the House and Senate has supported the establishment of an independent CPA, and yet the effort became bogged down by a Senate filibuster in the 92d Congress and by the House Rules Committee in the 91st. It is time now for meaningful compromise that will lead to action on behalf of the Nation's consumers.

Both my distinguished colleague from New York (Mr. ROSENTHAL) and the chairman of the House Government Operations Committee (Mr. HOLIFIELD) must be commended for their efforts in working together to get this bill on to the House floor. They have succeeded in working together to get this bill on to the the administration's major objections while protecting the right of consumers to be represented by an effective and strong CPA—hardly an easy task. I am hopeful that the recent reports indicating that the administration is backing away from this bill are inaccurate; there is very little more the House can do to show that it is willing to cooperate in good faith with the administration without betraying the consumer.

Mr. Chairman, the past year, with its fuel shortages, food shortages, raw material shortages and rampant inflation in every sector, has created more frustration for American consumers than during any other period I can remember. They feel they have nowhere to turn for redress of grievances or even to get answers to the many legitimate questions that confront them in today's complex marketplace. The American consumer's disgruntlement, which is justified, reflects adversely upon what is supposed to be our fair and efficient free market economy. We have always prided ourselves upon our free enterprise system; yet, it will be seriously undermined if it does not enjoy the confidence and trust of the buying public. By creating a strong and effective Consumer Protection Agency, we not only respond to the needs and concerns of the Nation's consumers, but in my mind we also act to fortify the free market economy which has served this Nation so well over the years.

Mr. Chairman, we need expanded consumer education programs, coordination between the Federal, State, and local governments and industry to foster consumer programs and more responsiveness on the part of these sectors to consumer interests. Most important, we need to provide a channel through which consumers can be assured of vigorous representation and protection. The bill we are considering today provides all of these things; at the same time, it does not infringe upon the rights of legitimate business concerns.

It is my hope that the creation of a Consumer Protection Agency will ultimately serve to foster this Nation's economic growth, by creating a relationship between industry and the consumer that is based on mutual trust and not upon the old axion of "caveat emptor." I urge my colleagues support for the Consumer Protection Act.

Mr. BRECKINRIDGE. Mr. Chairman, the postwar prosperity which this country has enjoyed for more than a generation has produced a consumer-oriented society wherein products once viewed as luxuries have today become common household items: Television, the three-car family, and boat and private plane as well as hundreds of other products have become a part of our way of life.

While there has been a plethora of products for the average consumer, his protection from predatory practices has been in relatively short supply. The Consumer Protection Act of 1974 constitutes landmark legislation in providing a voice and representation for the consumer. As a former Attorney General of Kentucky, I was intimately involved in the development of consumer protection programs at the State and local levels. I give my enthusiastic support to the measure before us today.

Although a number of regulatory agencies have evolved over the years to oversee various industries and business practices, the relationship between governmental regulators and the businesses which they regulate have long aroused the suspicions of consumers groups and private citizens.

As Kentucky's attorney general it was my privilege to contribute to the drafting of legislation ultimately making it possible for consumer interests to be represented before the various regulatory agencies of the State. Kentucky today has a well established and staffed consumer protection division within the attorney general's office—an independently elected office—which can be made a real party of interest with respect to consumer type litigation.

The legislation before us today would create at the national level the CPA function in a similar manner. The proposed new agency would act as an institutional consumers' advocate, roaming at large throughout the Federal Establishment with the power to intervene in such agency proceedings or activities as might affect the Nation's consumers. It would also be required that, with certain exceptions, the agency be given advance notice of moves affecting consumers in order that it may intervene when it chooses to do so. The Agency would be supplied with subpena powers to obtain documents and witnesses for the proceedings and, in most instances, it would be empowered to seek judicial review of unfavorable commission rulings. The Agency would also be authorized to gather information from other Federal agencies and non-Federal sources and to conduct its own conferences, surveys, and investigations concerning the needs, interests, and problems of consumers.

If I understand this matter correctly, the administration is itself divided over this bill; whereas White House consumer affairs advocate Virginia Knauer has announced her support of the measure, Mr. Roy Ash, the Director of the Office of Management and Budget continues to seek revision of the bill.

The months of hearings, and the cooperation on all sides shown in the committee in the drawing up of this bill, has produced for our decision an eminently fair and reasonable compromise of the conflicting fears, views, and interests of those involved. The CPA shall serve as a one-step shop to our citizenry's fragmented advocacy, and a prod in helping refine, sharpen, and improve the performance of her sister agencies.

I wish to once again commend Representatives ROSENTHAL, HOLIFIELD, and HORTON, and other members of the committee for their significant efforts and contribution in this difficult area of consumer affairs.

Mr. RANDALL. Mr. Chairman, as one of its cosponsors I support H.R. 13163, the Consumer Protection Act of 1974. Before proceeding let me say I am mindful that there have been expressed fears

about the provisions of this bill. It has been argued that we are creating another agency that may become a burden to business, particularly small business. I have listened to these arguments. Like these critics, I try to avoid any regulation which is unnecessarily burdensome or which does not have a clear, purposeful objective.

But the real truth of the matter is the Consumer Protection Agency has no regulatory powers. The new administrator will have no regulatory powers. He will be only a consumer advocate. The CPA is no more or no less than a voice for the consumer before other regulatory agencies, which are referred to in the bill as host agencies.

At present consumers have little to say in the high councils of Government where decisions are made daily that affect their interest in the marketplace. No matter how those opposed to this bill my attempt to portray the CPA as something evil all that is provided is that when regulatory agencies are making rules or deciding issues that will have an impact on consumers, the CPA is empowered to say to these regulatory agencies, "be sure to take into account the concerns of the ultimate consumer."

This legislation is to give a voice to the one who pushes the cart at the supermarket, the one who pays the bill at the checkout counter. That is the essence, or the spirit or the sole and total objective of this legislation.

In passing it should be observed that if there was much wrong or much that could be found wrong with this bill, it should have surfaced in the committee. The vote in committee was 37 to 3 with 1 present. Thirty-four members of the committee cosponsored this bill, including myself.

While the administration today may not enjoy widespread popularity, this measure is nonetheless supported by the present administration. Mrs. Virginia Knauer made a strong endorsement as late as March 1974. Also I think it is significant that such great merchandising organizations as Montgomery Ward and J. C. Penney support the objectives of this legislation. A very large food retailer, Giant Foods, Inc., here in the District of Columbia, supports this legislation.

Of course, some business organizations have criticized or oppose the bill. I have studied the provisions of this measure. I think I know what it does and what it does not do. It is my considered conclusion that honest business has nothing to fear. Those who sell shoddy merchandise or set out to trim or to trick the consumer will, of course, not be comforted by this legislation.

It is for the foregoing reasons that I have no fear that this bill will do either any harm or adversely affect the business community. Why? Because the overwhelming majority of businesses operate in a fair and honest manner. It is a minority of businesses that engage in unethical practices. The purpose of this bill is to deter such actions and such practices.

The basic feature of the bill is to establish an independent agency, the Consumer Protection Agency, in the executive branch. That Agency will be headed by an Administrator at the appointment of the President. Let me emphasize that the key function of this legislation is consumer representation. It is not a regulatory agency but a consumer advocate. While the Consumer Protection Agency may appear before regulatory agencies in their proceedings, it will have only the rights of business or of other parties. The Consumer Protection Agency will be compelled to observe all the rules and procedures of the regulatory agencies.

In my judgment, the subcommittee that first reported out this measure deserves the commendation of the full committee and the House for providing that in certain instances the CPA is limited to appearances before regulatory agencies only as an amicus curiae. That limitation is provided to avoid the appearance of any "dual prosecution." The term "prosecution" is hardly the word to use because the provision for amicus curiae in those cases where a fine or forfeiture is involved will prevent the CPA from assuming the role of a prosecutor but instead only the role of a participant in the case. This means only the right to participate for the interest of the consumer.

Mr. Chairman, in these days of escalating inflation it seems to me the Congress should promptly pass legislation that will give the consumer advocate more authority than the now limited letterwriting. This is about all Mrs. Virginia Knauer can do at the present time. Those who cut corners in the business world know that is about all that can be done at present by very limited consumer agency now in the White House. This new legislation will authorize the CPA to receive, evaluate and proceed to act on consumer complaints by transmitting them to the appropriate Federal agencies and to monitor the responses and assure that action is taken. The complaint of the consumer will become public only if the complainant has not requested confidentiality and only after the party complained against has had 60 days to respond.

The fears of those who believe that trade secrets or financial information would be made accessible to competitors is without any real foundation. The truth is that the agencies may deny such information to the CPA if the agency has agreed to treat such information as privileged or confidential. That is the end of it, put differently, it would seem that the matter of privileged or confidential information would not be obtainable without an agreement. This same regulatory agency may withhold such information from CPA unless there is an agreement in writing which waives privilege or confidentiality.

Mr. Chairman, I supported the 3-year limitation on the bill which was not a part of the committee version. We all have high hopes of the successful implementation of this legislation. But the wise course, it seems to me, is to be sure that it is going to work as well as we hope it will. The best way to assure that is to provide a limitation which will permit review and reenactment rather than to have an open-end measure. Repeal and amendment could or might be much more difficult to achieve than an enacted extension after a trial period of 3 years. This time should provide a reasonable experience of the success or faults of this legislation.

I also supported an amendment to put a greater burden of proof on the CPA. Certainly this agency should not be relieved of the ordinary burden of proof which is required of an advocate or a plaintiff in a civil proceeding. It only makes sense that a complainant must establish with reasonable care and diligence the justness and fairness of the complaint. That is all the burden of proof means.

Finally, I support this legislation because its passage means that Congress at long last provides the machinery for the voice of the consumer to be heard. Put somewhat differently, this measure sets up a voice for consumers in all the Government regulatory agencies which for so long in so many instances have neglected or omitted to consider the concerns of the ultimate consumer.

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Mr. MOAKLEY. Mr. Chairman, we must act now to protect the American consumer.

In my own city of Boston, prices are skyrocketing.

In 1 year, Boston food costs have jumped 19 percent, health costs 4 percent, and utilities an incredible 30 percent.

And all this at a time when housing costs went up over 9 percent and the overall cost-of-living in Boston remained the highest in the Nation, continuing to outstrip such notoriously expensive major cities such as Honolulu, San Francisco, and New York.

UTILITIES

The average consumer in Boston pays 30 percent more for electricity, gas, and oil than he did last year.

In addition, Boston's average homeowner is paying over $50 more this year to heat his house by gas than he did last year. If gas prices continue to go up at this rate, the price of gas heating could double in 10 years. At that time we could be paying $1,000 a year for gas heating.

Electricity costs many Bostonians twice as much this year as it did last year. A typical Boston consumer paid $27 for electricity for 2 months last year, and is now paying $54 for the same 2-month period.

Boston apartment dwellers are even worse off than Boston homeowners.

One of the most staggering price hikes has been on the price of residual fuel oil, the product most frequently used to heat apartments in Boston. The price is now double last year's levels and will undoubtedly be reflected in higher rents throughout Boston this year.

HEALTH CARE

The cost of health care has jumped drastically over the past few years in Boston.

A semiprivate room in Boston City Hospital cost $95 in 1971. Last year it cost $105. Now it costs $132 a day. This is an increase of nearly 40 percent in 3 years.

The average length of a stay in Boston City Hospital is 8 to 10 days. For this length of time, the cost of a bed alone runs over $1,000. Doctor's fees, special care, and use of special facilities is all extra. The total cost for a 9-day hospital stay could be over $2,000.

A patient who requires an extended stay can easily run up a bill over $30,000.

How many families have, because of medical costs, lost their savings or their homes we can never really know. But this I do know: it is unconscionable that a serious illness can destroy the security a man works a lifetime to build for himself, his wife, and his children.

The real answer is the kind of comprehensive health insurance proposed by Senator KENNEDY and Representative GRIFFITHS, which I am proud to have cosponsored.

But until such a plan becomes law—and even after such a plan is inaugurated—the Consumer Protection Agency would play an active role in assuring that Americans receive the best medical care available and guaranteeing that no illness could ever again destroy an American family.

FOOD PRICES

Six months ago in South Boston, we paid 65 cents for a half gallon of milk. Today it costs 74 cents.

In September, we paid 35 cents for a loaf of bread. In Jamaica Plain, that price is now 39 cents. We are warned that decreasing supplies of grain will force these prices still higher.

We should consider how different this situation might be if a Consumer Protection Agency had existed when the Russian wheat deal was negotiated.

This entire deal was entered into for the benefit of grain firms and speculators; no one in Government spoke for the homemaker who would have to cover these huge profits every time she went to the supermarket.

It is that gap which we can fill today by creating a fully independent Consumer Protection Agency which could have opposed Secretary Butz and even taken him to court to stop this project.

The Agency will be able to speak for the consumer and take on anyone—even another Federal agency—when our interests are at stake.

PROTECT THE CONSUMER

In fact, Mr. Chairman, I believe that an independent Consumer Protection Agency could respond to any case in which the consumer is unevenly matched against unfair situations.

Certainly there should have been a Consumer Protection Agency at the height of the energy crisis. Last winter we paid 35 cents for a gallon of gas. Last week I paid 60 cents in West Roxbury.

A Consumer Protection Agency could have made a powerful case against oil companies which have, in some cases, recorded profit increases of up to 200 percent while blaming higher prices on our use of fuel.

A Consumer Protection Agency could also plead the case of our hard pressed taxpayers. A taxpayer in my district who earns $10,000 and supports a wife and two children paid a higher tax rate last year than Texaco. If a Consumer Protection Agency were to truly attack unfair and discriminatory practices, it could start in no better place than the Internal Revenue Code.

Mr. Chairman, big business firms do not seem to care about the consumer. The Federal Government has never really taken up his case. Even the regulatory agencies intended to protect him are more often the servants than the watchdogs of industry.

We can bring this era of consumer neglect to an end by voting today to create a truly independent Consumer Protection Agency.

As President Harry Truman once said:

The only people in America who don't have a lobby in Washington are the people themselves.

This would be their lobby.

Mr. EDWARDS of California. Mr. Chairman, the importance of the Consumer Protection Act of 1974 should not be underestimated. The strong support and equally powerful opposition this measure has received during more than 12 years of consideration are key indicators of its significance. H.R. 13163 has the potential to cause substantial changes in our economic, social, and political system.

The independent, nonregulatory Consumer Protection Agency established by this legislation would insure that consumers, probably the largest and most under-represented group in America, have some recourse for their complaints. The CPA would be authorized to represent consumers in Federal agency proceedings and in the courts. The powers granted to the agency by this bill have been very carefully designed to insure real consumer protection without jeopardizing the authority of other branches of the Government.

The measure we are now considering is the result of long and careful compromise by my colleagues, Congressman HOLIFIELD and Congressman ROSENTHAL. Both Mr. HOLIFIELD and Mr. ROSENTHAL have been unstinting in their dedication to the establishment of an effective consumer protection agency, fighting out right opposition from the Nixon administration and influential corporation lobbyists, and resisting weaker alternatives that would offer only token protections.

Efforts to amend this bill will only play into the hands of those who have used their influence and power at the expense of consumers. A CPA could have monitored the performance of Federal regulatory agencies during the last election; the ITT scandal, the milk deal, and the Russian wheat sales might have been prevented or nipped in the bud. Huge corporate campaign contributions could have been questioned and even stopped. This agency, representing American consumers in all Government proceedings, will give them clout equal to that of business interests whenever Federal decisions are made involving the health and economic welfare of the public.

I therefore support H.R. 13163 in its present form. It should be passed without amendment.

Mr. HORTON. Mr. Chairman, I have no additional requests for time.

Mr. HOLIFIELD. Mr. Chairman, I have no further requests.

The CHAIRMAN. If there are no further requests for time, the Clerk will read.

The Clerk read as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Consumer Protection Act of 1974".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BROWN OF OHIO

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

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. BROWN of Ohio: Strike out all after the enacting clause of H.R. 13163, and insert the provisions of H.R. 13810, as follows:

That this Act may be cited as the "Consumer Protection Act of 1974".

STATEMENT OF FINDINGS

SEC. 2. The Congress finds that the interests of consumers are inadequately represented and protected within the Federal Government; and that vigorous representation and protection of the interests of consumers are essential to the fair and efficient functioning of a free market economy.

ESTABLISHMENT

SEC. 3. (a) There is hereby established as an independent agency within the executive branch of the Government the Consumer Protection Agency. The Agency shall be headed by an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate. The Administrator shall be a person who by reason of training, experience, and attainments is exceptionally qualified to represent the interests of consumers. There shall be in the Agency a Deputy Administrator who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Administrator shall perform such functions, powers, and duties as may be prescribed from time to time by the Administrator and shall act for, and exercise the powers of, the Administrator during the absence or disability of, or in the event of a vacancy in the office of, the Administrator.

(b) No employee of the Agency while serving in such position may engage in any business, vocation, or other employment or have other interests which are inconsistent with his official responsibilities.

POWERS AND DUTIES OF THE ADMINISTRATOR

SEC. 4. (a) The Administrator shall be responsible for the exercise of the powers and the discharge of the duties of the Agency, and shall have the authority to direct and supervise all personnel and activities thereof.

(b) In addition to any other authority conferred upon him by this Act, the Administrator is authorized, in carrying out his functions under this Act, to—

(1) subject to the civil service and classification laws, select, appoint, employ, and fix the compensation of such officers and employees as are necessary to carry out the provisions of this Act and to prescribe their authority and duties;

(2) employ experts and consultants in accordance with section 3109 of title 5, United States Code, and compensate individuals so employed for each day (including traveltime) at rates not in excess of the maximum rate of pay for grade GS–18 as provided in section 5332 of title 5, United States Code, and while such experts and consultants are so serving away from their homes or regular places of business, pay such employees travel expenses and per diem in lieu of subsistence at rates authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently;

(3) appoint advisory committees composed

of such private citizens and officials of the Federal, State, and local governments as he deems desirable to advise him with respect to his functions under this Act, and pay such members (other than those regularly employed by the Federal Government) while attending meetings of such committees or otherwise serving at the request of the Administrator compensation and travel expenses at the rate provided for in paragraph (2) of this subsection with respect to experts and consultants;

(4) promulgate such rules as may be necessary to carry out the functions vested in him or in the Agency, and delegate authority for the performance of any function to any officer or employee under his direction and supervision;

(5) utilize, with their consent, the services, personnel, and facilities of other Federal agencies and of State and private agencies and instrumentalities;

(6) enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of the work of the Agency and on such terms as the Administrator may deem appropriate, with any agency or instrumentality of the United States, or with any State, territory, or possession, or any political subdivision thereof, or with any public or private person, firm, association, corporation, or institution;

(7) accept voluntary and uncompensated services, notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b));

(8) adopt an official seal, which shall be judicially noticed; and

(9) encourage the development of informal dispute settlement procedures involving consumers.

(c) Upon request made by the Administrator, each Federal agency is authorized and directed to make its services, personnel, and facilities available to the greatest practicable extent within its capability to the Agency in the performance of its functions.

(d) The Administrator shall transmit to the Congress and the President in January of each year a report which shall include a comprehensive statement of the activities and accomplishments of the agency during the preceding calendar year including a summary of consumer complaints received and actions taken thereon and such recommendations for additional legislation as he may determine to be necessary or desirable to protect the interests of consumers within the United States. Each such report shall include a summary and evaluation of selected major consumer programs of each Federal agency, including, but not limited to, comment with respect to the effectiveness and efficiency of such programs as well as deficiencies noted in the coordination, administration, or enforcement of such programs.

FUNCTIONS OF THE AGENCY

SEC. 5 (a) The Agency shall, in the performance of its functions, advise the Congress and the President as to matters affecting the interests of consumers; and protect and promote the interests of the people of the United States as consumers of goods and services made available to them through the trade and commerce of the United States.

(b) The functions of the Agency shall be to—

(1) represent the interests of consumers before Federal agencies and courts to the extent authorized by this Act;

(2) encourage and support research, studies, and testing leading to a better understanding of consumer products and improved products, services, and consumer information, to the extent authorized in section 9 of this Act;

(3) submit recommendations annually to the Congress and the President on measures to improve the operation of the Federal Government in the protection and promotion of the interests of consumers;

(4) publish and distribute material developed pursuant to carrying out its responsibilities under this Act which will inform consumers of matters of interest to them, to the extent authorized in section 8 of this Act;

(5) conduct conferences, surveys, and investigations, including economic surveys, concerning the needs, interests, and problems of consumers which are not duplicative in significant degree of similar activities conducted by other Federal agencies;

(6) cooperate with State and local governments and private enterprise in the promotion and protection of the interests of consumers; and

(7) keep the appropriate committees of Congress fully and currently informed of all its activities, except that this paragraph is not authority to withhold information requested by individual Members of Congress.

REPRESENTATION OF CONSUMERS

SEC. 6. (a) Whenever the Administrator determines that the result of any Federal agency proceeding or activity may substantially affect an interest of consumers, he may as of right intervene as a party or otherwise participate for the purpose of representing the interests of consumers, as provided in paragraph (1) or (2) of this subsection. In any proceeding, the Administrator shall refrain from intervening as a party, unless he determines that such intervention is necessary to represent adequately the interests of consumers. The Administrator shall comply with Federal agency statutes and rules of procedures of general applicability governing the timing of intervention or participation in such proceeding or activity and, upon intervening or participating therein, shall comply with Federal agency statutes and rules of procedure of general applicability governing the conduct thereof. The intervention or participation of the Administrator in any Federal agency proceeding or activity shall not affect the obligation of the Federal agency conducting such proceeding or activity to assure procedural fairness to all participants.

(1) Except as provided in subsection (c), the Administrator may intervene as a party or otherwise participate in any Federal agency proceeding which is subject to section 553, 554, 556, or 557 of title 5, United States Code, or to any other statute or regulation authorizing a hearing or which is conducted on the record after opportunity for an agency hearing.

(2) Except as provided in subsection (c), in any Federal agency proceeding not covered by paragraph (1), or any other Federal agency activity, the Administrator may participate or communicate in any manner that any person may participate or communicate under Federal agency statutes, rules, or practices. The Federal agency shall give consideration to the written or oral submission of the Administrator. Such submission shall be presented in an orderly manner and without causing undue delay.

(b) At such time as the Administrator determines to intervene or participate in a Federal agency proceeding under subsection (a)(1) of this section, he shall issue publicly a written statement setting forth his findings under subsection (a), stating concisely the specific interests of consumers to be protected. Upon intervening or participating he shall file a copy of his statement in the proceeding.

(c) Whenever the Administrator determines that the interests of consumers may be affected substantially by the results of any pending—

(1) Federal agency adjudication of an alleged violation of law required by statute to be determined on the record after an opportunity for hearing; or

(2) proceeding in a court of the United States to which the United States or any other Federal agency is a party,

the Administrator, upon his own motion or upon written request by the officer or employee who is charged with the duty of presenting the case in such adjudication or court proceeding, may (i) transmit directly to such officer or employee all evidence and information in the possession of the Administrator relevant to the interests of consumers which would be affected, or (ii) intervene as of right in such an adjudication or court proceeding as a limited intervenor for the purpose of presenting, orally or in writing, such evidence and information to the agency or court: *Provided, however,* That intervention by the Administrator in such an adjudication or court proceeding shall be timely made under the appropriate rules of practice or proceedure of the agency or court, shall not cause undue delay, and shall be limited to the presentation of information within the possession of the Administrator and arguments based thereon.

(d) Except to the extent necessary to enforce his rights, as provided in this Act, to access to information or to an opportunity to represent consumers in a proceeding or activity of another agency, the Administrator shall not have standing to seek judicial review of any decision or action of another Federal, State, or local agency.

(e) When the Administrator determines it to be in the interests of consumers, he may request the Federal agency concerned to initiate such proceeding or to take such other action as may be authorized by law with respect to such agency. If the Federal agency fails to take the action requested, it shall promptly notify the Agency of the reasons for its failure and such notification shall be a matter of public record.

(f) Appearances by the Agency under this section shall be made by officers of the Department of Justice under the direction of the Attorney General; except, that if the Attorney General determines that the Department of Justice should not represent the Agency in any particular proceeding or action and notifies the Administrator of his determination, the Agency may appear on its own behalf through representatives designated by the Administrator.

(g) In any Federal agency proceeding to which the Agency is a party, the Agency is authorized to request the Federal agency to issue, and the Federal agency shall, on a statement or showing (if such statement or showing is required by the Federal agency's rules of procedure) of general relevance and reasonable scope of the evidence sought, issue such orders, as are authorized by the Federal agency's statutory powers, for the copying of documents, papers, and records, summoning of witnesses, production of books and papers, and submission of information in writing: *Provided, however,* That the authority granted by this subsection shall not apply to intervention by the Administrator in a Federal agency adjudication of an alleged violation of law required by statute to be determined on the record after an opportunity for hearing.

(h) The Agency is not authorized to intervene in proceedings or actions before State or local agencies and courts.

(i) Nothing in this section shall be construed to prohibit the Agency from communicating with Federal, State, or local agencies at times and in manners not inconsistent with law or agency rules.

CONSUMER COMPLAINTS

SEC. 7. (a) The Agency shall receive, evaluate, develop, act on, and transmit complaints to the appropriate Federal or non-Federal entities concerning actions or practices which may be detrimental to the interests of consumers.

(b) Whenever the Agency receives from any source, or develops on its own initiative, any complaint or other information affecting the interests of consumers and disclosing a probable violation of—

(1) a law of the Unted States,
(2) a rule or order of a Federal agency or officer, or
(3) a judgment, decree, or order of any court of the United States involving a matter of Federal law,

it shall take such action within its authority as may be desirable, including the proposal of legislation, or shall promptly transmit such complaint or other information to the Federal agency or officer charged with the duty of enforcing such law, rule, order, judgment, or decree, for appropriate action.

(c) The Agency shall ascertain the nature and extent of action taken with regard to respective complaints and other information transmitted under subsection (b) of this section.

(d) The Agency shall promptly notify producers, distributors, retailers or suppliers of goods and services of all complaints of any significance concerning them received or developed under this section.

(e) The Agency shall maintain a public document room containing an up-to-date listing of all signed consumer complaints of any significance for public inspection and copying which the Agency has received, arranged in meaningful and useful categories, together with annotations of actions taken by it. Complaints shall be listed and made available for public inspection and copying only if—

(1) the complainant's identity is protected when he has requested confidentiality;
(2) the party complained against has had sixty days to comment on such complaint and such comment, when received, is displayed together with the complaint; and
(3) the entity to which the complaint has been referred has had sixty days to notify the Agency what action, if any, it intends to take with respect to the complaint.

CONSUMER INFORMATION AND SERVICES

SEC. 8. (a) The Agency shall develop on its own initiative, and, subject to the other provisions of this Act, gather from other Federal agencies and non-Federal sources, and disseminate to the public in such manner, at such times, and in such form as it determines to be most effective, information, statistics, and other data concerning—

(1) the functions and duties of the Agency;
(2) consumer products and services;
(3) problems encountered by consumers generally, including annual reports on interest rates and commercial and trade practices which adversely affect consumers; and
(4) notices of Federal hearings, proposed and final rules and orders, and other pertinent activities of Federal agencies that affect consumers.

(b) All Federal agencies which, in the judgment of the Administrator, possess information which would be useful to consumers are authorized and directed to cooperate with the Agency in making such information available to the public.

TESTING AND RESEARCH

SEC. 9. (a) The Agency shall, in the exercise of its functions—

(1) encourage and support through both public and private entities the development and application of methods and techniques for testing materials, mechanisms, components, structures, and processes used in consumer products and for improving consumer services;
(2) make recommendations to other Federal agencies with respect to research, studies, analyses, and other information within their authority which would be useful and beneficial to consumers; and
(3) investigate and report to Congress on the desirability and feasibility of establishing a National Consumer Information Foundation which would administer a voluntary, self-supporting, information tag program (similar to the "Tel-Tag" program of Great Britain) under which any manufacturer of a nonperishable consumer product to be sold at retail could be authorized to attach to each copy of such product a tag, standard in form, containing information, based on uniform standards relating to the performance, safety, durability, and care of the product.

(b) All Federal agencies which, in the judgment of the Administrator, possess testing facilities and staff relating to the performance of consumer products and services, are authorized and directed to perform promptly, to the greatest practicable extent within their capability, such tests as the Administrator may request in the exercise of his functions under section 6 of this Act, regarding products, services, or any matter affecting the interests of consumers. Such tests shall, to the extent possible, be conducted in accordance with generally accepted methodologies and procedures, and in every case when test results are published, the methodologies and procedures used shall be available along with the test results. The results of such tests may be used or published only in proceedings in which the Agency is participating or has intervened pursuant to section 6. In providing facilities and staff upon request made in writing by the Administrator, Federal agencies—

(1) may perform functions under this section without regard to section 3648 of the Revised Statutes (31 U.S.C. 529);
(2) may request any other Federal agency to supply such statistics, data, progress reports, and other information as the Administrator deems necessary to carry out his functions under this section and any such other agency is authorized and directed to cooperate to the extent permitted by law by furnishing such materials; and
(3) may, to the extent necessary and authorized, acquire or establish additional facilities and purchase additional equipment for the purpose of carrying out the purposes of this section.

(c) Neither a Federal agency engaged in testing products under this Act nor the Administrator shall declare one product to be better, or a better buy, than any other product; however, the provisions of this subsection shall not prohibit the use of publication of test data as provided in subsection (b).

INFORMATION GATHERING

SEC. 10. (a) Upon written request by the Administrator, each Federal agency is authorized and directed to furnish or allow access to all documents, papers, and records in its possession which the Administrator deems necessary for the performance of his functions and to furnish at cost copies of specified documents, papers, and records. Notwithstanding this subsection, a Federal agency may deny the Administrator access to and copies of—

(1) information classified in the interest of national defense or national security by an individual authorized to classify such information under applicable Executive order or statutes and restricted data whose dissemination is controlled pursuant to the Atomic Energy Act (42 U.S.C. 2011 et seq.);
(2) policy recommendations by Federal agency personnel intended for internal agency use only;
(3) information concerning routine executive and administrative functions which is not otherwise a matter of public record;
(4) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
(5) information relating to any investigation by such Federal agency of any suspected criminal activities of any person;
(6) information which such Federal agency is expressly prohibited by law from disclosing to another Federal agency; and
(7) trade secrets and commercial or financial information described in section 552(b)(4) of title 5, United States Code—

(A) obtained prior to the effective date of this Act by a Federal agency, if the agency had agreed to treat and has treated such information as privileged or confidential and states in writing to the Administrator that, taking into account the nature of the assurances given, the character of the information requested, and the purpose, as stated by the Administrator, for which access is sought, to permit such access would constitute a breach of faith by the agency; or
(B) obtained subsequent to the effective date of this Act by a Federal agency, if the agency has agreed in writing as a condition of receipt to treat such information as privileged or confidential, on the basis of its determination set forth in writing that such information was not obtainable voluntarily without such an agreement and that failure to obtain such information would seriously impair performance of the agency's function.

Before granting the Administrator access to trade secrets and commercial or financial information described in section 552(b)(4) of title 5, United States Code, the agency shall notify the person who provided such information of its intention to do so and the reasons therefor, and shall afford him a reasonable opportunity to comment or seek injunctive relief. Where access to information is denied to the Administrator by a Federal agency pursuant to this subsection, the head of the agency and the Administrator shall seek to find a means of providing the information in such other form, or under such conditions, as will meet the Agency's objections. The Administrator may file a complaint in court to enforce its rights under this subsection in the same manner and subject to the same conditions as a complainant under section 552(a)(3) of title 5, United States Code.

(b) Consistent with the provisions of section 7213 of the Internal Revenue Code of 1954 (26 U.S.C. 7213), nothing in this Act shall be construed as providing for or authorizing any Federal agency to divulge or to make known in any manner whatever to the Administrator, from an income tax return, the amount or source of income, profits, losses, expenditures, or any particular thereof, or to permit any Federal income tax return filed pursuant to the provisions of the Internal Revenue Code of 1954, or copy thereof or any book containing any abstracts or particulars thereof to be seen or examined by the Administrator, except as provided by law.

LIMITATIONS ON DISCLOSURES

SEC. 11. (a) The Agency shall not disclose to the public or to any State or local agency—

(1) any information (other than complaints published pursuant to section 7 of this Act) in a form which would reveal trade secrets and commercial or financial information as described in section 552(b)(4) of title 5, United States Code, obtained from a person and privileged or confidential; or
(2) any information which was received solely from a Federal agency when such agency has notified the Agency that the information is within the exceptions stated in section 552(b) of title 5, United States Code, and the Federal agency has determined that the information should not be made available to the public; except that if such Federal agency has specified that such information may be disclosed in a particular form or manner, the Agency may disclose such information in such form or manner.

(b) No authority conferred by this Act shall be deemed to require any Federal agency to release to any instrumentality, created by or under this Act, any information the disclosure of which is prohibited by law.

(c) In the release of information pursuant to the authority conferred in any section of this Act, except information released through the presentation of evidence in a Federal

agency or court proceeding pursuant to section 6, the following additional provisions shall govern:

(1) The Administrator, in releasing information concerning consumer products and services, shall determine that (A) such information, so far as practicable, is accurate, and (B) no part of such information is prohibited from disclosure by law. The Administrator shall comply with any notice by a Federal agency pursuant to section 11(a)(2) that the information should not be made available to the public or should be disclosed only in a particular form or manner.

(2) In the dissemination of any test results or other information which directly or indirectly disclose product names, it shall be made clear that (A) not all products of a competitive nature have been tested, if such is the case, and (B) there is no intent or purpose to rate products tested over those not tested or to imply that those tested are superior or preferable in quality over those not tested.

(3) Notice of all changes or additional information which would affect the fairness of information previously disseminated to the public shall be promptly disseminated in a similar manner.

(4) Where the release of information is likely to cause substantial injury to the reputation or good will of a person or company, the Agency shall notify such person or company of the information to be released and afford an opportunity for comment or injunctive relief. The district courts of the United States shall have jurisdiction over any action brought for injunctive relief under this subsection.

PROCEDURAL FAIRNESS

SEC. 12. In exercising the powers conferred in section 5(b)(4) and section 7, the Agency shall act pursuant to rules issued, after notice and opportunity for comment by interested persons in accordance with the requirements of section 553 of title 5, United States Code, so as to assure fairness to all affected parties, and provide interested persons with a reasonable opportunity to comment on the proposed release of product test data, containing product names, prior to such release.

PROTECTION OF THE CONSUMER INTEREST IN ADMINISTRATIVE PROCEEDINGS

SEC. 13. Every Federal agency in considering any Federal agency action which may substantially affect the interests of consumers including, but not limited to, the issuance or adoption of rules, regulations, guidelines, orders, standards, or formal policy decisions, shall—

(1) notify the Agency at such time as notice of the action is given to the public, or at such times and in such manner as may be fixed by agreement between the Administrator and each agency with respect to the consideration of specific actions, or when notification of a specific action or proceeding is requested in writing by the Agency; and

(2) consistent with its statutory responsibilities, take such action with due consideration to the interest of consumers.

In taking any action under paragraph (2), upon request of the Agency or in those cases where a public announcement would normally be made, the Federal agency concerned shall indicate concisely in a public announcement of such action the consideration given to the interests of consumers. This section shall be enforceable in a court of the United States only upon petition of the Agency.

SAVING PROVISIONS

SEC. 14. (a) Nothing contained in this Act shall be construed to alter, modify, or impair the statutory responsibility and authority contained in section 201(a)(4) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471(a)(4)), or of any provision of the antitrust laws, or of any Act providing for the regulation of the trade or commerce of the United States, or to prevent or impair the administration or enforcement of any such provision of law.

(b) Nothing contained in this Act shall be construed as relieving any Federal agency of any authority or responsibility to protect and promote the interests of the consumer.

DEFINITIONS

SEC. 15. As used in this Act—

(1) The term "Agency" means the Consumer Protection Agency.

(2) The words "agency", "agency action", "party", "person", "rulemaking", "adjudication", and "agency proceeding" shall have the same meaning as set forth in section 551 of title 5, United States Code.

(3) The term "consumer" means any person who uses for personal, family, or household purposes, goods and services offered or furnished for a consideration.

(4) The term "interests of consumers" means any concerns of consumers involving the cost, quality, purity, safety, durability, performance, effectiveness, dependability, and availability and adequacy of choice of goods and services offered or furnished to consumers; and the adequacy and accuracy of information relating to consumer goods and services (including labeling, packaging, and advertising of contents, qualities, and terms of sale).

(5) The term "State" includes any State or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Canal Zone, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

CONFORMING AMENDMENT

SEC. 16. (a) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following:

"(62) Administrator, Consumer Protection Agency."

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

"(99) Deputy Administrator, Consumer Protection Agency."

EXEMPTIONS

SEC. 17. This Act shall not apply to the Central Intelligence Agency, the Federal Bureau of Investigation, or the National Security Agency, or the Departments of State and Defense (including the Departments of the Army, Navy, and Air Force) and the Atomic Energy Commission.

APPROPRIATIONS

SEC. 18. There are hereby authorized to be appropriated such sums as may be required to carry out the provisions of this Act.

EFFECTIVE DATE

SEC. 19. (a) This Act shall take effect ninety calendar days following the date on which this Act is approved, or on such earlier date as the President shall prescribe and publish in the Federal Register.

(b) Any of the officers provided for in this Act may (notwithstanding subsection (a)) be appointed in the manner provided for in this Act at any time after the date of the enactment of this Act. Such officers shall be compensated from the date they first take office at the rates provided for in this Act.

SEPARABILITY

SEC. 20. If any provision of this Act is declared unconstitutional or the applicability thereof to any person or circumstance is held invalid, the constitutionality and effectiveness of the remainder of this Act and the applicability thereof to any persons and circumstances shall not be affected thereby.

Mr. BROWN of Ohio (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

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

There was no objection.

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

The CHAIRMAN. The Chair will count. Ninety-seven Members are present, not a quorum. The call will be taken by electronic device.

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

[Roll No. 136]

| | | |
|---|---|---|
| Alexander | Harsha | Poage |
| Arends | Hébert | Powell, Ohio |
| Bevill | Heckler, Mass. | Rees |
| Blackburn | Jones, Ala. | Reid |
| Blatnik | Kazen | Rooney, N.Y. |
| Burke, Calif. | Kluczynski | Runnels |
| Camp | Landrum | Ruppe |
| Carey, N.Y. | Lehman | Shriver |
| Clark | Long, Md. | Sikes |
| Conlan | Lujan | Stark |
| Conyers | McKinney | Stephens |
| Devine | Macdonald | Teague |
| Diggs | Mathis, Ga. | Thompson, N.J. |
| Dingell | Melcher | Udall |
| Dorn | Mills | Ullman |
| Drinan | Minshall, Ohio | Wampler |
| Frenzel | Mosher | Wiggins |
| Fulton | Murphy, N.Y. | Williams |
| Gettys | O'Hara | Wilson, Charles H., Calif. |
| Gubser | O'Neill | |
| Hanna | Patman | |
| Hansen, Wash. | Pickle | |

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BOLAND, 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. 13163, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 369 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. The gentleman from Ohio is recognized for 4 minutes.

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

Mr. BROWN of Ohio. I yield to the gentleman from Alabama.

Mr. BUCHANAN. Mr. Chairman, I ask unanimous consent that the gentleman from Ohio (Mr. BROWN) be allowed to proceed for 5 additional minutes.

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

Mr. HOLIFIELD. Mr. Chairman, reserving the right to object, we have had four quorum calls, none of which were effective because, by the time the quorum was counted, the Members had left the floor. This is wasting our time today.

It was the hope of the committee to finish this bill, and the leadership on both sides of the aisle have asked us to finish this bill tonight, and we are going to comply with the request of the leadership. The gentleman from Arizona (Mr. RHODES) and the Speaker, the gentleman from Oklahoma (Mr. ALBERT) have both said that they have reasons for asking us to finish this bill tonight. It is the hope of the managers handling this bill that we will be able to proceed, and to finish the bill expeditiously, so we do hope that there will not be further requests for additional time. The managers in this instance are not asking for additional

time. We hope that we can get along with the business of the bill.

I might say that there are some committees that are leaving town tomorrow on committee business, and they have requested us to try to conclude the bill tonight, and we will try to do so. We have had several hours of debate. I want to be reasonable. I do not want to foreclose debate, but I hope that we can proceed in an orderly way and finish the bill, and either vote it up or vote it down.

Mr. Chairman, I withdraw my reservation of objection.

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

There was no objection.

The CHAIRMAN. The gentleman from Ohio (Mr. BROWN) is recognized for 9 minutes.

Mr. BROWN of Ohio. Mr. Chairman, this amendment in the nature of a substitute for the Holifield-Rosenthal bill is, I believe, a responsible alternative.

In the interests of time, I shall only remind the membership that the Brown alternative is the same as the Holifield-Rosenthal bill, except for the following seven differences which speak for themselves:

First. The exemptions section of the Brown substitute and the Holifield-Rosenthal bill differ in two respects. My bill will not exclude from CPA advocacy and appeal major interests in Federal action on labor matters, as would the Holifield-Rosenthal bill. My bill would however, fully exempt the Departments of Defense and State from CPA intervention, while the Holifield-Rosenthal bill would only grant partial exemptions for these agencies.

Second. The Brown substitute would allow public interest Federal agencies to deny the CPA access to their criminal investigation files, while the Holifield-Rosenthal bill would force Federal agencies including Justice to produce such files for CPA review.

Third. The Brown substitute would allow existing Federal public interest agencies to refuse any CPA requests for them to use the subpena power of the public interest agencies to get information only of interest to CPA; while the Holifield-Rosenthal bill would force existing public interest agencies to use their subpena powers against individuals and companies which the CPA, alone, is investigating.

Fourth. The Brown bill would allow Federal public interest agencies to refuse CPA access to trade secrets and confidential information which were voluntarily given to these agencies; while the Holifield-Rosenthal bill would force these agencies which have subpena powers to disclose to the CPA virtually all such material given to the Federal Government in confidence.

Fifth. The Brown alternative would provide that the Justice Department would litigate court suits for the CPA, except where the Attorney General determines otherwise; while the Holifield-Rosenthal bill would require that the CPA hire and use its own trial lawyers.

Sixth. The Brown bill would allow the CPA to seek judicial review of another agency's decisions only where that agency refused to grant the CPA access to information to which the CPA has a right under the bill or where the CPA has been denied party status (or any other CPA-requested opportunity) to advocate consumer interests as provided in the bill. The Holifield-Rosenthal bill would allow the CPA to seek judicial review of virtually any action, including inaction, of another agency, whether or not the CPA appeared before it in the initial consideration.

Seventh. And finally, the Brown bill would not allow the CPA to become a party with rights equal to those of an agency prosecutor in that very small number of Federal adjudications in which a person who has been formally charged with a violation of law is being prosecuted before a Federal agency. The Holifield-Rosenthal alternative would allow the CPA to be such a second prosecutor in most such situations, limiting the CPA's right to party status only where the forum agency, itself, directly imposes a "fine or a forfeiture" upon a person found guilty.

For those of you who wish to vote for a CPA bill, but who have reservations about the sweeping Holifield-Rosenthal proposal, I urge you to support this reasonable alternative.

Mr. HOLIFIELD. Mr. Chairman, the Brown amendment in the nature of a substitute for H.R. 13163 should be voted down. This is a gutting amendment. It would seriously reduce the effectiveness of the Consumer Protection Agency. To understand the harmful consequences of the substitute bill, its provisions must be read together and their consequences added up. It is difficult to relate all these provisions, because the bill is couched in terms very much like the committee bill. What the substitute does is delete some critical language, here and there, and make other changes not readily apparent without a detailed analysis and a deep understanding of the whole background of this legislation.

Since time for debate on amendments is limited, I will address my remarks to the worst features of the substitute bill. These are, in brief: First, greatly restricting the CPA's role as a party in Federal agency proceedings; second, denying to the CPA the right, which any aggrieved person has by law, to seek judicial review; and third, limiting seriously the CPA's right and opportunities to gather information. The Brown substitute also has other restrictive amendments, mainly those proposed by Mr. Roy Ash, which I will not have time to address.

The Brown substitute would confine the CPA's role to that of "limited intervenor" in Federal agency adjudications involving "alleged violation of law." There are many laws on the statute books, of course, in which consumers are interested, and consumers are vitally affected when these laws are ignored or deliberately disobeyed. There are laws concerning deceptive advertising and unfair trade practices, flammable fabrics, other unsafe or hazardous products, motor vehicle safety, and other laws too numerous to mention. It is essential that the CPA be a party in proceedings determining violations of such statutes. In the committee bill, we confine the CPA's role to amicus curiae only in a proceeding where an agency has direct authority to impose a fine or forfeiture. As I stated in my opening remarks in the general debate, there are very few agencies with such authority. In the substitute bill, the CPA would be excluded from full party rights in many more proceedings—enough to tie its hands and prevent it from being an effective consumer advocate. There is much fuzziness in the language of the substitute bill as to what the CPA could or could not do as a limited intervenor, but it is clear that the CPA would not be able to cross-examine other witnesses or to have the subpena or discovery rights of other parties in such proceedings.

The substitute bill also would strip the CPA, for all practical purposes, of the right to seek judicial review. The CPA would be denied the rights of other parties, or aggrieved persons whether or not they are parties, in proceedings. At present, attorneys representing business interests can appeal from adverse decisions of agencies. Why not the consumer advocate?

Finally, the substitute bill would take away the CPA's authority to request information to other agencies which have powers to issue interrogatories. Under the committee bill, such information would be sought to protect the health and safety of consumers, or where consumer fraud or economic injury are indicated. Why should the CPA be deprived of opportunities to obtain such information working cooperatively with established Federal agencies?

I believe that all the changes proposed in the substitute bill were fully considered and overwhelmingly rejected in the committee. I ask that they be rejected by this body as well. The substitute bill offers a clear choice between a strong effective bill and a weak and ineffective bill. While the consumer pays his money, you take your choice.

I might say Mr. Chairman that this bill is the Holifield, Horton, Rosenthal, Erlenborn, Wright, Wydler, St Germain, Brown of Ohio, Fuqua, Mallary, Moorhead of Pennsylvania, and Jones of Alabama bill. That is what the bill is which has been so frequently referred to as the Holifield-Rosenthal bill. I want the membership to know that it is the full membership of the subcommittee behind this bill.

Mr. McFALL. Mr. Chairman, will the gentleman yield for a question?

Mr. HOLIFIELD. I yield to the gentleman from California (Mr. McFALL).

Mr. McFALL. Mr. Chairman, there is just one vital point. I agree with what the chairman said and I certainly will support the committee in opposing the substitute.

Is there a provision in the bill for a businessman to have a right of judicial appeal from an adverse decision of a Federal agency under the legislation which the gentleman proposes?

Mr. HOLIFIELD. This is just one of the smoke screens which have been dropped by the opponents.

The bill does not have to give a busi-

nessman that right. He already has the right to judicial review under the Administrative Procedure Act (5 U.S.C. 702). The bill does not in any way affect that right. It gives an equal right to the Consumer Protection Agency, but does not take away the right of judicial review a businessman now has.

Mr. DENNIS. Mr. Chairman, I rise in support of the Brown substitute, as clearly it is, to one of my philosophy, a much better measure than the committee's bill. The failure of the committee bill in excluding labor alone from its provisions, while passing a measure to regulate business, would in itself be sufficient to reject it, to my way of thinking.

The Brown amendment takes that into consideration and changes it. In addition, the Brown substitute does not permit this regulation to apply to the Department of Defense or the Department of State, which certainly ought not to be allowed. It finally allows the Department of Justice to perform its normal functions of representing Government agencies in the courts.

In other words, the Brown measure maintains the ordinary constitutional construction of our Government in a manner that the committee bill does not.

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

Mr. DENNIS. Of course, I yield to the distinguished chairman.

Mr. HOLIFIELD. Mr. Chairman, the gentleman asked for general debate. We were pushing for time then.

There are some questions in regard to this matter that he just now mentioned.

I will inform the gentleman that the following agencies have an unqualified right to be represented in court by their own attorneys:

The National Labor Relations Board; the Interstate Commerce Commission, the Equal Employment Opportunity Commission, except in the Supreme Court; the Consumer Product Safety Commission in certain cases; and the FTC after consultation with the Attorney General.

So those agencies all have the right to use their own attorneys.

Mr. DENNIS. Mr. Chairman, I would say to the distinguished chairman, I do not doubt that is true; but I do not think it is a good reason for doing it again, particularly in respect to an agency which can go into court and tell all the other agencies what they have to do and prosecute an individual businessman, even if they do not want to.

I would like to speak just a moment on the broader philosophical point in connection with this legislation. Since I have been a Member of this distinguished body, I have really been shocked at how little understanding of private business there is, what great indifference there is to private business and almost, I would say, hostility to private business that exists in some quarters.

Since I have been down here a little over 5 years, we have created EPA, OSHA, CPA, and I do not know how many regulatory agencies, to ride herd on private enterprise in this country.

I do not get a lot of mail from home from consumers complaining about American business. The little businessmen I represent, the farmers I represent, are all consumers themselves. We are all consumers. They do not write me and ask me to create another board, bureau, or commission, to ride herd on them or to be a general guardian for them, or to tell them how to live, or how to operate their own business; but what they do write me about all the time is, "Why do you pass these bills down here to make us fill out papers, fill out forms, ask permission to do this, ask permission to do that, and complicate my life? What do you think you are doing down there?"

I get a lot of that kind of mail. I do not know why we do not pay any attention to that. Everyone knows this is not much of a deliberative body, because nobody comes to hear much of the debate if he can help it; but I wonder sometimes if we are even a representative body.

I represent those people that write me. I do not represent Common Cause or Ralph Nader or these other organized minorities, or the big labor unions, which seem to have all the play in this body. Sometime we are going to have to give a little bit of attention to the ordinary man on Main Street, and back on the farm, who is trying to make a living and who is still the majority in this country and who is a consumer himself and who built this country.

I say to my friends here that some day there is going to be a reaction, maybe not this year, but sometime we are going to get a Congress up here which represents the American people for a change.

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

Mr. Chairman, our distinguished committee chairman earlier expressed the desire of the leadership on both sides to facilitate the completion of the debate and voting on this legislation today. I feel sympathy for this problem, and hope the Brown substitute can be quickly approved. If, however, it does not prevail, then there are a number of Members who feel conscience bound to attempt to amend this legislation with various individual provisions of the Brown amendment, who will be offering those amendments, and I am sure the debate will be extended.

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

Mr. BUCHANAN. Mr. Chairman, I gladly yield to the distinguished minority leader.

Mr. RHODES. Mr. Chairman, I thank the gentleman for yielding to me. I rise in support of the Brown substitute. I am in favor of consumer protection legislation. I think the Brown substitute would improve the bill.

Mr. BUCHANAN. Mr. Chairman, I thank the distinguished minority leader. I think he has spoken well and has spoken for me in his support of the Brown amendment. I will not extend the debate except to say that the Brown substitute incorporates reasonable suggestions made by the administration to the committee for a revision of this bill in ways that the administration felt would be an improvement.

In essence, this is what the Brown substitute does. It does contain some judicial review provisions that the gentleman from Ohio (Mr. BROWN) and the gentleman from Florida (Mr. FUQUA) submitted to the subcommittee which they felt would improve that section.

However, in essence, this is simply an attempt to improve this legislation. As one Member mentioned earlier, this bill has been reported out of our committee in some form three different times, and this is the third Congress in which it has been the case. I do feel that each time it has been improved a little, but if the Members want to pass really good consumer protection legislation, they should vote for the Brown substitute and do a service to the American people.

AMENDMENT OFFERED BY MR. BROYHILL OF NORTH CAROLINA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BROWN OF OHIO

Mr. BROYHILL of North Carolina. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from Ohio (Mr. BROWN).

The Clerk read as follows:

Amendment offered by Mr. BROYHILL of North Carolina to the amendment in the nature of a substitute offered by Mr. BROWN of Ohio: Page 26, Line 2, delete section 18 in its entirety and substitute in lieu thereof the following:

"There are hereby authorized to be appropriated to carry out the provisions of this Act such sums as may be required for the fiscal year ending June 30, 1975, for the fiscal year ending June 30, 1976, and for the fiscal year ending June 30, 1977."

Mr. BROYHILL of North Carolina. Mr. Chairman, I offer an amendment to section 18 of the Brown substitute, regarding authorization of appropriations to carry out the provisions of the act. My amendment authorizes such sums as may be required for this purpose for fiscal years 1975, 1976, and 1977 and would replace the open-ended authorization presently provided in the bill.

My purpose in offering this amendment is to insure periodic congressional oversight over the proposed Consumer Protection Agency and its activities. By providing in the act a limited 3-year authorization, the Agency would be required to return to Congress for an extension of the act when the authorization has expired. At that time, the appropriate legislative committee would have the opportunity and the obligation to review thoroughly the programs, activities, and operations of the Agency to insure that the intent of the Congress was being carried out in the administration of the act.

I am firmly committed to the principle of continued and active congressional oversight over the many independent agencies which the Congress has established over the years. The usual process which occurs when the Congress creates a new, independent agency is that the agency has an open-ended authorization and submits its budget request, through the normal budgetary process, to the House Appropriations Committee. This committee reviews the budget request, along with all other such requests, in the context of the total Federal budget. The legislative committee which has jurisdiction over the agency does not have the opportunity to review either the

budget or the programs, activities, and operations of the agency. It is only with the occurrence of a specific problem or the proposal of new legislative authority for the agency that the legislative committee would exercise its oversight authority.

I would like to call to the attention of my colleagues the Consumer Product Safety Act of 1972, which created the Consumer Product Safety Commission. This act, which was reported from the Interstate and Foreign Commerce Committee, created this independent regulatory agency to deal with the problems of product safety. The Commission was provided with specific authorizatons of appropriations for 3 fiscal years. At the end of fiscal year 1975, the authorizations of the Commission will expire unless the Congress passes additional legislation extending such authorizations. The Consumer Product Safety Commission is the only independent regulatory agency which now has such a limited authorization.

In the case of the proposed Consumer Protection Agency, it is not clear which congressional committee or committees will have oversight over the Agency. This bill was reported out of the Government Operations Committee, but the subject could fall under the jurisdiction of the Interstate and Foreign Commerce Committee.

Whichever committee is determined to have oversight authority over this proposed Agency, I feel it is important that that committee be required to exercise such authority at periodic and specified intervals. I am convinced of the usefulness and of the necessity of continued congressional review of the regulatory agencies which we in the Congress have created. Such a process, I feel, will contribute to the greater effectiveness of these agencies and will provide greater responsiveness to the public interest in the regulatory process.

I, therefore, urge the adoption of my amendment to provide a 3-year authorization for the proposed Consumer Protection Agency.

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

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

Mr. McCOLLISTER. Mr. Chairman, the gentleman from North Carolina has made an excellent statement in support of congressional oversight of other governmental agencies. I wish to associate myself with the gentleman's remarks and give my support to his amendment to the amendment in the nature of a substitute.

Mr. HORTON. Mr. Chairman, I rise in opposition to the amendment in the nature of a substitute.

Mr. Chairman, I wish to point out to the members of the committee that the Committee on Government Operations has spent a lot of time in putting this bill together. We have worked very hard and very diligently. We have had 8 days of hearings, and this bill has been very carefully developed.

I want again to emphasize what was emphasized during general debate, namely, that this bill provides for an advocate for the consumer—nothing more, nothing less.

Members have talked about EPA, and Members have talked about OSHA. These are all regulatory agencies. The new proposal that we are making here to create a Consumer Protection Agency is not to create a regulatory agency; rather, it is to designate an advocate to appear and represent the consumer's interests.

Mr. Chairman, when those Members who are opposed to the committee bill get up and say that they are representing the consumers, they are not talking about the cases the bill involves. Because what the consumer needs is to have an advocate to speak for him in those proceedings before the Federal agencies where the consumer is not being heard now. Most Members do not appear in such proceedings.

Now, the amendment in the nature of a substitute which has been offered by the gentleman from Ohio (Mr. BROWN) has three very distinct gutting amendments in it. I have discussed them in the material inserted in yesterday's RECORD at page 9436.

The first would prohibit judicial review of legal wrongs which would be suffered by the Consumer Protection Agency in appearing in these various proceedings.

One of the things that has been basic to our American system has been the idea that all participants who are parties to an action should be treated fairly and equally. If business appears, they have the right of judicial review. According to the substitute which is proposed by the gentleman from Ohio (Mr. BROWN) this would only be provided in cases involving the Consumer Protection Agency's "access to information or opportunity to represent consumers in a proceeding or activity." In other words, if there were any legal wrong suffered by the Consumer Protection Agency advocate while he was representing consumers, that would not be subject to judicial review, and that is not fair. There should be parity with the rights of other parties who have an opportunity to appear.

The second point which I think is very important would limit the Consumer Protection Agency's participation in most adjudicatory proceedings to that of an amicus curiae.

Mr. ANDERSON of Illinois. Will the gentleman yield for a question on the first point he made, because it is rather important, to help me clear up some confusion in my mind?

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

Mr. ANDERSON of Illinois. You are suggesting that any aggrieved party now has the right of judicial review even though he was not a party to the proceeding before a particular regulatory agency?

Mr. HORTON. No, I am not saying that, but that is often time. I am saying in the bill we have provided the right of judicial review. We have also provided that he has the right of judicial review only if he asks for a rehearing within 60 days if he has not appeared. The purpose of that is to prevent pro forma filings which the Consumer Protection Agency would make in order to protect his right of judicial review.

What the Brown substitute does is to eliminate any right of judicial review that the Consumer Protection Agency may have, and that is not fair.

Mr. BROWN of Ohio. That is not an accurate statement, if the gentleman will yield.

Mr. HORTON. I yield to the gentleman.

Mr. BROWN of Ohio. In the first place, it is not an accurate statement of your own bill. As a matter of fact, the Consumer Protection Agency is maintaining the right of subpena and all of these other things.

Mr. HORTON. Excuse me. I will not yield further. I want to make a statement here.

He does not have an independent right of subpena or interrogatories. He has to go to a host agency which has these rights and ask that they be used on his behalf.

Mr. BROWN of Ohio. That is correct.

Mr. HORTON. What I am talking about, as the gentleman will see, is judicial review.

Mr. BROWN of Ohio. He has the right of all the other agencies. The gentleman just spoke of the judicial review right stated in his own bill, but they are also stated in mine. The Consumer Protection Agency has the right to ask for judicial review if it deals with the right of advocacy for the consumer.

Mr. HORTON. Does the gentleman deny that his substitute says judicial review is only available in cases involving its access to information or its opportunity to represent consumers in a proceeding or activity?

Mr. BROWN of Ohio. That is right.

Mr. HORTON. The gentleman can get his own time. I want to make my point.

And then they can prohibit him where there are legal wrongs from having this right of judicial review.

Mr. BROWN of Ohio. If the gentleman will yield for elaboration and correction, if the host agency has not considered the rights of consumers or refused them the right to appear, he does have the right of judicial review. Is that not correct?

Mr. HORTON. I do not understand the gentleman's talking about host agencies. Are you talking about interrogatories or judicial review?

Mr. BROWN of Ohio. The host agency is trying to get the judicial review off.

Mr. HORTON. As I understand the gentleman's substitute, it provides that judicial review shall only obtain in those cases where it involves access to information or the opportunity to represent consumers in a proceeding or activity. That limits him so that he cannot seek judicial review if he has been legally wronged, and that is different from our bill.

The CHAIRMAN. The time of the gentleman has expired.

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

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield further?

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

Mr. BROWN of Ohio. Mr. Chairman, the language in my substitute provides that if the host agency, that is, the Fed-

eral Trade Commission, the Federal Communications Commission, the Securities and Exchange Commission, or any other regulatory agency which deals with consumer problems, the Consumer Protection Agency has the right to judicial review of a decision where the CPA has previously appeared.

Mr. HORTON. Whether or not he could appear.

Mr. BROWN of Ohio. That is right.

Mr. HORTON. But the point I am making, if he has appeared, and if he is legally wronged then he has no right of judicial review. And I am sure the gentleman from Ohio will agree with me that in instances where there is an aggrieved party, he has the right of judicial review. In our case, in the bill we have, he has that right.

Mr. BROWN of Ohio. If you turn it around and talk about how the legislation without my amendment affects the right of appearance, if the CPA does not appear to advocate the rights of consumers, the legislation gives him the right to ask for review of decisions of these agencies, and that, failing to satisfy the CPA with that decision, to take that decision to court.

Mr. HORTON. That is right.

Mr. BROWN of Ohio. And this extends endlessly the process.

Mr. HORTON. In the committee bill he would have to seek a rehearing. But that is not involved in the gentleman's substitute; is that right?

Mr. BROWN of Ohio. That is right, it is taken out of the gentleman's substitute.

Mr. HORTON. The second point I want to make is that the Brown substitute limits CPA participation in most adjudicatory proceedings to that of an amicus. Our bill provides that he can participate. I think that is a very important distinction.

The other point that I would like to make, is that the Brown substitute makes no provision for information gathering by the CPA for investigations outside of the formal proceedings. This puts the information gathering powers in the committee bill. What we have tried to do in the committee bill is to walk a very delicate line. There have been some groups that wanted the CPA to have direct subpena and interrogatory power. There are others who do not want them to have any information gathering rights.

The committee bill has provided for written interrogatories, but the CPA must go to a host agency which has that authority. I think that is a very important distinction, and I would like to read the language which is in H.R. 13163. On page 17, we provide that:

> To the extent required to protect the health or safety of consumers, or to discover consumer fraud or substantial economic injury to consumers, the Administrator is authorized to propose to any Federal agency, for submission to specified persons, written interrogatories or requests for reports and other related information, within such agency's authority.

And, Mr. Chairman, I underscore "within such agency's authority".

It does not go any further than that. That limits the right of the CPA to gather information. He has to go to an agency that has authority, and then he has to stick within the authority of that particular agency.

Then we provide that the agency has broad discretion as to whether or not they will issue the written interrogatories. That is all taken away by the Brown substitute.

I urge that the Members vote against the Brown substitute. This is a very important amendment, and one which would gut the bill. I think the bill is a very important bill. All it does is create an advocate to represent consumer interests, in the same manner as other parties appear before Federal agencies to represent their interests.

Mr. ROSENTHAL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the substitute offered by the gentleman from Ohio (Mr. BROWN).

Mr. Chairman, it becomes rather trite to repeat that the Brown amendment guts the bill. What the Brown amendment does is attempt to take away from the bill and from the CPA all elements of fair play in the administrative agency and judicial system.

We must understand what the role of the CPA is.

I wonder if the gentleman from Indiana, a distinguished member of the Committee on the Judiciary, and for whom I have great respect, would follow the logic and see if the gentleman does not agree with me in the conclusion that I come to.

The gentleman from Indiana used the word "prosecutor," and he used it a number of times. This CPA advocate has no prosecutor function at all in any proceeding or activity under this bill. The CPA has the right to appear as a party and to present evidence. The CPA, if he feels aggrieved by the decision of the board or agency, has the right to appeal to the courts. I cannot conceive of anyone who is a member of the bar who sits in this Chamber who would find any area of disagreement with that procedure.

Mr. BROWN has found some fault both here and in the hearings with the fact that if the CPA does not appear below as a party, this bill gives him the right to appear in court. We have a number of restrictions on that right. The first is that if he appears below in the administrative proceeding hearing, he would then have to ask for a rehearing in the host agency. If that rehearing were denied or it were adverse to the interests that he supported, he would have the right to go into the U.S. district court, and in that court proceeding he would have to allege in his petition that it was timely, within the 60-day period application, that it was in the consumer interests and that there was not laches or delay. The court could deny the request for judicial review if it was not in the interests of justice. All of these things come under the area of fair play.

Another thing that Mr. BROWN seems to make much of is that this Agency would have subpena power. I, frankly, wanted the Agency to have subpena power. It does not have subpena power. It has to go to the host agency to gain subpena power.

Let me tell the gentleman from Ohio something. Every party in an agency or a court proceedings in the United States has the right to request a subpena. Why would the gentleman from Ohio deny this party—this party who has the public interest responsibility—the same procedural rights of due process that any private party is entitled to? There are no prosecutors. There is a very limited subpena power. There is a very limited power to appeal and intervene. Again, I repeat for the benefit of my friend, the gentleman from Indiana, who is a distinguished member of the Committee on the Judiciary, to use the word "prosecutor" is incorrect.

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

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

Mr. BROWN of Ohio. I thank the gentleman for yielding.

The first instance that the gentleman cited of hearings to set marketing orders, and so forth, obviously has no prosecutor, and nobody suggested they would. I stated, in my remarks introducing my substitute proposal that the areas in which the Rosenthal bill gives the CPA dual prosecutor authority are very limited. I said that when I made my presentation of my bill.

Mr. ROSENTHAL. Mr. Chairman, I will not yield further.

Why does the gentleman use the word "prosecutor"? This Agency appears as a party, not as a prosecutor—as a party with the rights and responsibilities of any party in the proceeding.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield.

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

Mr. BROWN of Ohio. I thank the gentleman for yielding.

Where somebody has been accused of violating the law, and the Federal Trade Commission is prosecuting a case, what does the gentleman call the attorney—a prosecutor?

Mr. ROSENTHAL. This Agency will not appear in any criminal proceeding. We had a big to-do about that last year. We eliminated the word "penalties." It is permitted to appear in civil proceedings where a fine or a forfeiture is involved. There is no prosecution for any kind of criminal proceeding.

Mr. BROWN of Ohio. Would the gentleman also agree, if he will yield further, that the language of his bill is very burdensome upon the host agency? There is practically no way in the language of that bill that the host agency can refuse to give to the CPA the subpena powers that it has. In other words, the CPA has to ask for it.

Mr. ROSENTHAL. Let us pursue that. The gentleman suggests that it is burdensome on the host agency. I happen to believe—and I hope this does not violate our agreement—that the CPA ought to have the right itself to issue interrogatories. I felt that it was burdensome for the CPA to go to the host agency and to plead its cause as a pauper, but in an effort to compromise this bill with Mr. HORTON and Mr. HOLIFIELD, we made that very significant concession.

And thus the CPA goes hat in hand

to a host agency and says: "Please give me the interrogatories," and the host agency has the right to act or refuse to act.

Mr. HOLIFIELD. Mr. Chairman, I rise in opposition to the Broyhill of North Carolina amendment to the Brown of Ohio amendment.

The Broyhill amendment, in effect, limits the Consumer Protection Agency to 3 years. We are not creating a temporary agency. We are creating an agency for the protection of consumers, and the problems of consumers are going to be with us as long as we have an organized society and a free enterprise system.

Of course, the Congress can terminate this Agency at any time by repealing the enabling legislation or denying the funds for operation. I do not expect that to happen.

Furthermore, I do not believe it is the policy in this case—it may be good in some other cases—to create what would be a temporary agency with an uncertain future. As I said many times in creating this Agency we are planting a tree, a tree that will grow, that may require tending and pruning, but a tree that will endure and not be chopped off at the roots and allowed to wither and die for lack of nourishment and care.

So I say the Broyhill amendment brings in a new element. In the Federal Energy Agency bill, we limit it to 2 years because it is labeled as a temporary agency, and the administration asked for it as a temporary agency. But we create a permanent agency here, subject of course to the regular action of the Appropriations Committee in granting or denying funds at any time, and of the legislative committee in passing an act cutting it off, just as we may cut off any agency.

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

Mr. HOLIFIELD. I yield to the gentleman from California (Mr. ROUSSELOT).

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

Why would the same principle we applied to the Energy Office not apply to this legislation; that is, just give Congress a chance to review it after 3 years? If it is a good Agency and if it does all these wonderful things that Mr. Nader and everybody else tells us it will, then we will have a chance to continue it. But I cannot understand why we do not just give it a life of 3 years and review it.

Mr. HOLIFIELD. I tried to tell the gentleman that. We put through the bill to provide research in energy as a permanent thing, and we put the Federal Energy Administration through as a temporary agency. The gentleman from North Carolina asked to make this a temporary Agency, and I do not think that is the purpose of the bill. I know it is not the purpose of the bill, and I know that the consumers of this Nation are being defrauded, and I know they will continue to need some help. Therefore, I say the Broyhill amendment should be voted down, and I hope the Committee will vote it down.

Mr. SYMMS. Mr. Chairman, I rise in favor of the amendment.

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

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

Mr. BROYHILL of North Carolina. Mr. Chairman, I would like to correct the statement that the chairman of the Government Operations Committee has made here. It is not my purpose by this amendment to say that this is going to be a temporary Agency. This is the only way I have to insure that we have adequate control or oversight over this new Agency. This is the only way I know that we can insure that the Congress is going to take the time to go into the activities of this Agency to determine what new authority they should have or what limitations they should have in the future. That is the purpose of my amendment.

Mr. SYMMS. I thank the gentleman from North Carolina.

Mr. Chairman, I rise in support of the amendment. I think the distinguished chairman's (Mr. HOLIFIELD) own admission that this Agency is here to stay if this legislation is enacted. He points out one of the most important points. The bill says in section 18:

> There are hereby authorized to be appropriated such sums as may be required to carry out the provisions of this Act.

I wonder who it is who is going to protect the consumers from inflation? I wonder who it is who is going to protect the consumer from debased currency?

I have often said that there is an old saying that: "The only thing the Government is good at, is waging war and debasing currency," and that saying comes to mind as we create more agencies: the Federal Energy Office, OSHA, Environmental Protection Agency, and now the Consumer Protection Agency.

I think, as far as I am concerned, that the entire concept of consumerism is a false premise. There is nothing about free enterprise involved in this at all. It is taking the premise that the Government and bureaucrats have better judgment than the people when they want to buy an appliance from General Electric or a Frigidaire refrigerator, what shall we do, rule out new competition?

I compromise my principles even to support the amendment of the gentleman from Ohio (Mr. BROWN). I think that this amendment makes a very distinct attempt to make the proposed Consumer Protection Agency walk before it runs. I need not remind Members of the mistakes we have made in the past by giving new agencies new powers without first evaluating the effects that such an agency would have. The amendment of the gentleman from Ohio (Mr. BROWN) will give us time to evaluate the needs of the proposed Agency and the requirements of its administration.

I am afraid that if we adopt the committee bill, we will all be back here in 3 years facing the same problems that we now face with OSHA and EPA. I, for one, do not need the aggravation that such a new boondoggle would provide for the country, and neither do my constituents.

While it is well known that the powers contemplated in this legislation would affect profoundly the anatomy of other areas of the Federal Establishment, it is important that all of us be aware of the extent and scope of the ways in which all officers of the U.S. Government will be subject to the directives and legal actions of the administrator and officials of the proposed Agency.

An examination of the language, and known legislative intent, disclosed at least 22 specific provisions in which nearly ever Cabinet department and their offices and bureaus of the executive branch—reaching into the Executive Office itself—regulatory boards and commissions, independent agencies and corporations will be subject to the will, and possibly the caprice, of the administrator. In the few areas in which some discretion remains, the Federal agencies will still be subject to the coercive threat of judicial review and adverse publicity which will follow conflicts between them and the CPA.

How does Congress justify the use of taxpayer funds to finance legal disputes on behalf of the "interests of consumers" in opposition to other Government agencies who are sworn to make decisions and take action in the whole public interest? I do not believe we can. This is why I support the Brown substitute.

If we must have a Consumer Protection Agency, then let us limit it in size, scope and power, as the bill of the gentleman from Ohio (Mr. BROWN) does, until we have a chance to evaluate its needs and impact.

I think the gentleman from North Carolina (Mr. BROYHILL) makes a good point by having congressional oversight on the amount of spending that will take place.

I would like to remind the Members again if we really want to do the American people and the consumers a real favor, we will start addressing ourselves in this Congress to repealing some of the already overburdened regulations the American people have to live with, instead of trying to set up more new Government agencies and boondoggles which do nothing, except to continue the rapid debasement of the American currency that is taking place daily. That is where the consumers are being hurt. That is the real problem. My colleagues, I urge your support of the Broyhill and Brown amendments—then on final passage vote against the entire proposition. The consumers of America cannot afford all the protection.

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

Mr. Chairman, I have before me a copy of the "Dear Colleague" letter sent out by the distinguished minority chairman of the committee. In that letter he makes the observation, as many who have seen and who have read the letter know, that the reason why the committee rejected the recommendations of Mr. Ash, which are contained in the Extensions of Remarks which the distinguished chairman put in the RECORD for us to see; he defines these as minor amendment suggestions by Mr. Ash and then suggests in the next paragraph that the bill for the substitute which we have under consideration, submitted by the distinguished gentleman from Ohio, does not fall within the category of minor alterations.

I have here both the letter to the ranking minority chairman, a member of the committee, as well as the salient points contained in the substitute introduced by the gentleman from Ohio.

I would like to, if I may, direct a question or two to the gentleman from Ohio on his substitute. As I look at the various provisions of his substitute, it seems to me that five of the seven basic recommendations here are, at least, indicated in the letter from Mr. Ash on the one hand, as well as other statements that have been made here on this subject this afternoon, to be totally consonant with the administration recommendations on any consumer protection agency; is that correct?

Mr. BROWN of Ohio. Mr. Chairman, the first of my recommendations which were made by me in suggesting the changes that are in my substitute are based on recommendations made by Mr. Ash, the Director of the Office of Management and Budget. The last two are what are known as Brown-Fuqua amendments. Mr. Ash also suggested modification of the judicial review procedure. However, we used the Brown-Fuqua judicial review approach rather than one recommended by Mr. Ash.

Mr. CRANE. Mr. Chairman, once again the gentleman generalizes that the overwhelming majority of the substitute which he has introduced to the committee bill is totally consonant with the recommendations made by Mr. Ash and are consistent with the administration recommendations for any consumer protection agency.

Mr. BROWN of Ohio. Mr. Chairman, I think the adoption of the Brown substitute would enhance the prospect that this bill will be signed into law.

Mr. CRANE. Mr. Chairman, I thank the gentleman for his response.

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

Mr. CRANE. Mr. Chairman, I am happy to yield to the distinguished ranking minority member.

Mr. HORTON. Mr. Chairman, I would certainly agree with the gentleman that five of the amendments that were recommended by Mr. Ash and which were discussed in committee and which were voted down. I assume they will be offered either in one form or the other and we will have an opportunity later to vote on each one of them.

The gentleman from Ohio (Mr. BROWN) has put those amendments in en bloc, so to speak.

In addition to that, though, he has included three additional amendments which are very much different and which do have the effect of gutting the bill. One of them is to prohibit judicial review of legal wrongs suffered by the Consumer Protection Agency in representing the consumer. Earlier, I talked about that.

The other is to limit CPA proceedings in adjudicatory proceedings, which again is a very important amendment which would take away the equality the bill gives to the CPA in adjudicatory proceedings.

The third would remove the provision for information gathering by the CPA for investigating outside formal proceedings, so those are very important amendments which have been included, which rightfully Mr. BROWN has indicated were the Brown-Fuqua amendments which were defeated in subcommittee.



Mr. CRANE. Mr. Chairman, I thank the gentleman for his remarks. I would only like to say, in listening to the Committee of the Whole House deliberating those separate amendments, there will be no resort to proxy in this body.

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

Mr. CRANE. Mr. Chairman, I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I take some offense at the suggestion that we deny the right of judicial review or legal wrongs. I do not know that anybody can deny that right. What we do is deny the right of judicial review of CPA when they did not initially express the interest of the consumer.

Mr. CRANE. Mr. Chairman, I thank the gentleman for his remarks. I urge my colleagues to support what I think is the enlightened substitute amendment of the gentleman from Ohio.

Mr. LANDGREBE. Mr. Chairman, I rise to speak against the amendments of Mr. BROYHILL and Mr. BROWN.

Mr. Chairman, I rise simply to explain my intended vote against both these amendments, and my real reason is because of the statement made by the gentleman from New York.

He says these amendments gut the bill. If they did that, I would vote for them, but they do not gut the bill; they still leave something.

Mr. Chairman, why is it that every time some sweet-sounding idea comes to this floor, we have got to pass something in the way of more harassment for the business people of this country? I have been in business 30½ years. We businessmen must price our products and services to our costs and I am telling you that when we have Federal, State, and local inspectors and agents standing in line to harass us, somebody has got to pay the bill and that somebody has to be the consumer. That is the only way we have to recover expenses incurred in dealing with these bureaucrats. In fact, the consumers in my district tell me that they cannot afford any more protection of that kind.

They would rather do some of that on their own by dealing with responsible merchants and buying name brand products.

Also of course, I, as a Congressman, handle many consumer complaints, as do many newspapers, radio and television stations.

Let me here emphasize that my biggest worry is our national debt. The interest on that national debt has doubled during the 6 years I have been a Member of Congress—rising from $14 billion in 1968 to $29 billion in 1975.

Where are we getting the money to set up these bureaus, staff them and pay for them? I doubt that there has ever been a bureau set up by this Government that did not grow and grow and grow.

Mr. Chairman, I am going to vote against these amendments, in the hope that they will fail and in the further hope that the bill will then be so bad that the majority of the Members of Congress find it totally unacceptable.

The CHAIRMAN pro tempore (Mr. NATCHER). The question is on the amendment offered by the gentleman from North Carolina (Mr. BROYHILL) to the amendment in the nature of a substitute offered by the gentleman from Ohio (Mr. BROWN).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. BROYHILL of North Carolina. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 224, noes 177, not voting 31, as follows:

[Roll No. 137]

AYES—224

| | | |
|---|---|---|
| Abdnor | Ginn | Preyer |
| Alexander | Goldwater | Price, Tex. |
| Andrews, N.C. | Goodling | Quie |
| Andrews, N. Dak. | Green, Oreg. | Quillen |
| Archer | Gross | Railsback |
| Armstrong | Grover | Randall |
| Ashbrook | Gubser | Rarick |
| Bafalis | Gunter | Regula |
| Baker | Guyer | Rhodes |
| Bauman | Haley | Roberts |
| Beard | Hamilton | Robinson, Va. |
| Bell | Hammer-schmidt | Rogers |
| Bennett | Hanrahan | Roncalio, Wyo. |
| Biaggi | Harsha | Roncallo, N.Y. |
| Bowen | Hastings | Rose |
| Bray | Henderson | Roush |
| Breaux | Hillis | Rousselot |
| Brinkley | Hinshaw | Roy |
| Broomfield | Hogan | Ruppe |
| Brotzman | Holt | Ruth |
| Brown, Calif. | Hosmer | Ryan |
| Brown, Mich. | Huber | Sarasin |
| Brown, Ohio | Hudnut | Satterfield |
| Broyhill, N.C. | Hungate | Scherle |
| Broyhill, Va. | Hunt | Schneebeli |
| Buchanan | Hutchinson | Sebelius |
| Burgener | Ichord | Shoup |
| Burke, Fla. | Jarman | Shuster |
| Burleson, Tex. | Johnson, Colo. | Sikes |
| Butler | Johnson, Pa. | Skubitz |
| Byron | Jones, Ala. | Smith, N.Y. |
| Carter | Jones, N.C. | Snyder |
| Casey, Tex. | Jones, Okla. | Spence |
| Chamberlain | Jones, Tenn. | Staggers |
| Chappell | Kemp | Stanton, J. William |
| Clancy | Ketchum | Steed |
| Clausen, Don H. | King | Steelman |
| Clawson, Del | Kuykendall | Steiger, Ariz. |
| Cleveland | Lagomarsino | Steiger, Wis. |
| Cochran | Landrum | Stratton |
| Cohen | Latta | Stuckey |
| Collier | Lent | Symms |
| Collins, Tex. | Litton | Talcott |
| Conable | Lott | Taylor, Mo. |
| Crane | McClory | Taylor, N.C. |
| Daniel, Dan | McCollister | Teague |
| Daniel, Robert W., Jr. | McEwen | Thomson, Wis. |
| Davis, Ga. | McKinney | Thone |
| Davis, S.C. | McSpadden | Towell, Nev. |
| Davis, Wis. | Madigan | Treen |
| de la Garza | Mahon | Vander Jagt |
| Dellenback | Mallary | Veysey |
| Dennis | Mann | Vigorito |
| Derwinski | Martin, Nebr. | Waggonner |
| Devine | Martin, N.C. | Walsh |
| Dickinson | Mathias, Calif. | Wampler |
| Downing | Mathis, Ga. | Ware |
| Duncan | Mayne | White |
| du Pont | Melcher | Whitehurst |
| Edwards, Ala. | Michel | Whitten |
| Erlenborn | Milford | Widnall |
| Esch | Miller | Wiggins |
| Eshleman | Mitchell, N.Y. | Wilson, Bob |
| Evins, Tenn. | Mizell | Winn |
| Findley | Montgomery | Wyatt |
| Fisher | Moorhead, Calif. | Wydler |
| Flowers | Murphy, N.Y. | Wylie |
| Flynt | Myers | Wyman |
| Forsythe | Nelsen | Young, Alaska |
| Fountain | Nichols | Young, Fla. |
| Frelinghuysen | O'Brien | Young, Ill. |
| Frey | Parris | Young, S.C. |
| Froehlich | Passman | Young, Tex. |
| Fuqua | Pettis | Zion |
| | Pike | Zwach |

NOES—177

| | | |
|---|---|---|
| Abzug | Gibbons | Nedzi |
| Adams | Gilman | Nix |
| Addabbo | Gonzalez | Obey |
| Anderson, Calif. | Grasso | O'Hara |
| | Gray | Owens |
| Anderson, Ill. | Green, Pa. | Patman |
| Annunzio | Griffiths | Patten |
| Ashley | Gude | Pepper |
| Aspin | Hanley | Perkins |
| Badillo | Hanna | Peyser |
| Barrett | Hansen, Idaho | Podell |
| Bergland | Hansen, Wash. | Price, Ill. |
| Biester | Harrington | Pritchard |
| Bingham | Hawkins | Rangel |
| Blatnik | Hays | Reuss |
| Boggs | Hechler, W. Va. | Riegle |
| Boland | Heinz | Rinaldo |
| Bolling | Helstoski | Robison, N.Y. |
| Brademas | Hicks | Rodino |
| Brasco | Holifield | Roe |
| Breckinridge | Holtzman | Rooney, Pa. |
| Brooks | Horton | Rosenthal |
| Burke, Calif. | Howard | Rostenkowski |
| Burke, Mass. | Johnson, Calif. | Roybal |
| Burlison, Mo. | Jordan | St Germain |
| Burton | Karth | Sarbanes |
| Carney, Ohio | Kastenmeier | Schroeder |
| Chisholm | Koch | Seiberling |
| Clark | Kyros | Shipley |
| Clay | Landgrebe | Sisk |
| Collins, Ill. | Leggett | Slack |
| Conte | Lehman | Smith, Iowa |
| Corman | Long, La. | Stanton, |
| Cotter | Long, Md. | James V. |
| Coughlin | Luken | Steele |
| Cronin | McCloskey | Stokes |
| Culver | McCormack | Stubblefield |
| Daniels, Dominick V. | McDade | Studds |
| | McFall | Sullivan |
| Danielson | McKay | Symington |
| Delaney | Macdonald | Thompson, N.J. |
| Dellums | Madden | Thornton |
| Denholm | Maraziti | Tiernan |
| Dent | Matsunaga | Udall |
| Diggs | Mazzoli | Ullman |
| Donohue | Meeds | Van Deerlin |
| Drinan | Metcalfe | Vander Veen |
| Dulski | Mezvinsky | Vanik |
| Eckhardt | Mills | Waldie |
| Edwards, Calif. | Minish | Whalen |
| Eilberg | Mink | Wilson, |
| Evans, Colo. | Mitchell, Md. | Charles H., |
| Fascell | Moakley | Calif. |
| Fish | Mollohan | Wilson, |
| Flood | Moorhead, Pa. | Charles, Tex. |
| Foley | Morgan | Wolff |
| Ford | Mosher | Wright |
| Fraser | Moss | Yates |
| Fulton | Murphy, Ill. | Yatron |
| Gaydos | Murtha | Young, Ga. |
| Giaimo | Natcher | Zablocki |

NOT VOTING—31

| | | |
|---|---|---|
| Arends | Gettys | Rees |
| Bevill | Hébert | Reid |
| Blackburn | Heckler, Mass. | Rooney, N.Y. |
| Camp | Kazen | Runnels |
| Carey, N.Y. | Kluczynski | Sandman |
| Cederberg | Lujan | Shriver |
| Conlan | Minshall, Ohio | Stark |
| Conyers | O'Neill | Stephens |
| Dingell | Pickle | Williams |
| Dorn | Poage | |
| Frenzel | Powell, Ohio | |

So the amendment to the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Ohio (Mr. BROWN), as amended.

RECORDED VOTE

Mr. ROSENTHAL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 176, noes 223, not voting 33, as follows:

[Roll No. 138]

AYES—176

| | | |
|---|---|---|
| Abdnor | Armstrong | Bauman |
| Andrews, N.C. | Ashbrook | Beard |
| Archer | Bafalis | Boggs |
| Arends | Baker | Bowen |
| Bray | Gubser | Pettis |
| Breaux | Guyer | Preyer |
| Brinkley | Haley | Quie |
| Broomfield | Hammer-schmidt | Quillen |
| Brotzman | | Railsback |
| Brown, Mich. | Hanrahan | Rarick |
| Brown, Ohio | Harsha | Rhodes |
| Broyhill, N.C. | Hastings | Roberts |
| Broyhill, Va. | Hebert | Robinson, Va. |
| Buchanan | Henderson | Roncallo, N.Y. |
| Burgener | Hinshaw | Rose |
| Burke, Fla. | Hogan | Rousselot |
| Burleson, Tex. | Holt | Ruppe |
| Butler | Hosmer | Ruth |
| Byron | Huber | Satterfield |
| Carter | Hudnut | Scherle |
| Casey, Tex. | Hunt | Schneebeli |
| Chamberlain | Hutchinson | Sebelius |
| Clancy | Jarman | Shoup |
| Clausen, Don H. | Johnson, Colo. | Shuster |
| | Johnson, Pa. | Sikes |
| Clawson, Del | Jones, N.C. | Skubitz |
| Cochran | Kemp | Smith, N.Y. |
| Collier | Ketchum | Snyder |
| Collins, Tex. | King | Spence |
| Conable | Kuykendall | Steiger, Ariz. |
| Crane | Lagomarsino | Steiger, Wis. |
| Daniel, Dan | Landrum | Stuckey |
| Daniel, Robert W., Jr. | Latta | Symms |
| | Lent | Talcott |
| Davis, Ga. | Lott | Taylor, Mo. |
| Davis, Wis. | McClory | Taylor, N.C. |
| de la Garza | McCollister | Teague |
| Dellenback | McEwen | Thomson, Wis. |
| Dennis | Madigan | Thone |
| Derwinski | Mann | Towell, Nev. |
| Devine | Martin, Nebr. | Treen |
| Dickinson | Martin, N.C. | Vander Jagt |
| Downing | Mathias, Calif. | Veysey |
| Duncan | Mathis, Ga. | Waggonner |
| Edwards, Ala. | Mayne | Wampler |
| Erlenborn | Michel | Ware |
| Esch | Milford | White |
| Eshleman | Miller | Whitehurst |
| Fisher | Mitchell, N.Y. | Whitten |
| Flowers | Mizell | Wiggins |
| Flynt | Montgomery | Wilson, Bob |
| Fountain | Moorhead, Calif. | Winn |
| Frelinghuysen | | Wyatt |
| Frey | Mosher | Wylie |
| Froehlich | Myers | Wyman |
| Ginn | Nelsen | Young, Alaska |
| Goldwater | Nichols | Young, Fla. |
| Goodling | O'Brien | Young, S.C. |
| Gross | Parris | Zion |
| Grover | Passman | Zwach |

NOES—223

| | | |
|---|---|---|
| Abzug | Davis, S.C. | Hicks |
| Adams | Delaney | Hillis |
| Addabbo | Dellums | Holifield |
| Alexander | Denholm | Holtzman |
| Anderson, Calif. | Dent | Horton |
| | Diggs | Howard |
| Anderson, Ill. | Donohue | Hungate |
| Andrews, N. Dak. | Drinan | Ichord |
| | Dulski | Johnson, Calif. |
| Annunzio | du Pont | Jones, Ala. |
| Ashley | Eckhardt | Jones, Okla. |
| Aspin | Edwards, Calif. | Jones, Tenn. |
| Badillo | Eilberg | Jordan |
| Barrett | Evans, Colo. | Karth |
| Bell | Evins, Tenn. | Kastenmeier |
| Bennett | Fascell | Koch |
| Bergland | Findley | Kyros |
| Biaggi | Fish | Landgrebe |
| Biester | Flood | Leggett |
| Blatnik | Foley | Lehman |
| Boland | Ford | Litton |
| Bolling | Forsythe | Long, La. |
| Brademas | Fraser | Long, Md. |
| Brasco | Fulton | Luken |
| Breckinridge | Fuqua | McCloskey |
| Brooks | Gaydos | McCormack |
| Brown, Calif. | Giaimo | McDade |
| Burke, Calif. | Gibbons | McFall |
| Burke, Mass. | Gilman | McKay |
| Burlison, Mo. | Gonzalez | McKinney |
| Burton | Grasso | McSpadden |
| Carney, Ohio | Gray | Macdonald |
| Chappell | Green, Oreg. | Madden |
| Chisholm | Green, Pa. | Mahon |
| Clark | Griffiths | Mallary |
| Clay | Gude | Maraziti |
| Cleveland | Gunter | Matsunaga |
| Cohen | Hamilton | Mazzoli |
| Collins, Ill. | Hanley | Meeds |
| Conte | Hanna | Melcher |
| Corman | Hansen, Idaho | Metcalfe |
| Cotter | Hansen, Wash. | Mezvinsky |
| Coughlin | Harrington | Mills |
| Cronin | Hawkins | Minish |
| Culver | Hays | Mink |
| Daniels, Dominick V. | Hechler, W. Va. | Mitchell, Md. |
| | Heinz | Moakley |
| Danielson | Helstoski | Mollohan |
| Moorhead, Pa. | Roe | Stubblefield |
| Morgan | Rogers | Studds |
| Moss | Roncalio, Wyo. | Sullivan |
| Murphy, Ill. | Rooney, Pa. | Symington |
| Murphy, N.Y. | Rosenthal | Thompson, N.J. |
| Murtha | Rostenkowski | Thornton |
| Natcher | Roush | Tiernan |
| Nedzi | Roy | Udall |
| Nix | Roybal | Ullman |
| Obey | Ryan | Van Deerlin |
| O'Hara | St Germain | Vander Veen |
| Owens | Sarasin | Vanik |
| Patman | Sarbanes | Vigorito |
| Patten | Schroeder | Waldie |
| Pepper | Seiberling | Walsh |
| Perkins | Shipley | Whalen |
| Peyser | Sisk | Widnall |
| Pike | Slack | Wilson, Charles, Tex. |
| Podell | Smith, Iowa | |
| Price, Ill. | Staggers | Wolff |
| Pritchard | Stanton, J. William | Wright |
| Randall | | Wydler |
| Rangel | Stanton, James V. | Yates |
| Regula | | Yatron |
| Reuss | Steed | Young, Ill. |
| Riegle | Steele | Young, Tex. |
| Rinaldo | Steelman | Zablocki |
| Robison, N.Y. | Stokes | |
| Rodino | Stratton | |

NOT VOTING—33

| | | |
|---|---|---|
| Bevill | Heckler, Mass. | Rooney, N.Y. |
| Bingham | Kazen | Runnels |
| Blackburn | Kluczynski | Sandman |
| Camp | Lujan | Shriver |
| Carey, N.Y. | Minshall, Ohio | Stark |
| Cederberg | O'Neill | Stephens |
| Conlan | Pickle | Williams |
| Conyers | Poage | Wilson, Charles H., Calif. |
| Dingell | Powell, Ohio | |
| Dorn | Price, Tex. | |
| Frenzel | Rees | Young, Ga. |
| Gettys | Reid | |

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

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

Mr. Chairman, I do not intend to take the time of the House, but it is my desire to offer those amendments recommended by Mr. Ash on behalf of the administration, or whatever of those amendments are not otherwise offered.

However, if we can obtain permission that they may be considered en bloc, I would be more than glad to simply offer the Ash recommendations as amendments to this bill, en bloc, if I can have that privilege.

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

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

Mr. HOLIFIELD. Mr. Chairman, under the circumstances, I think I would have to ask that the bill be open for amendment at any point, in order to accommodate the request made by the gentleman.

Mr. Chairman, I do make that request at this time. I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point. That will enable the gentleman to offer the five amendments he has referred to and thereby save the time of the House.

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

There was no objection.

The bill reads as follows:

STATEMENT OF FINDINGS

SEC. 2. The Congress finds that the interest of consumers are inadequately represented and protected within the Federal Government; and that vigorous representation and protection of the interests of con-

sumers are essential to the fair and efficient functioning of a free market economy.

ESTABLISHMENT

SEC. 3. (a) There is hereby established as an independent agency within the executive branch of the Government the Consumer Protection Agency. The Agency shall be headed by an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate. The Administrator shall be a person who by reason of training, experience, and attainments is exceptionally qualified to represent the interests of consumers. There shall be in the Agency a Deputy Administrator who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Administrator shall perform such functions, powers, and duties as may be prescribed from time to time by the Administrator and shall act for, and exercise the powers of, the Administrator during the absence or disability of, or in the event of a vacancy in the office of, the Administrator.

(b) No employee of the Agency while serving in such position may engage in any business, vocation, or other employment or have other interests which are inconsistent with his official responsibilities.

POWERS AND DUTIES OF THE ADMINISTRATOR

SEC. 4. (a) The Administrator shall be responsible for the exercise of the powers and the discharge of the duties of the Agency, and shall have the authority to direct and supervise all personnel and activities thereof.

(b) In addition to any other authority conferred upon him by this Act, the Administrator is authorized, in carrying out his functions under this Act, to—

(1) subject to the civil service and classification laws, select, appoint, employ, and fix the compensation of such officers and employees as are necessary to carry out the provisions of this Act and to prescribe their authority and duties;

(2) employ experts and consultants in accordance with section 3109 of title 5, United States Code, and compensate individuals so employed for each day (including traveltime) at rates not in excess of the maximum rate of pay for grade GS–18 as provided in section 5332 of title 5, United States Code, and while such experts and consultants are so serving away from their homes or regular place of business, pay such employees travel expenses and per diem in lieu of subsistence at rates authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently;

(3) appoint advisory committees composed of such private citizens and officials of the Federal, State, and local governments as he deems desirable to advise him with respect to his functions under this Act, and pay such members (other than those regularly employed by the Federal Government) while attending meetings of such committees or otherwise serving at the request of the Administrator compensation and travel expenses at the rate provided for in paragraph (2) of this subsection with respect to experts and consultants;

(4) promulgate such rules as may be necessary to carry out the functions vested in him or in the Agency, and delegate authority for the performance of any function to any officer or employee under his direction and supervision;

(5) utilize, with their consent, the services, personnel, and facilities of other Federal agencies and of State and private agencies and instrumentalities;

(6) enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of the work of the Agency and on such terms as the Administrator may deem appropriate, with any agency or instrumentality of the United States, or with any State, territory, or possession, or any political subdivision thereof, or with any public or private person, firm, association, corporation, or institution;

(7) accept voluntary and uncompensated services, notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b));

(8) adopt an official seal, which shall be judicially noticed; and

(9) encourage the development of informal dispute settlement procedures involving consumers.

(c) Upon request made by the Administrator, each Federal agency is authorized and directed to make its services, personnel, and facilities available to the greatest practicable extent within its capability to the Agency in the performance of its functions.

(d) The Administrator shall transmit to the Congress and the President in January of each year a report which shall include a comprehensive statement of the activities and accomplishments of the Agency during the preceding calendar year including a summary of consumer complaints received and actions taken thereon and such recommendations for additional legislation as he may determine to be necessary or desirable to protect the interests of consumers within the United States. Each such report shall include a summary and evaluation of selected major consumer programs of each Federal agency, including, but not limited to, comment with respect to the effectiveness and efficiency of such programs as well as deficiencies noted in the coordination, administration, or enforcement of such programs.

FUNCTIONS OF THE AGENCY

SEC. 5. (a) The Agency shall, in the performance of its functions, advise the Congress and the President as to matters affecting the interests of consumers; and protect and promote the interests of the people of the United States as consumers of goods and services made available to them through the trade and commerce of the United States.

(b) The functions of the Agency shall be to—

(1) represent the interests of consumers before Federal agencies and courts to the extent authorized by this Act;

(2) encourage and support research, studies, and testing leading to a better understanding of consumer products and improved products, services, and consumer information, to the extent authorized in section 9 of this Act;

(3) submit recommendations annually to the Congress and the President on measures to improve the operation of the Federal Government in the protection and promotion of the interests of consumers;

(4) publish and distribute material developed pursuant to carrying out its responsibilities under this Act which will inform consumers of matters of interest to them, to the extent authorized in section 8 of this Act;

(5) conduct conferences, surveys, and investigations, including economic surveys, concerning the needs, interests, and problems of consumers which are not duplicative in significant degree of similar activities conducted by other Federal agencies;

(6) cooperate with State and local governments and private enterprise in the promotion and protection of the interests of consumers; and

(7) keep the appropriate committees of Congress fully and currently informed of all its activities, except that this paragraph is not authority to withhold information requested by individual Members of Congress.

REPRESENTATION OF CONSUMERS

SEC. 6. (a) Whenever the Administrator determines that the result of any Federal agency proceeding or activity may substantially affect an interest of consumers, he may as of right intervene as a party or otherwise participate for the purpose of representing the interests of consumers, as provided in paragraph (1) or (2) of this subsection. In any proceeding, the Administrator shall refrain from intervening as a party, unless he determines that such intervention is necessary to represent adequately the interest of consumers. The Administrator shall comply with Federal agency statutes and rules of procedure of general applicability governing the timing of intervention or participation in such proceeding or activity and, upon intervening or participating therein, shall comply with Federal agency statutes and rules of procedure of general applicability governing the conduct thereof. The intervention or participation of the Administrator in any Federal agency proceeding or activity shall not affect the obligation of the Federal agency conducting such proceeding or activity to assure procedural fairness to all participants.

(1) Except as provided in subsection (c), the Administrator may intervene as a party or otherwise participate in any Federal agency proceeding which is subject to section 553, 554, 556, or 557 of title 5, United States Code, or to any other statute or regulation authorizing a hearing, or which is conducted on the record after opportunity for an agency hearing.

(2) Except as provided in subsection (c), in any Federal agency proceeding not covered by paragraph (1), or any other Federal agency activity, the Administrator may participate or communicate in any manner that any person may participate or communicate under Federal agency statutes, rules, or practices. The Federal agency shall give consideration to the written or oral submission of the Administrator. Such submission shall be presented in an orderly manner and without causing undue delay.

(b) At such time as the Administrator determines to intervene or participate in a Federal agency proceeding under subsection (a)(1) of this section, he shall issue publicly a written statement setting forth his findings under subsection (a), stating concisely the specific interests of consumers to be protected. Upon intervening or participating he shall file a copy of his statement in the proceeding.

(c) In—

(1) any Federal agency proceeding seeking primarily to impose a fine or forfeiture which the agency may impose under its own authority for an alleged violation of a statute of the United States or of a rule, order, or decree promulgated thereunder, or

(2) any action in any court of the United States to which the United States or any Federal agency is a party,

and which in the opinion of the Administrator may sustantially affect the interests of consumers, the Administrator upon his own motion, or upon written request made by the officer or employee who is charged with the duty of presenting the case for the United States or the Federal agency in the proceeding or action, may transmit to such officer or employee all evidence and information in the possession of the Administrator relevant to the proceeding or action and may, in the discretion of the Federal agency or court, appear as amicus curiae and present written or oral argument to such agency or court.

(d) To the extent that any person, if aggrieved, would have a right of judicial review by law, the Administrator may institute, or intervene as a party, in a proceeding in a court of the United States involving judicial review of any Federal agency action which the Administrator determines substantially affects the interests of consumers, unless, where the Administrator did not intervene or participate in the Federal agency proceeding or activity involved, the court determines that the Administrator's institution of or intervention in the judicial proceeding

would be detrimental to the interests of justice. Before instituting a proceeding to obtain judicial review in a case where the Administrator did not intervene or participate in the Federal agency proceeding or activity, the Administrator shall petition the Federal agency for rehearing or reconsideration of its action if the Federal agency statutes or rules specifically authorize rehearing or reconsideration. The petition shall be filed within sixty days after the Federal agency action or within such longer time as may be allowed by Federal agency procedures. If the Federal agency does not act finally upon such petition within sixty days after filing thereof, or within any shorter time, less five days, as may be provided by law for the initiation of judicial review, the Administrator may institute a proceeding for judicial review immediately. The participation of the Administrator in a proceeding for judicial review of a Federal agency action shall not alter or affect the scope of review otherwise applicable to such agency action.

(e) When the Administrator determines it to be in the interests of consumers, he may request the Federal agency concerned to initiate such proceeding or to take such other action as may be authorized by law with respect to such agency. If the Federal agency fails to take the action requested, it shall promptly notify the Agency of the reasons for its failure and such notification shall be a matter of public record. To the extent that any person, if aggrieved, would have a right of judicial review by law, the Agency may institute a proceeding in a court of the United States to secure review of the action of a Federal agency or its refusal to act.

(f) Appearances by the Agency under this section shall be in its own name and shall be made by qualified representatives designated by the Administrator.

(g) In any Federal agency proceeding to which the Agency is a party, the Agency is authorized to request the Federal agency to issue, and the Federal agency shall, on a statement or showing (if such statement or showing is required by the Federal agency's rules of procedure) of general relevance and reasonable scope of the evidence sought, issue such orders, as are authorized by the Federal agency's statutory powers, for the copying of documents, papers, and records, summoning of witnesses, production of books and papers, and submission of information in writing.

(h) The Agency is not authorized to intervene in proceedings or actions before State or local agencies and courts.

(i) Nothing in this section shall be construed to prohibit the Agency from communicating with Federal, State, or local agencies at times and in manners not inconsistent with law or agency rules.

CONSUMER COMPLAINTS

SEC. 7. (a) The Agency shall receive, evaluate, develop, act on, and transmit complaints to the appropriate Federal or non-Federal entities concerning actions or practices which may be detrimental to the interests of consumers.

(b) Whenever the Agency receives from any source, or develops on its own initiative, any complaint or other information affecting the interests of consumers and disclosing a probable violation of—

(1) a law of the United States,

(2) a rule or order of a Federal agency or officer, or

(3) a judgment, decree, or order of any court of the United States involving a matter of Federal law,

it shall take such action within its authority as may be desirable, including the proposal of legislation, or shall promptly transmit such complaint or other information to the Federal agency or officer charged with the duty of enforcing such law, rule, order, judgment, or decree, for appropriate action.

(c) The Agency shall ascertain the nature and extent of action taken with regard to respective complaints and other information transmitted under subsection (b) of this section.

(d) The Agency shall promptly notify producers, distributors, retailers or suppliers of goods and services of all complaints of any significance concerning them received or developed under this section.

(e) The Agency shall maintain a public document room containing an up-to-date listing of all signed consumer complaints of any significance for public inspection and copying which the Agency has received, arranged in meaningful and useful categories, together with annotations of actions taken by it. Complaints shall be listed and made available for public inspection and copying only if—

(1) the complainant's identity is protected when he has requested confidentiality;

(2) the party complained against has had sixty days to comment on such complaint and such comment, when received, is displayed together with the complaint; and

(3) the entity to which the complaint has been referred has had sixty days to notify the Agency what action, if any, it intends to take with respect to the complaint.

CONSUMER INFORMATION AND SERVICES

SEC. 8. (a) The Agency shall develop on its own initiative, and, subject to the other provisions of this Act, gather from other Federal agencies and non-Federal sources, and disseminate to the public in such manner, at such times, and in such form as it determines to be most effective, information, statistics, and other data concerning—

(1) the functions and duties of the Agency;

(2) consumer products and services;

(3) problems encountered by consumers generally, including annual reports on interest rates and commercial and trade practices which adversely affect consumers; and

(4) notices of Federal hearings, proposed and final rules and orders, and other pertinent activities of Federal agencies that affect consumers.

(b) All Federal agencies which, in the judgment of the Administrator, possess information which would be useful to consumers are authorized and directed to cooperate with the Agency in making such information available to the public.

TESTING AND RESEARCH

SEC. 9. (a) The Agency shall, in the exercise of its functions—

(1) encourage and support through both public and private entities the development and application of methods and techniques for testing materials, mechanisms, components, structures, and processes used in consumer services;

(2) make recommendations to other Federal agencies with respect to research, studies, analyses, and other information within their authority which would be useful and beneficial to consumers; and

(3) investigate and report to Congress on the desirability and feasibility of establishing a National Consumer Information Foundation which would administer a voluntary, self-supporting, information tag program (similar to the "Tel-Tag" program of Great Britain) under which any manufacturer of a nonperishable consumer product to be sold at retail could be authorized to attach to each copy of such product a tag, standard in form, containing information, based on uniform standards relating to the performance, safety, durability, and care of the product.

(b) All Federal agencies which, in the judgment of the Administrator, possess testing facilities and staff relating to the performance of consumer products and services, are authorized and directed to perform promptly, to the greatest practicable extent within their capability, such tests as the Administrator may request in the exercise of his functions under section 6 of this Act, regarding products, services, or any matter affecting the interests of consumers. Such tests shall, to the extent possible, be conducted in accordance with generally accepted methodologies and procedures, and in every case when test results are published, the methodologies and procedures used shall be available along with the test results. The results of such tests may be used or published only in proceedings in which the Agency is participating or has intervened pursuant to section 6. In providing facilities and staff upon request made in writing by the Administrator, Federal agencies—

(1) may perform functions under this section without regard to section 3648 of the Revised Statutes (31 U.S.C. 529);

(2) may request any other Federal agency to supply such statistics, data, progress reports, and other information as the Administrator deems necessary to carry out his functions under this section and any such other agency is authorized and directed to cooperate to the extent permitted by law by furnishing such materials; and

(3) may, to the extent necessary and authorized, acquire or establish additional facilities and purchase additional equipment for the purpose of carrying out the purposes of this section.

(c) Neither a Federal agency engaged in testing products under this Act nor the Administrator shall declare one product to be better, or a better buy, than any other product; however, the provisions of this subsection shall not prohibit the use or publication of test data as provided in subsection (b).

INFORMATION GATHERING

SEC. 10. (a)(1) To the extent required to protect the health or safety of consumers, or to discover consumer fraud or substantial economic injury to consumers, the Administrator is authorized to propose to any Federal agency, for submission to specified persons, written interrogatories or requests for reports and other related information, within such agency's authority. Such proposal shall set forth with particularity the consumer interest sought to be protected, and the purposes for which the information is sought. The Federal agency shall promptly transmit the interrogatories, or requests for reports and other related information, to the persons specified in the proposal, unless the agency determines that the interrogatories or requests—

(A) do not seek information that substantially affects the health or safety of consumers, or is necessary in the discovery of consumer fraud or substantial economic injury to consumers;

(B) are not relevant to the purposes for which the information is sought; and

(C) are unnecessarily or excessively burdensome to the Federal agency or the persons specified in the proposal.

If the Federal agency determines not to transmit the interrogatories or requests, it shall inform the Administrator promptly with a statement of the reasons therefor. Upon receipt of any responses to the interrogatories or requests, the agency shall promptly transmit them to the Administrator. When the Federal agency transmits the interrogatories or request, the recipient shall have not more than thirty days to petition the agency for reconsideration. If there is no response within a reasonable time, the agency shall initiate such action as may be necessary to compel response or otherwise obtain the information unless it determines in writing that such action would be unnecessarily burdensome to the Federal agency and would seriously impair its functions.

(2) Nothing in this subsection shall be construed to authorize the inspection or copying of documents, papers, books, or records, or to compel the attendance of any

person, or shall require the disclosure of information which would violate any relationship privileged according to law.

(3) The Administrator shall not exercise the authority under paragraph (1) of this subsection if the information sought—

(A) is available as a matter of public record;

(B) can be obtained from another Federal agency pursuant to subsection (b) of this section; or

(C) is for use in connection with his intervention in any pending Federal agency proceeding against the person to whom the interrogatories are addressed.

(4) In any judicial proceeding concerning requests or interrogatories issued under this section, the Federal agency may move to substitute the Administrator as plaintiff or defendant, and thereafter, if the court in its discretion grants such a motion, the Federal agency shall cease to be a party to such proceedings.

(b) Upon written request by the Administrator, each Federal agency is authorized and directed to furnish or allow access to all documents, papers, and records in its possession which the Administrator deems necessary for the performance of his functions and to furnish at cost copies of specified documents, papers, and records. Notwithstanding this subsection, a Federal agency may deny the Administrator access to and copies of—

(1) information classified in the interest of national defense or national security by an individual authorized to classify such information under applicable Executive order or statutes and restricted data whose dissemination is controlled pursuant to the Atomic Energy Act (42 U.S.C. 2011 et seq.);

(2) policy recommendations by Federal agency personnel intended for internal agency use only;

(3) information concerning routine executive and administrative functions which is not otherwise a matter of public record;

(4) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(5) information which such Federal agency is expressly prohibited by law from disclosing to another Federal agency; and

(6) trade secrets and commercial or financial information described in section 552 (b)(4) of title 5, United States Code—

(A) obtained prior to the effective date of this Act by a Federal agency, if the agency had agreed to treat and has treated such information as privileged or confidential and states in writing to the Administrator that, taking into account the nature of the assurances given, the character of the information requested, and the purpose, as stated by the Administrator, for which access is sought, to permit such access would constitute a breach of faith by the agency; or

(B) obtained subsequent to the effective date of this Act by a Federal agency, if the agency has agreed in writing as a condition of receipt to treat such information as privileged or confidential, on the basis of its determination set forth in writing that such information was not obtainable without such an agreement and that failure to obtain such information would seriously impair performance of the agency's function.

Before granting the Administrator access to trade secrets and commercial or financial information described in section 552(b)(4) of title 5, United States Code, the agency shall notify the person who provided such information of its intention to do so and the reasons therefor, and shall afford him a reasonable opportunity to comment or seek injunctive relief. Where access to information is denied to the Administrator by a Federal agency pursuant to this subsection, the head of the agency and the Administrator shall seek to find a means of providing the information in such other form, or under such conditions, as will meet the agency's objections. The Adminstrator may file a complaint in court to enforce its rights under this subsection in the same manner and subject to the same conditions as a complainant under section 552(a)(3) of title 5, United States Code.

(c) Consistent with the provisions of section 7213 of the Internal Revenue Code of 1954 (26 U.S.C. 7213), nothing in this Act shall be construed as providing for or authorizing any Federal agency to divulge or to make known in any manner whatever to the Administrator, from an income tax return, the amount or source of income, profits, losses, expenditures, or any particular thereof, or to permit any Federal income tax return filed pursuant to the provisions of the Internal Revenue Code of 1954, or copy thereof or any book containing any abstracts or particulars thereof to be seen or examined by the Administrator, except as provided by law.

LIMITATIONS ON DISCLOSURES

SEC. 11. (a) The Agency shall not disclose to the public or to any State or local agency—

(1) any information (other than complaints published pursuant to section 7 of this Act) in a form which would reveal trade secrets and commercial or financial information as described in section 552(b)(4) of title 5, United States Code, obtained from a person and privileged or confidential; or

(2) any information which was received solely from a Federal agency when such agency has notified the Agency that the information is within the exceptions stated in section 552(b) of title 5, United States Code, and the Federal agency has determined that the information should not be made available to the public; except that if such Federal agency has specified that such information may be disclosed in a particular form or manner, the Agency may disclose such information in such form or manner.

(b) No authority conferred by this Act shall be deemed to require any Federal agency to release to any instrumentality, created by or under this Act, any information the disclosure of which is prohibited by law.

(c) In the release of information pursuant to the authority conferred in any section of this Act, except information released through the presentation of evidence in a Federal agency or court proceeding pursuant to section 6, the following additional provisions shall govern:

(1) The Administrator, in releasing information concerning consumer products and services, shall determine that (A) such information, so far as practicable, is accurate, and (B) no part of such information is prohibited from disclosure by law. The Administrator shall comply with any notice by a Federal agency pursuant to section 11(a)(2) that the information should not be made available to the public or should be disclosed only in a particular form or manner.

(2) In the dissemination of any test results or other information which directly or indirectly disclose product names, it shall be made clear that (A) not all products of a competitive nature have been tested, if such is the case, and (B) there is no intent or purpose to rate products tested over those not tested or to imply that those tested are superior or preferable in quality over those not tested.

(3) Notice of all changes or additional information which would affect the fairness of information previously disseminated to the public shall be promptly disseminated in a similar manner.

(4) Where the release of information is likely to cause substantial injury to the reputation or good will of a person or company, the Agency shall notify such person or company of the information to be released and afford an opportunity for comment or injunctive relief. The district courts of the United States shall have jurisdiction over any action brought for injunctive relief under this subsection.

PROCEDURAL FAIRNESS

SEC. 12. In exercising the powers conferred in section 5(b)(4) and section 7, the Agency shall act pursuant to rules issued, after notice and opportunity for comment by interested persons in accordance with the requirements of section 553 of title 5, United States Code, so as to assure fairness to all affected parties, and provide interested persons with a reasonable opportunity to comment on the proposed release of product test data, containing product names, prior to such release.

PROTECTION OF THE CONSUMER INTEREST IN ADMINISTRATIVE PROCEEDINGS

SEC. 13. Every Federal agency in considering any Federal agency action which may substantially affect the interests of consumers including, but not limited to, the issuance or adoption of rules, regulations, guidelines, orders, standards, or formal policy decisions, shall—

(1) notify the Agency at such time as notice of the action is given to the public, or at such times and in such manner as may be fixed by agreement between the Administrator and each agency with respect to the consideration of specific actions, or when notifictaion of a specific action or proceeding is requested in writing by the Agency; and

(2) consistent with its statutory responsibilities, take such action with due consideration to the interest of consumers.

In taking any action under paragraph (2), upon request of the Agency or in those cases where a public announcement would normally be made, the Federal agency concerned shall indicate concisely in a public announcement of such action the consideration given to the interests of consumers. This section shall be enforceable in a court of the United States only upon petition of the Agency.

SAVING PROVISIONS

SEC. 14. (a) Nothing contained in this Act shall be construed to alter, modify, or impair the statutory responsibility and authority contained in section 201(a)(4) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 481(a)(4)), or of any provision of the antitrust laws, or of any Act providing for the regulation of the trade or commerce of the United States, or to prevent or impair the administration or enforcement of any such provision of law.

(b) Nothing contained in this Act shall be construed as relieving any Federal agency of any authority or responsibility to protect and promote the interests of the consumer.

DEFINITIONS

SEC. 15. As used in this Act—

(1) The term "Agency" means the Consumer Protection Agency.

(2) The words "agency", "agency action", "party", "person", "rulemaking", "adjudication", and "agency proceeding" shall have the same meaning as set forth in section 551 of title 5, United States Code.

(3) The term "consumer" means any person who uses for personal, family, or household purposes, goods and services offered or furnished for a consideration.

(4) The term "interests of consumers" means any concerns of consumers involving the cost, quality, purity, safety, durability, performance, effectiveness, dependability, and availability and adequacy of choice of goods an services offered or furnished to consumers; and the adequacy and accuracy of information relating to consumer goods and services (including labeling, packaging, and advertising of contents, qualities, and terms of sale).

(5) The term "State" includes any State or possession of the United States, the District

of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Canal Zone, Guam, American Samoa, and the Trust Territories of the Pacific Islands.

CONFORMING AMENDMENT

SEC. 16. (a) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following:

"(62) Administrator, Consumer Protection Agency."

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

"(99) Deputy Administrator, Consumer Protection Agency."

EXEMPTIONS

SEC. 17. This act shall not apply to the Central Intelligence Agency, the Federal Bureau of Investigation, or the National Security Agency, or the national security or intelligence functions (including related procurement) of the Departments of State and Defense (including the Departments of the Army, Navy, and Air Force) and the Atomic Energy Commission, or to a labor dispute within the meaning of section 13 of the Act entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes", approved March 23, 1932 (29 U.S.C. 113) or of section 2 of the Labor Management Relations Act (29 U.S.C. 152), or to a labor agreement within the meaning of section 201 of the Labor Management Relations Act, 1947 (29 U.S.C. 171).

APPROPRIATIONS

SEC. 18. There are hereby authorized to be appropriated such sums as may be required to carry out the provisions of this Act.

EFFECTIVE DATE

SEC. 19. (a) This Act shall take effect ninety calendar days following the date on which this Act is approved, or on such earlier date as the President shall prescribe and publish in the Federal Register.

(b) Any of the officers provided for in this Act may (notwithstanding subsection (a)) be appointed in the manner provided for in this Act at any time after the date of the enactment of this Act. Such officers shall be compensated from the date they first take office at the rates provided for in this Act.

SEPARABILITY

SEC. 20. If any provision of this Act is declared unconstitutional or the applicability thereof to any person or circumstance is held invalid, the constitutionality and effectiveness of the remainder of this Act and the applicability thereof to any persons and circumstances shall not be affected thereby.

The CHAIRMAN. The Chair will state to the gentleman from California (Mr. HOLIFIELD) that he would like to dispose of the committee amendment first. Then the Chair will recognize the gentleman from Alabama (Mr. BUCHANAN) as well as other Members who wish to offer amendments.

Mr. HOLIFIELD. I thank the Chair.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 18, line 6, strike out "and" and insert in lieu thereof "or".

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

Mr. HOLIFIELD. Mr. Chairman, I believe that is the only committee amendment to the text of this bill.

The CHAIRMAN. The gentleman from California (Mr. HOLIFIELD) is correct

AMENDMENT OFFERED BY MR. WRIGHT

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

The Clerk read as follows:

Amendment offered by Mr. WRIGHT: On page 10, line 6, strike out "unless" and insert "except that"; and

On line 9, strike out "determines that" and insert "shall determine whether"; and

On lines 9 and 10, strike out "or intervention in"; and

On line 10, strike out "detrimental" and insert "necessary".

Mr. WRIGHT. Mr. Chairman, I would like to say first of all, that I support the purposes and the basic philosophy of this legislation. I supported a similar bill when it was before us 2 years ago. I supported this present bill in the committee, and I want very much to be able to support a constructive, well-balanced bill on the floor of the House this year.

At the outset, I wish to compliment and congratulate the distinguished gentleman from California, the chairman of our committee, and the distinguished ranking minority member for having diligently attempted to produce a balanced piece of legislation. I believe, however, that the bill contains two major deficiencies which render their provisions out of harmony with the basic thrust of the philosophy of the legislation.

The first of those deficiencies I would correct by this amendment. The bill, as presently drafted, would grant to the consumer advocate an almost absolute right to initiate judicial review over a decision of any duly constituted regulatory agency of this Government if he unilaterally, in his independent judgment, disagreed with that decision on the part of the regularly constituted governmental agency.

The bill extends to him the right to initiate judicial review even in cases where he has not seen fit to participate in the careful, deliberative considerations that went into the rendering of the initial judgment on the part of the regularly constituted agency.

It lets him second-guess every decision of every regulatory agency of Government that is covered in the bill, whether or not he saw fit to participate in its initial deliberations.

Now, that is an unparalleled right. Nobody else has that right, not being a participant in the initial proceeding, to be able to initiate judicial review without first establishing justiciable cause or grievance.

Mr. Chairman, I think he ought to have the right to participate with full powers of advocacy in the initial proceeding. I would not diminish that right. I think he ought to have the right to participate in a judicial review if it is initiated by an aggrieved party. I think he even ought to have the right in extreme cases, where he can establish to a court that he has a justifiable cause, to initiate judicial review in cases where he has not been a party to the original proceeding. My amendment would leave these rights and powers intact.

However, I do not believe this Congress should confer upon some individual yet unnamed the blanket status of an aggrieved party without his having to establish grievance or without his having to bear any burden of proof to establish to a court that it was in the interest of justice to entertain his motion. This bill requires the court to entertain his motion except where the court could find that it was "detrimental to the interests of justice," making a negative determination. As the only illustration given in our lengthy hearings to justify such a finding as that would be the offloading of a shipment of perishable fruit.

In all other cases the consumer advocate, if he simply did not like what was decided after the hearing of the evidence and the careful weighing of all the testimony had been performed by the regularly established agency, could then set himself up as a sort of czar or preferential second guesser and haul that agency into court.

What, you may ask, is wrong with that? I think it is wrong in the first place to create a deliberate adversary relationship that pits the Government against itself. I believe it is unwise to repose this much power, unparalleled in any of our other judicial proceedings, in one man, however well intentioned he may be. I think it is wrong to burden the courts with a proliferation of litigation when they are already suffering from overcrowded dockets. I think it is wrong, finally, to subject citizens of the United States to what might amount in one sense to double jeopardy.

For all of these reasons I believe it would be in the interests of a better balanced bill, a fairer bill, and a more palatable bill, for us simply to shift that burden of proof onto him who would come in after the fact and seek to initiate a judicial review.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, at the request of Mr. ROSENTHAL, Mr. WRIGHT was allowed to proceed for 5 additional minutes.)

Mr. ROSENTHAL. Could my distinguished colleague, a member of the committee, the gentleman from Texas, tell us specifically what his amendment will do?

Mr. WRIGHT. Yes. And I will give the gentleman a copy of the amendment. It is availabe at the desk. It is exactly the same amendment that I offered in the committee, I will say to my friend from New York.

It would place upon the consumer advocate the burden to establish, if he sought to initiate a judicial review where he had not seen fit to participate initially in the administrative proceeding, that it was in the interest of justice. The court would make a determination and would not be compelled to entertain his motion.

Mr. ROSENTHAL. You find no fault with the language in the bill that permits judicial review where he appears at the initial proceeding?

Mr. WRIGHT. No. I think a party to the initial proceeding should have a right to initiate judicial review. Others have this right, and he should have it also.

Mr. ROSENTHAL. So during the course of your presentation when you referred to government against government or agency against agency, that was not really relevant to your amendment, was it?

Mr. WRIGHT. Yes. I think it is relevant, I say to my friend, and it is in this sense: We are creating in the bill, unless we adopt this amendment, a sort of superagency of the Government with the power to look over the shoulders of other agencies and let them go through with their regular orderly proceedings, and then, if he does not like them, he has the additional power to get into court and make them defend their decisions whether or not he is aggrieved and whether or not he can establish a justiciable case.

Mr. ROSENTHAL. Is the gentleman aware that the American Bar Association disagrees with that position of the gentleman?

Mr. WRIGHT. I am not at all certain. If the gentleman from New York says that it does, then I am sure he has something upon which to base such a statement, and I would certainly accept his statement, but I know a great many members of the bar who agree with my position.

Mr. ROSENTHAL. I might also point out that the Administrator of CPA, if this amendment were adopted, could defeat the purpose of the amendment by filing pro forma appearances in every instance.

The reason the committee did not adopt the gentleman's amendment is simply that we did not want to have him compelled to appear at every proceeding as a matter of form, and that we felt it would be more burdensome than in those proceedings where he was denied the right to appear to have to ask for permission to appear.

Mr. WRIGHT. Mr. Chairman, the gentleman from New York may have a point there, but I would say that our publicly stated philosophy of the bill was to give to him the same powers and rights, no more and no less, that other parties would have.

Yet in this instance the bill as drafted would give him a power that is unparalleled, because no one else has such power. Any other party, in order to come into court for judicial review, must establish first that he is aggrieved. The bill does not require the Consumer's Advocate to establish any grievance.

Mr. ROSENTHAL. He has to do two things: petition for a rehearing, and then if he is aggrieved by that rehearing, then he as to file certification in the court that the consumer interests would not be appropriately protected if he did not appear. And then he must certify that it is not burdensome.

Mr. WRIGHT. I do not disagree with what the gentleman is saying. I am simply pointing out that the bill places the burden upon the court to make a negative finding before it could decline to entertain his request for a judicial proceeding. I do not believe it ought to be done that way. It is not normally done that way, and it has not been done that way generally in the history of American jurisprudence. We ought to put the consumer advocate on the same level as everybody else. He ought to have the same rights, neither more nor less, as those against whom he would appear in an adversary relationship. I think such a change would reduce the criticism of this bill, and the fear on the part of some people that we are creating a czar.

I do not believe that there is any necessity for the polarization that has developed over this bill. Some people on the one hand have the view that all the regulatory agencies are corrupt, and that, therefore, we have to put a watchdog over them.

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

Mr. WRIGHT. I will yield to the gentleman from New York after I complete this analysis.

As I say, there are some people who have the broad view that all of the existing agencies of the Government are corrupt, and that we have to create a watchdog to hail them into court when they do something that he does not like. Then there is the other view which holds that this is a czar who is going to ride roughshod over these agencies.

I do not think it is necessary to create that kind of polarity. I think we ought to create the careful and equitable balance of authorities and powers that will not give rise to either apprehension. And that is what I think this amendment would do.

The CHAIRMAN. The time of the gentleman has expired.

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

Mr. Chairman, I would like to briefly respond to my distinguished friend, the gentleman from Texas (Mr. WRIGHT).

No one who supports this bill, or no one who is in opposition to the gentleman's amendment, feels that the existing regulatory agencies are corrupt. In some cases some people feel that the regulators and the interests that are regulated have too close a relationship.

The whole thrust of this bill, the whole reason for it, the whole mandate of it, the whole necessity for it is to fill that empty consumer chair that is at the regulatory agency's quasijudicial proceeding. That is all. Nothing more than that.

What we are trying to do, and it is replete throughout this bill, is to give the advocate no more and no less rights than any other person.

In a proceeding—and the gentleman from Texas (Mr. WRIGHT) agrees with this point—in a proceeding where the administrator appears at the regulatory hearing on the agency level, he has an automatic right of appeal. Anybody ought to have that right. What we did here, and the gentleman from Texas (Mr. WRIGHT) objects to it, in the committee bill we have said that even if he did not appear at an administrative proceeding, we envision circumstances where he would not choose to appear in every proceeding, and we did not want him to have to go out and get a mimeograph machine to file pro forma appearances so that he could appear at every proceeding merely to protect his legal rights—that is an absurd legal responsibility, and impractical.

What we have done, as a good, useful and intelligent alternative to that, so that he does not have to appear at every proceeding, but if a decision comes down that he feels aggrieves a majority of the consumers, if he does not appear at every proceeding, he can go back and file a petition for a rehearing, and if he is aggrieved by this decision he can then appeal in court. And if there is a valid consumer interest involved, and if the decision is adverse to the consumer's interests, and if it would not be contrary to the interests of justice, the appeal could be granted. He is limited by the 60-day appearance before the agency, and he is limited by the reasonable laches rule.

The American Bar Association supports this proposition. Mr. Scalia, the chairman of the Administrative Conference, supports the bill's language. The amendment would change the burden of proof, and it would mandate on this administrator the responsibility to appear in every single administrative proceeding to protect his appellate rights. I think that would be impractical and an unwise thing to do.

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

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

Mr. DENNIS. I thank the gentleman for yielding.

It is an unusual thing for a man to have a right to appeal at all when he does not appear. I wanted to ask the distinguished gentleman if there is any criterion or standard in the bill to guide the advocate, or does he just on his own decide when he thinks he is aggrieved or someone else is aggrieved? It seems to me he confers his own jurisdiction upon himself.

Mr. ROSENTHAL. No. There are specific restrictions and limitations laid out in the bill in statutory language as to the kinds of situations that he is permitted to appear in. It defines the consumer's interests. It defines the limitations and the responsibility of certification. We do not give him any rights that responsible people would not have given under the circumstances. The only difference between Mr. WRIGHT's position and the committee's position is we say, Do not burden him with having to appear all the time; but if he finds there is a unique case in which he had not appeared and in which the consumer's interest had been aggrieved, then let him apply for a rehearing, and let him appeal. All we are giving him is the right to appear in court, no other right, no decisionmaking right, no regulatory right, no final-say right. The only right that we bestow on him is the right to go into court and make his presentation to the court.

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

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

Mr. WRIGHT. I thank the gentleman for yielding.

I think the gentleman is making a good statement, basically a very honest statement. I think the gentleman would admit that, contrary to his early statement, this bill confers a blanket status

on this consumer advocate as an aggrieved party without his having to establish that he or the interests he represents have been aggrieved. He is thus getting powers and status not conferred upon others.

Mr. ROSENTHAL. It gives him the right under the bill to petition for a rehearing and to go into court under narrowly prescribed circumstances.

Mr. WRIGHT. Would the gentleman agree that it compels the court to entertain his motion?

The CHAIRMAN. The time of the gentleman has expired.

AMENDMENT OFFERED BY MR. FUQUA AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. WRIGHT

Mr. FUQUA. Mr. Chairman, I offer an amendment as a substitute for the amendment offered by the gentleman from Texas (Mr. WRIGHT).

The Clerk read as follows:

Amendment offered by Mr. FUQUA as a substitute for the amendment offered by Mr. WRIGHT: On pages 10 and 11, delete in its entirety subsection 6(d) and its heading, and insert in lieu thereof the following new subsection (d):

"(d) Except to the extent necessary to enforce his rights, as provided in this Act, to access to information or to an opportunity to represent consumers in a proceeding or activity of another agency, the Administrator shall not have standing to seek judicial review of any decision or action of another Federal, State or Local agency."

On page 11, strike the last sentence in subsection 6(e).

Mr. FUQUA. Mr. Chairman, I rise to offer the amendment that I referred to earlier during general debate. As discussed here this evening, we are creating now a new realm of Federal judicial activity.

Congress created the Federal regulatory agencies and Congress has the responsibility in oversight matters to make sure that these agencies are carrying out the mandates of Congress. But what we are doing in the CPA bill is giving one arm of Government the right to appeal the decision of another arm of Government. When is this going to cease? We do not grant this to anybody else. We do not have any agency that goes around appealing the decisions of other agencies. We do not give other Federal agencies the same rights that the Members and I have as private citizens or as Ralph Nader has or as other interested parties enjoy.

It is a very fundamental philosophical point that the governed shall always be able to challenge the Government. And this bill changes that. We have heard about parity and about this being a balanced bill. It is not. It is tilted in favor of Government. The people who are governed, the citizens, the taxpayers should always have the right to challenge the Government.

That is what we are doing in this bill and my amendment attempts to correct that.

I think the amendment offered by the gentleman from Texas (Mr. WRIGHT) is good and I intend to support it should mine fail.

The administrative conference pointed out, although we may want to consider judicial review, we ought to make sure the Congress knows what it is doing when it gives this power. As I said earlier, I can certainly understand the American Bar Association supporting this measure, because it is going to increase the load on the court. I think we should carefully consider if an agency is not carrying out the mandate of this Congress, and it should be our responsibility to go and change that agency and give it the teeth it needs to do the job we feel it should.

So, Mr. Chairman, I urge members of this Committee to support this amendment so that we will not have Government challenging Government. This is what it does. Government challenging another agency of the Government.

This is why people are concerned. The Government will not work, because Government does not have the opportunity. There are so many other agencies of the Government which are working in behalf of the consumer. We are all concerned about the consumers' interests and this agency should have the right to formally enter the proceedings, but when the interests of the consumer have been considered and a decision rendered, then it should end and not go on endlessly in court proceedings.

I urge the adoption of my amendment.

Mr. HORTON. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Florida (Mr. FUQUA).

Mr. Chairman, we are getting into a rather technical field here and I am afraid that sometimes we might not follow what is involved as closely as might be necessary.

The amendment which has been offered by the gentleman from Florida (Mr. FUQUA) to the amendment offered by the gentleman from Texas (Mr. WRIGHT) is basically a gutting amendment.

The Wright amendment is, I think, a rather minor amendment, but I oppose it too, because I think it would create some problems and we have had testimony from the head of the Administrative Conference of the United States to that effect.

But let me try to explain what the Fuqua amendment would do so that Members understand it. The Fuqua amendment would literally take away the right of judicial review if the CPA is an aggrieved party, because what the Fuqua amendment says is:

Except to the extent necessary to enforce his rights—to access to information or to an opportunity to represent consumers in a proceeding or activity of another agency, the Administrator shall not have standing to seek judicial review of any decision or action of another Federal, State or local agency.

Now, that would limit the right of judicial review of the CPA to only those two instances. So if he appeared and was an aggrieved party, other parties would have the right of judicial review and he would be denied that. The basic foundation of American jurisprudence is that all parties are treated equally, and what we would do by the Fuqua amendment would be to remove that parity.

I hope that the Fugua amendment will be defeated, because it could deny the opportunity for the Administrator to have the same right of judicial review that other parties have.

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

Mr. HORTON. I yield to the gentleman from Florida.

Mr. FUQUA. Mr. Chairman, the gentleman has said that all these parties have the same rights; but is there any other Federal agency that can sue other Federal agencies; can the gentleman cite an example?

Mr. HORTON. Oh, yes.

Mr. FUQUA. But they are very, very rare; it is not a common practice.

Mr. HORTON. Well, what we have done in the committee bill is to provide that where the Administrator has not appeared in an agency proceeding, he can have the right of judicial review, providing he meets certain unusual conditions.

The Wright amendment wants to provide an additional burden on him in the event he has not appeared.

The Fuqua amendment does not even give him that right to appear. I am sure the gentleman will agree that his amendment would provide a very unusual procedure with regard to a party to an agency proceeding.

We are not talking about when he is not a party. We are talking about when he is a party.

The Fuqua amendment is an unusual one, because it denies the right of judicial review to the Administrator when he is an aggrieved party and has appeared; is that not correct?

Mr. FUQUA. The gentleman is correct; but what we are doing, we are creating another department of Government over Federal regulatory agencies.

Mr. HORTON. I want to answer that. We are not creating another level of Government. Any party to a proceeding has the right of judicial review. It that party is aggrieved, he has a right of appeal. Now that right would be denied by the Fuqua amendment.

Mr. FUQUA. We ask that the consumer be heard in the agency and I support that right; but also I feel we should not have Government agencies taking other Government agencies to court, and particularly regulatory agencies. It has been established by this Congress that we have the oversight in what we are doing. We are transferring a regulatory right to another agency.

Mr. HORTON. The regulatory agency procedure is to hear parties; a party could be the CPA. If the CPA has been aggrieved it should have the same parity, the same fairness, as any other party.

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

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

Mr. ECKHARDT. I think the gentleman is absolutely right. To give an example of what he is saying, what we are attempting to do here, before the Subcommittee of Commerce and Finance

when we were writing the product safety bill originally, we had been urged to include a public representative within that agency. Members on the other side very properly, I think, urged that that party be built into the agency and would not be a separate part. Therefore, we accepted the bill.

The consumer representative is not a superagency. He is merely a representative, a party to the proceeding.

Mr. HORTON. That is correct.

Mr. Chairman, I urge that both the Fuqua and the Wright amendments be defeated.

Mr. WYDLER. Mr. Chairman, I rise in support of the Wright amendment.

Mr. Chairman, quite frankly, I feel very close to this amendment, because I offered what is essentially the substance of this amendment in the subcommittee when we originally were marking up this bill. There are a lot of wild statements in regard to amendments to this bill. We hear that if any amendment is offered that seeks a balance or fairness, it is going to destroy the interests of the consumer and things of this nature, which are gross overstatements.

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

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

Mr. HOLIFIELD. Is the gentleman speaking of the Fuqua amendment or the Wright amendment?

Mr. WYDLER. No; I am speaking of the Wright amendment.

Mr. HOLIFIELD. But not in support of the Fuqua amendment?

Mr. WYDLER. I do not speak in support of the Fuqua amendment. As a matter of fact, I intend to oppose the Fuqua amendment because I think it goes too far. However, I feel the Wright amendment is a very fair amendment. Quite frankly, it is a fairness amendment.

Let us understand, there is just one very simple principle involved in the Wright amendment, and that is this: After you have had your administrative proceeding below and the consumer protective advocate has not involved himself in that proceeding, and he then decides he does not like the decision that came out of that proceeding and would like to go into court, even though he has slept on his rights to that time, under the bill, as we have it, he would be allowed to do that.

The only way he could be stopped would be for the other Government agency to go into court and say, "Your Honor, we do not think you should let him come into court."

Under the Wright amendment, the consumer protective advocate himself, upon trying to go into court, after having slept on his rights, would have to convince the court in the first instance that there was some good reason why he slept on his rights and why he now wishes to go into court.

In other words, he should bear the burden of explaining his failure to involve himself in the proceedings at the first instance. It just sounds to me like elementary fairness and putting the burden on the person who should bear the burden because he slept on his rights.

Mr. Chairman, I just want to deal with one issue which seems to me to be the only significant issue or argument raised against this particular amendment. That was made by the gentleman from New York (Mr. ROSENTHAL). I call that the "mimeograph" argument. He argues that as a result of changing the burden of proof, we would require the consumer protective advocate to file a notice of appearance in every case. The answer to that is very simple. We may have forced him to do that anyway; there are requirements in the committee bill we have before us that requires him to file for rehearing and do various other things if he wants a review, so he might well decide that he is going to eliminate all that by filing a notice of appearance in every single case.

Quite frankly, that is an extreme argument. I do not think any responsible person will run the agency in that manner. I do not think in any event we will be faced with it. I do not think it is a significant argument.

I think the proposal offered by the gentleman from Texas (Mr. WRIGHT) is just elementary and fair, a fairness amendment. I really do not understand why we resist it so much. It seems to me to put the burden where it belongs.

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

Mr. WYDLER. Mr. Chairman, I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, it seems to me the amendment would preclude any right of appeal. I would remind the gentleman——

Mr. WYDLER. No; it does not do that at all. As a matter of fact, it is the same——

Mr. FASCELL. Let me finish the question.

Mr. WYDLER. The gentleman made a statement, and I cannot accept the statement as a premise for the question, because the statement is not a fact.

Mr. FASCELL. Mr. Chairman, I will agree the gentleman does not accept the premise. The question is whether or not, under the general rule of law which says that, if you have not exhausted your administrative remedies, you have no right in court, and if that is true and in this case the administrator of the agency not having appeared below, under what conditions under this amendment would he have a right to appear? How could he get around that obstacle?

Mr. WYDLER. Mr. Chairman, it would truthfully be exactly the same grounds in either case, because, if he is challenged under the committee bill, presumably he is going to have to go into court and put forth some good reason why he should be allowed to appeal. It is just going to be a question of the burden of proof, but the factual situation is going to be the same.

However, I believe the burden should be on the person that did not protect his rights at the administrative level. That seems to me to have always been the law, and I do not know why it should be different in this case.

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

Mr. WYDLER. Mr. Chairman, I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, the reason why the committee adopted the procedure it did was to eliminate the fact that the CPA would file pro forma appearances.

Mr. WYDLER. That is the mimeograph argument.

Mr. HORTON. Well, it may be, but that is the point; that the CPA administrator would have the right to protect his rights to appear in every agency proceeding so that then he would be a party.

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

(By unanimous consent Mr. WYDLER was allowed to proceed for 1 additional minute.)

Mr. WYDLER. Mr. Chairman, I tried to deal with that, before. For all I know, he may decide to file a pro forma notice of appearance in every case in order to avoid the requirements of this section.

If we say that he will file to avoid the need for a rehearing or anything, other limitation, I think that argument does not seem to be a particularly strong argument, because he can avoid the entire effect of this section if he decides to do that, by filing a notice in every case. He may decide to do so; I do not think he will.

I do not think that a sensible, sound administrator is going to go around throwing notices of appearances in every administrative proceeding of the Federal Government, so I do not think that is a persuasive argument.

Mr. BUCHANAN. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Florida (Mr. FUQUA).

I will not take 5 minutes to explain my position, but I wish to point out to the Members of the House that a few minutes ago my distinguished leader on the Republican side, the gentleman from New York, in his concern that Members understand the amendments now before us, said that this is a technical matter.

This is the best reason I know for this committee to support the Fuqua amendment, because the fact is that what we are doing, with the powers we are giving this agency, as unamended, is that we are transferring to the overburden Federal judiciary final decisions on all sorts of technical questions that have already been settled in regulatory agencies, even in those cases where the Consumer Protection Agency did not participate in the proceedings of that agency itself.

Mr. Chairman, I say that it is an excellent argument for agreeing to this amendment.

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

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

Mr. WRIGHT. Mr. Chairman, this is, of course, as the gentleman said, a technical thing. I think the essence of it is clearly understandable to the Members of the House by a reading of the very first clause in the subsection.

Now, the gentleman from New York

(Mr. HORTON) has said that the CPA ought to have the right, if aggrieved, to institute judicial proceedings, just as any other party would. I agree with that. However, if we will read the bill, beginning at the top of page 10, it is clear. It states as follows:

To the extent that any person, if aggrieved, would have a right of judicial review by law, the Administrator may institute * * *

In other words, it confers upon him, without any establishment of proof, the status of an aggrieved party. Nobody else in law has that status conferred upon him by legislation. Other parties must establish that they are aggrieved or that they have a justiciable case in order to institute a court review, but not this fellow.

So it is pretty simple really, when we get right down to it. We want to put him back or, rather, I would put him back in exactly the same position as everybody else against whom he might appear as an adversary.

That is what I propose.

Mr. BUCHANAN. Mr. Chairman, I wish to say that I believe this committee ought to at least support the amendment offered by the gentleman from Texas (Mr. WRIGHT). However, I suggest it would be even better to support the amendment offered by the gentleman from Florida (Mr. FUQUA).

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

Mr. BUCHANAN. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I just want to make it clear that the language the gentleman from Texas was reading is basically the language of the Wright amendment. In other words, the gentleman has the same language in his amendment.

Mr. WRIGHT. The gentleman is correct.

Mr. HORTON. Mr. Chairman, the language the gentleman from Alabama referred to is the language of the Fuqua amendment, which eliminates or deletes the language which the gentleman from Texas was talking about.

Mr. BUCHANAN. Mr. Chairman, much of what I said would apply to the Wright amendment as well, because it at least limits this authority.

If the Members want to vote to burden down the already overburdened Federal judiciary and replace those agencies in which the Congress has placed its confidence to make technical decisions and decisions to protect the interests of the people and institute an agency that would willy-nilly take the rest of Government to court at the drop of a hat whenever it wishes, then the Members will vote against these amendments.

If the Members want to fully support the public interest, then we should vote for the Fuqua amendment, but if we want to improve the legislation, we should at least vote for the Wright amendment.

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

Mr. Chairman, I wish to take just one-half minute in order to apprise the Members that the committee believes that both the Fuqua amendment and the Wright amendment should be voted down.

Mr. GROSS. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, I take this time to say that after listening to the debate which has taken place in the last 45 minutes, I am beginning to wonder whether there are enough law schools in this country to turn out the lawyers that will be required to administer this bill.

Instead of a Consumer Protection Agency bill, it has the appearance of being another lawyers' welfare bill.

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

Mr. Chairman, the substitute, by the admission of the sponsor, denies the right of appeal of the agency. The amendment offered by the gentleman from Texas, which would place the burden on the agency itself to prove its position in court and shift the burden to the courts to make the decision, means that the petitioner has to prove his right to the case.

Under general law, where you have not exhausted your administrative remedies, I do not see how the administrator under the language would have any right to appeal. It destroys the objective of the section and the bill. Both the Fuqua amendment and the Wright amendment, change a very fundamental concept of this legislation and both of them should be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. FUQUA) as a substitute for the amendment offered by the gentleman from Texas (Mr. WRIGHT).

The question was taken and on a division (demanded by Mr. FUQUA) there were—ayes 48, noes 78.

RECORDED VOTE

Mr. THONE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 149, noes 241, not voting 42, as follows:

[Roll No. 139]

AYES—149

| | | |
|---|---|---|
| Abdnor | Daniel, Robert W., Jr. | Hébert |
| Archer | Davis, Ga. | Henderson |
| Arends | Davis, Wis. | Hinshaw |
| Armstrong | Dennis | Hogan |
| Ashbrook | Derwinski | Holt |
| Bafalis | Devine | Hosmer |
| Baker | Dickinson | Hudnut |
| Bauman | Downing | Hunt |
| Beard | Duncan | Hutchinson |
| Bowen | Edwards, Ala. | Ichord |
| Brinkley | Erlenborn | Jarman |
| Broomfield | Eshleman | Johnson, Colo. |
| Brown, Ohio | Fisher | Johnson, Pa. |
| Broyhill, N.C. | Flowers | Jones, Ala. |
| Broyhill, Va. | Flynt | Jones, N.C. |
| Buchanan | Frey | Jones, Okla. |
| Burgener | Froehlich | Kemp |
| Burke, Fla. | Fuqua | Ketchum |
| Burleson, Tex. | Ginn | King |
| Byron | Goldwater | Kuykendall |
| Carter | Goodling | Lagomarsino |
| Casey, Tex. | Green, Oreg. | Landgrebe |
| Chappell | Gross | Latta |
| Clancy | Gubser | Lott |
| Clausen, Don H. | Guyer | McClory |
| Clawson, Del | Haley | McCollister |
| Cochran | Hammer-schmidt | McEwen |
| Collins, Tex. | Hanrahan | Mahon |
| Daniel, Dan | Rousselot | Mann |
| Martin, N.C. | Ruth | Martin, Nebr. |
| Mathis, Ga. | Satterfield | Treen |
| Mayne | Scherle | Vander Jagt |
| Michel | Schneebeli | Veysey |
| Milford | Sebelius | Waggonner |
| Miller | Shoup | Wampler |
| Mizell | Shuster | White |
| Montgomery | Sikes | Whitehurst |
| Moorhead, Calif. | Skubitz | Whitten |
| Nichols | Smith, N.Y. | Wiggins |
| Passman | Snyder | Wilson, Bob |
| Price, Tex. | Spence | Winn |
| Quie | Stanton, J. William | Wyatt |
| Quillen | Steiger, Ariz. | Wylie |
| Railsback | Symms | Wyman |
| Rarick | Talcott | Young, Alaska |
| Regula | Taylor, Mo. | Young, Fla. |
| Rhodes | Taylor, N.C. | Young, Ill. |
| Roberts | Thomson, Wis. | Young, S.C. |
| Robinson, Va. | Thone | Zion |
| Rose | | |

NOES—241

| | | |
|---|---|---|
| Abzug | Fountain | Nedzi |
| Adams | Fraser | Nix |
| Addabbo | Frelinghuysen | Obey |
| Alexander | Fulton | O'Brien |
| Anderson, Calif. | Gaydos | O'Hara |
| Anderson, Ill. | Giaimo | Owens |
| Andrews, N.C. | Gibbons | Parris |
| Andrews, N. Dak. | Gilman | Patman |
| Annunzio | Gonzalez | Patten |
| Aspin | Grasso | Pepper |
| Badillo | Gray | Perkins |
| Barrett | Green, Pa. | Pettis |
| Bell | Griffiths | Peyser |
| Bennett | Grover | Pike |
| Bergland | Gude | Podell |
| Biaggi | Gunter | Preyer |
| Biester | Hamilton | Price, Ill. |
| Bingham | Hanley | Pritchard |
| Blatnik | Hanna | Randall |
| Boggs | Hansen, Idaho | Rangel |
| Boland | Harrington | Reuss |
| Bolling | Harsha | Riegle |
| Brademas | Hastings | Rinaldo |
| Brasco | Hawkins | Robison, N.Y. |
| Bray | Hays | Rodino |
| Breaux | Hechler, W. Va. | Roe |
| Breckinridge | Heinz | Rogers |
| Brooks | Helstoski | Roncalio, Wyo. |
| Brotzman | Hicks | Roncallo, N.Y. |
| Brown, Calif. | Hillis | Rosenthal |
| Brown, Mich. | Holifield | Rostenkowski |
| Burke, Calif. | Holtzman | Roush |
| Burke, Mass. | Horton | Roy |
| Burlison, Mo. | Howard | Roybal |
| Burton | Hungate | Ruppe |
| Carney, Ohio | Johnson, Calif. | Ryan |
| Chamberlain | Jones, Tenn. | St Germain |
| Chisholm | Jordan | Sarasin |
| Clark | Karth | Sarbanes |
| Clay | Koch | Schroeder |
| Cleveland | Kyros | Seiberling |
| Cohen | Leggett | Shipley |
| Collier | Lehman | Sisk |
| Collins, Ill. | Lent | Slack |
| Conable | Litton | Smith, Iowa |
| Conte | Long, La. | Staggers |
| Corman | Long, Md. | Stanton, James V. |
| Cotter | Luken | Steed |
| Coughlin | McCloskey | Steele |
| Cronin | McCormack | Steelman |
| Culver | McDade | Steiger, Wis. |
| Daniels, Dominick V. | McFall | Stokes |
| Danielson | McKay | Stratton |
| Davis, S.C. | McKinney | Stubblefield |
| de la Garza | McSpadden | Stuckey |
| Delaney | Macdonald | Studds |
| Dellenback | Madden | Sullivan |
| Dellums | Madigan | Symington |
| Denholm | Mallary | Thompson, N.J. |
| Dent | Maraziti | Thornton |
| Diggs | Mathias, Calif. | Tiernan |
| Dingell | Matsunaga | Udall |
| Donohue | Mazzoli | Ullman |
| Drinan | Meeds | Van Deerlin |
| Dulski | Melcher | Vander Veen |
| du Pont | Metcalfe | Vanik |
| Eckhardt | Mezvinsky | Vigorito |
| Edwards, Calif. | Mills | Waldie |
| Eilberg | Minish | Walsh |
| Esch | Mitchell, Md. | Whalen |
| Evans, Colo. | Mitchell, N.Y. | Widnall |
| Evins, Tenn. | Moakley | Wilson, Charles, Tex. |
| Fascell | Mollohan | Wolff |
| Findley | Moorhead, Pa. | Wright |
| Fish | Morgan | Wydler |
| Flood | Moss | Yates |
| Foley | Murphy, Ill. | Yatron |
| Ford | Murphy, N.Y. | Young, Ga. |
| Forsythe | Murtha | Young, Tex. |
| | Myers | Zablocki |
| | Natcher | |

NOT VOTING—42

| | | |
|---|---|---|
| Ashley | Huber | Rooney, N.Y. |
| Bevill | Kastenmeier | Rooney, Pa. |
| Blackburn | Kazen | Runnels |
| Butler | Kluczynski | Sandman |
| Camp | Landrum | Shriver |
| Carey, N.Y. | Lujan | Stark |
| Cederberg | Minshall, Ohio | Stephens |
| Conlan | Mosher | Teague |
| Conyers | Nelsen | Ware |
| Crane | O'Neill | Williams |
| Dorn | Pickle | Wilson, |
| Frenzel | Poage | Charles H., |
| Gettys | Powell, Ohio | Calif. |
| Hansen, Wash. | Rees | Zwach |
| Heckler, Mass. | Reid | |

So the amendment offered a substitute for the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. WRIGHT).

The vote was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ROSENTHAL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 236, noes 147, not voting 49, as follows:

[Roll No. 140]

AYES—236

| | | |
|---|---|---|
| Abdnor | Dickinson | Landgrebe |
| Alexander | Downing | Latta |
| Anderson, Ill. | Duncan | Lent |
| Andrews, N.C. | du Pont | Litton |
| Andrews, N. Dak. | Edwards, Ala. | Long, La. |
| | Erlenborn | Lott |
| Archer | Esch | McClory |
| Arends | Eshleman | McCloskey |
| Armstrong | Evans, Colo. | McCollister |
| Ashbrook | Evins, Tenn. | McDade |
| Ashley | Findley | McEwen |
| Bafalis | Fisher | McKay |
| Baker | Flowers | McSpadden |
| Bauman | Flynt | Madigan |
| Beard | Forsythe | Mahon |
| Bell | Fountain | Mallary |
| Bennett | Frelinghuysen | Mann |
| Biaggi | Frey | Martin, Nebr. |
| Blatnik | Froehlich | Martin, N.C. |
| Boggs | Fulton | Mathias, Calif. |
| Bowen | Fuqua | Mathis, Ga. |
| Bray | Ginn | Mayne |
| Breaux | Goldwater | Milford |
| Brinkley | Gonzalez | Miller |
| Broomfield | Goodling | Mitchell, N.Y. |
| Brotzman | Gray | Mizell |
| Brown, Mich. | Green, Oreg. | Mollohan |
| Brown, Ohio | Gross | Montgomery |
| Broyhill, N.C. | Grover | Moorhead, Calif. |
| Broyhill, Va. | Gubser | |
| Buchanan | Gunter | Murphy, Ill. |
| Burgener | Guyer | Myers |
| Burke, Fla. | Haley | Natcher |
| Burleson, Tex. | Hammer-schmidt | Nichols |
| Burlison, Mo. | | O'Brien |
| Byron | Hanley | Owens |
| Carter | Hanrahan | Parris |
| Casey, Tex. | Harsha | Passman |
| Chamberlain | Hastings | Patman |
| Chappell | Henderson | Perkins |
| Clancy | Hillis | Pettis |
| Clausen, Don H. | Hinshaw | Preyer |
| | Hogan | Price, Tex. |
| Clawson, Del | Holt | Quie |
| Cleveland | Hosmer | Quillen |
| Cochran | Howard | Railsback |
| Cohen | Hudnut | Randall |
| Collier | Hungate | Rarick |
| Collins, Tex. | Hunt | Regula |
| Conable | Hutchinson | Rhodes |
| Conte | Ichord | Roberts |
| Coughlin | Jarman | Robinson, Va. |
| Daniel, Dan | Johnson, Colo. | Robison, N.Y. |
| Daniel, Robert W., Jr. | Johnson, Pa. | Rogers |
| | Jones, Ala. | Roncalio, Wyo. |
| Davis, Ga. | Jones, N.C. | Roncallo, N.Y. |
| Davis, S.C. | Jones, Okla. | Rose |
| de la Garza | Jones, Tenn. | Rostenkowski |
| Delaney | Kemp | Rousselot |
| Dellenback | Ketchum | Roy |
| Denholm | King | Ruppe |
| Dennis | Kuykendall | Ruth |
| Derwinski | Lagomarsino | Satterfield |
| Scherle | Symms | Widnall |
| Schneebeli | Talcott | Wiggins |
| Sebelius | Taylor, Mo. | Wilson, Bob |
| Shipley | Taylor, N.C. | Wilson, Charles, Tex. |
| Shoup | Thomson, Wis. | |
| Shuster | Thone | Winn |
| Sikes | Thornton | Wolff |
| Skubitz | Towell, Nev. | Wright |
| Smith, N.Y. | Treen | Wyatt |
| Snyder | Van Deerlin | Wydler |
| Spence | Vander Jagt | Wylie |
| Stanton, J. William | Veysey | Wyman |
| | Waggonner | Young, Alaska |
| Steed | Walsh | Young, Fla. |
| Steiger, Ariz. | Wampler | Young, Ill. |
| Steiger, Wis. | White | Young, S.C. |
| Stubblefield | Whitehurst | Young, Tex. |
| Symington | Whitten | Zion |

NOES—147

| | | |
|---|---|---|
| Abzug | Gibbons | Murtha |
| Adams | Gilman | Nedzi |
| Addabbo | Grasso | Nix |
| Anderson, Calif. | Green, Pa. | Obey |
| | Griffiths | O'Hara |
| Annunzio | Gude | Patten |
| Aspin | Hamilton | Pepper |
| Badillo | Hanna | Peyser |
| Barrett | Hansen, Idaho | Pike |
| Bergland | Harrington | Podell |
| Biester | Hawkins | Price, Ill. |
| Bingham | Hays | Reuss |
| Boland | Hechler, W. Va. | Riegle |
| Bolling | Heinz | Rinaldo |
| Brademas | Helstoski | Rodino |
| Brasco | Hicks | Roe |
| Breckinridge | Holifield | Rosenthal |
| Brooks | Holtzman | Roush |
| Brown, Calif. | Horton | Roybal |
| Burke, Calif. | Johnson, Calif. | Ryan |
| Burke, Mass. | Jordan | St Germain |
| Burton | Karth | Sarasin |
| Carney, Ohio | Kastenmeier | Sarbanes |
| Chisholm | Koch | Schroeder |
| Clark | Kyros | Seiberling |
| Clay | Leggett | Sisk |
| Collins, Ill. | Lehman | Slack |
| Corman | Long, Md. | Smith, Iowa |
| Cotter | Luken | Stanton, James V. |
| Cronin | McCormack | |
| Culver | McFall | Steele |
| Danielson | McKinney | Steelman |
| Dellums | Macdonald | Stokes |
| Dent | Madden | Stratton |
| Diggs | Maraziti | Studds |
| Dingell | Matsunaga | Sullivan |
| Donohue | Mazzoli | Thompson, N.J. |
| Drinan | Meeds | Tiernan |
| Dulski | Melcher | Udall |
| Eckhardt | Metcalfe | Ullman |
| Edwards, Calif. | Mezvinsky | Vander Veen |
| Eilberg | Mills | Vanik |
| Fascell | Minish | Vigorito |
| Fish | Mink | Waldie |
| Flood | Mitchell, Md. | Whalen |
| Foley | Moakley | Yates |
| Ford | Moorhead, Pa. | Yatron |
| Fraser | Morgan | Young, Ga. |
| Gaydos | Moss | Zablocki |
| Ghaimo | Murphy, N.Y. | |

NOT VOTING—49

| | | |
|---|---|---|
| Bevill | Heckler, Mass. | Rooney, N.Y. |
| Blackburn | Huber | Rooney, Pa. |
| Butler | Kazen | Runnels |
| Camp | Kluczynski | Sandman |
| Carey, N.Y. | Landrum | Shriver |
| Cederberg | Lujan | Staggers |
| Conlan | Michel | Stark |
| Conyers | Minshall, Ohio | Stephens |
| Crane | Mosher | Stuckey |
| Daniels, Dominick V. | Nelsen | Teague |
| | O'Neill | Ware |
| Davis, Wis. | Pickle | Williams |
| Devine | Poage | Wilson, Charles H., Calif. |
| Dorn | Powell, Ohio | |
| Frenzel | Pritchard | |
| Gettys | Rangel | Zwach |
| Hansen, Wash. | Rees | |
| Hébert | Reid | |

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. WRIGHT

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

The Clerk read as follows:

Amendment offered by Mr. WRIGHT:

On page 17, line 23, strike out "unless" and insert "if"; and

On page 18, line 1, strike out "do not"; and

On page 18, lines 5 and 6, strike out all that follows "(B)"; and insert "are relevant to the purposes for which the information is sought"; and

On page 18, line 7, after the word "are" insert "not".

Mr. WRIGHT. Mr. Chairman, this amendment is basically akin to the amendment which the committee just adopted. It is founded on the same premise, namely, that the burden of proof rightly belongs with him who seeks to gain information from the public in an interrogatory.

The bill as it is presently drafted contains this one other deficiency, in my opinion, which should be corrected. I believe if we do correct it, we will make the bill a better and more palatable, more evenly balanced and fairer legislative instrument.

The bill as presently written would permit the consumer advocate to propound an interrogatory or a request for information to any citizen of the United States and would compel that citizen to respond and give that information upon receipt of that interrogatory from the regulatory agency through which it was channeled. The bill would place upon that regulatory agency an obligation to send that interrogatory out and to compel responses from American citizens to questions relating to their business or their persons unless it were able to make some specified negative findings.

Therefore, the presumption would be that any time the consumer advocate wanted to get information from any individual, the interrogatory would be sent out and, under the bill as presently drafted, the individual presumptively would be compelled to respond.

Now, what is wrong with that? Let me explain the potential danger I see in it. All of us have been appalled and shocked, I know, by the recent disclosures of the existence in administrative Government of "enemy lists." All of us have become acutely aware of the possible menace of governmental snooperism, and apprehensive of the spectre of Big Brotherism. I do not believe it would be sound public policy for the Congress, which is so increasingly concerned with the rights of privacy and so newly awakened to insidious invasions of individual privacy, to create any agency in Government which would have a presumptive right to compel information from private citizens without first having the responsibility to demonstrate that the information it seeks is relevant to some ongoing inquiry and that it will serve some legitimate governmental purpose.

That is all this amendment involves. I would not deny to the consumer advocate the right of propounding relevant and necessary interrogatories and I would not deny to the parent agency through which those interrogatories would be sent the right to send them out and compel response, but I believe I would place the burden of proof upon him who seeks to demand information from a private citizen of the United States. I do not think I would place the burden of proof on the individual citizen, as the bill does, to prove it unneces-

sarily burdensome or irrelevant, because the individual citizen often has no wherewithal upon which to make that proof.

So this amendment is a protection for the individual citizen. I think it is in harmony with the basic thrust of the bill. It gives the consumer advocate power to gather information, but it does not give him unparalleled power.

Mr. HOLIFIELD. Mr. Chairman, if the gentleman will yield, the gentleman from Texas (Mr. WRIGHT), of course, as always, is very persuasive, but would not the gentleman from Texas agree that when the CPA Administrator has an interrogatory that he submits it to the old-line host agency, and that then that old-line host agency has to make the determination as to these points before the interrogatory is sent to the citizen?

Mr. WRIGHT. Yes. I think that is the way it should be. My amendment would reinforce that relationship by giving the host agency a modicum of discretion in the matter.

Mr. HOLIFIELD. And in most instances there would be no interrogatory to an individual citizen, it would be to an institution of one kind or another?

Mr. WRIGHT. Perhaps so, Mr. Chairman, but we cannot be certain of that. The bill does not so stipulate.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ROSENTHAL. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Texas.

Mr. Chairman, this amendment is another example of an unnecessary restriction on CPA authority which will only adversely affect its ability to protect the interests of consumers. In order to obtain answers to interrogatories under H.R. 13163, the CPA must transmit the interrogatories to the host agency which shall promptly transmit them to designated persons, unless it determines that they are, first, irrelevant; second, unnecessarily burdensome to the Federal agency or persons specified therein or; third, do not seek information that substantially affects the health or safety of consumers, or is necessary in the discovery of consumer fraud or substantial economic injury to consumers. The amendment reverses this and requires the host agency to make a positive determination with respect to every interrogatory transmitted to it on each of these three criteria. That is, the host agency must determine that the interrogatory in question is relevant, is not unnecessarily or excessively burdensome to the Federal agency or the person specified in the proposal, and seeks information that substantially affects the interests of consumers or is necessary in the discovery of consumer fraud or substantial economic injury to consumers.

By requiring such determinations, this amendment will create an inordinate and unnecessary amount of paperwork for host agencies, slowing down considerably the process for gathering essential and timely information from private individuals on matters of substantial interest to consumers. In its present form, section 10 contains adequate safeguards to protect the interests of persons to which interrogatories are sent. Not only may the host agency refuse to transmit an interrogatory for any of the reasons specified earlier, under section 10(3) the Administrator of the CPA may not issue interrogatories if the information is, first, available as a matter of public record; second, can be obtained from another Federal agency pursuant to subsection (b) of section 10, or third, is for use in connection with his intervention in any pending Federal agency proceeding against the person to whom the interrogatories are addressed. The amendment does not enhance the protections of private parties against improper requests for information. It merely makes it more difficult for the CPA to obtain the information to which it is entitled by enveloping CPA requests for answers to interrogatories in bureacratic redtape. This amendment can only hurt the interests of consumers.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. WRIGHT).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BUCHANAN

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

The Clerk read as follows:

Amendment offered by Mr. BUCHANAN: Page 19, line 11, strike out "pending".

Mr. BUCHANAN. Mr. Chairman, first let me say to the committee what I did not do. I do not intend to offer the numerous amendments that I had earlier intended to offer today. I did not offer the stronger amendment to the same section that the Wright amendment just amended, which Mr. Ash recommended as one alternative in his letter. The gentleman from Texas took the second alternative, of a milder amendment, and I supported that, and I am not offering the stronger. But I do want to do one thing that the administration requested of the committee and was recommended in the Ash letter, and that is, and I quote Mr. Ash:

> We understand that the sponsors of this bill do not intend to permit use of information acquired by interrogatories in Federal agency proceedings involving respondents from whom such information was acquired. The term "pending" on line 11 of page 19 is ambiguous with respect to future Federal agency proceedings and, accordingly, it should be deleted.

Mr. Chairman, this is a very modest amendment. It clarifies the purpose that I understand to be the intention of the committee already. It is an administration request and a reasonable one.

Mr. Chairman, I urge that my amendment be adopted.

Mr. HOLIFIELD. Mr. Chairman, what this amendment really does is this: It would significantly, in my opinion, limit the interrogatory powers available to the CPA through the host agency. What it does is prevent the use of information gained through interrogatories in any proceeding. It strikes out the word "pending" and says "any proceeding"—pending or otherwise—"against the person to whom the interrogatories are addressed."

The committee bill limits such use only in pending proceedings. Why should the ban on the use of information be for all kinds of proceedings? This is a significant amendment, although it just strikes out one word. A vote for this amendment in my opinion, would seriously curtail the CPA's interrogatory powers as given to it in the bill.

The Chairman, I ask for a vote against the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama (Mr. BUCHANAN).

The amendment was rejected.

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

Mr. Chairman, enough is enough. We, who have given our country OSHA and NEPA and other attempts at handholding, have not learned our lesson. How much further should we go with our sloganized elixirs and academic attempts to cure every conceivable human shortcoming by Federal legislation? In my opinion, the establishment of a brand-new Consumer Protection Agency is going too far.

Probably the most significant measure of congressional reform that this or any other Congress could adopt would be to delete popular titles from pending legislation. I think that each of my colleagues might find it less traumatic to vote their objective conscience on legislation merely entitled H.R. 13163 than a bill carrying the cosmetic label, "Consumer Protection Act." The unfortunate, but traditional, tendency has been to vote for a bill with a title like "The Consumer Protection Act"—rather than attempt to explain to a constituency how one could possibly vote against "consumers."

Well, I am a consumer—and I do not intend to vote against myself—but I do intend to vote against this bill. I do so because I believe that the substance of this legislation will not ultimately protect consumers—it will injure them.

Proponents of this Consumer Protection Agency have alleged that such an independent entity; is essential to monitor all other Federal agencies. This situation exists, they claim, because all of our regulatory agencies have been "captured" by the very interests they are supposed to regulate.

My own experience does not support this hypothesis.

I am bewildered by the suggestion that all of our existing Federal agencies are in some way corrupt, and the best way to resolve this is through the creation of a new uncorruptable agency.

If there is a group of individuals waiting in the wings for the opportunity to release their ethical consumer concerns through a newly established Consumer Protection Agency—why do they not merely hire on with existing agencies and delete the unnecessary step?

We all tend to speak of "consumers" as if they were invented in the late 1960's.

We envision them as a group whose interests have been slighted and whose concerns have been ignored. But who are American consumers if they are not the same American public that Government has been serving for nearly 200 years?

We do not need a new, all-powerful Consumer Protection Agency. We already have a Federal Government, working with a $300 million budget, designed to assist consumers from cradle to grave. We particularly do not need the Consumer Protection Agency that is proposed in H.R. 13163 because its authority is loosely defined and its goals are totally uncertain.

H.R. 13163 is the proverbial "pig in a poke." It has all the cataclysmic potential of an ostensibly tame gorilla. Its unpredictable consequences should not be forced upon the country. I urge my colleagues to disregard the appealing title and vote against this unnecessary bill.

The burden we have placed on the honest businessman by way of reports and paperwork has now reached almost unbearable proportions. No one should be fooled either by this title. Someone has to pay for this big new proposed monster, and it is the taxpayer, disguised in this bill as the consumer. The consumer will ultimately pay and there is no other way.

AMENDMENT OFFERED BY MR. DENNIS

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

The Clerk read as follows:

Amendment offered by Mr. DENNIS: Page 11, line 16, strike out lines 16, 17, and 18 and substitute for the matter so stricken the following:

"(f) Appearances by the Agency under this section shall be made by officers of the Department of Justice under the direction of the Attorney General; except, that if the Attorney General determines that the Department of Justice should not represent the Agency in any particular proceeding or action and notifies the Administrator of his determination, the Agency may appear on its own behalf through representatives designated by the Administrator."

Mr. DENNIS. Mr. Chairman, this is a simple amendment but I think it is an important one. What it does in section 6(f) on page 11 is strike out the language which says that the Administrator, the advocate, can appear in agencies or court proceedings by his own representatives and it provides that appearance of the agency in proceedings in court or before in agency shall be made in the regular manner through the Department of Justice.

I think that is important, because one of my objections to many of the things we do around here is this fourth layer of Government, which was never contemplated by the Founders, which we have created with these regulatory agencies. In order to keep the constitutional symmetry of the Government as far as we can I think we ought to let the regular departments perform their regular functions when they can.

We have a Department of Justice which is one of the first departments of this Government we ever had, dating back to George Washington. It is designed for the purpose of representing Government agencies in court. It has a good staff, so why should we not use it?

I would like to point out this goes all the way up to the Supreme Court. The Solicitor General of the United States represents the Government in the Supreme Court of the United States. Why should he not do this instead of having some new-fangled staff created for this particular agency?

Someone said a minute ago that this was a lawyers' relief bill or something of that kind. I suppose I should not become angry if that were true, but this amendment is designed to meet that contention. I do not regard this as a consumer proposition, or a partisan proposition, or a liberal proposition, or a conservative proposition.

Maybe Members would like to proliferate agencies to take care of people, but who wants to proliferate staffs of lawyers and provide new jobs for members of the bar when we have a huge department designed for the very purpose of doing that?

I think we ought to get back to first principles. We ought to use the department, we ought to use the Solicitor General in the Supreme Court, we ought to let the normal processes operate instead of creating an expensive, new, unnecessary legal staff for this agency.

So I urge the support of the amendment on that basis.

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

Mr. Chairman, in the first instance I want to point out that this is not an unusual procedure. Representation by other agencies where they have their own attorneys in court occurs in many agencies and I would like to list some of them: FCC; Department of Agriculture; Maritime Commission; Maritime Administration; and AEC in connection with certain proceedings for judicial review, subject to the overall responsibility of the Attorney General for court proceedings; the Equal Employment Opportunity Commission, except in Supreme Court cases;

The Consumer Product Safety Commission in connection with imminently hazardous product cases; the NLRB; the Wage and Hour Division of the Department of Labor, subject to the direction and control of the Attorney General; the Solicitor of Labor under the Occupational Safety and Health Act, subject to the direction and control of the Attorney General, and excepting Supreme Court cases; the Interstate Commerce Commission; the National Transportation Safety Board and the FAA upon request of the Attorney General; the Federal Trade Commission in court proceedings under the Federal Trade Commission Act may elect to appear by its own attorneys after consulting with the Attorney General. This is the Alaska Pipeline Act.

The point that should be made here is that under the act what we have done is permit the agency to appear in its own name by qualified representatives.

What the amendment proposed by the gentleman would do would give the Attorney General the opportunity to decide whether or not he was going to appear. This would mean that the CPA would have to present its case.

Well, certainly the Attorney General is going to appear for the regulatory agency involved, so it would create a conflict of interest. The committee felt that because of this possible conflict of interest that the Consumer Protection Agency should not be put in this position.

Therefore, I hope the amendment is defeated.

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

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

Mr. DENNIS. It seems to me that the trouble with the bill is the conflict of interest that is working against itself. It would be better to have the regular judicial department decide whether or not these questions should be taken up and litigated.

Mr. HORTON. I do not think the Government is operating against itself. The CPA is going to appear in behalf of consumer interests. If the gentleman's amendment is adopted it may put the Attorney General in a conflict of interest where the CPA would have to present its case and also the Attorney General would have the regulatory case. It would be a conflict of interest and they could not be properly represented.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. DENNIS).

The question was taken; and on a division (demanded by Mr. DENNIS) there were—ayes 32, noes 68.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. BROYHILL OF NORTH CAROLINA

Mr. BROYHILL of North Carolina. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROYHILL of North Carolina: Page 29, line 2 delete section 18 in its entirety and substitute in lieu thereof the following:

"There are hereby authorized to be appropriated to carry out the provisions of this Act such sums as may be required for the fiscal year ending June 30, 1975, for the fiscal year ending June 30, 1976, and for the fiscal year ending June 30, 1977."

Mr. BROYHILL of North Carolina. Mr. Chairman, this is the same amendment I offered to the substitute earlier which was adopted by a vote of 224 to 177. Unfortunately, it fell when the substitute fell.

This is an amendment that I call the Assurance of Periodic Congressional Review and Oversight of Regulatory Agencies Amendment.

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

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

Mr. HOLIFIELD. I am constrained by the efficacy of the vote on the previous time when the gentleman presented this to say that I believe it is the will of the House that this amendment be approved. I have no objection to it.

The CHAIRMAN. The question is on the amendment offered by the gentle-

man from North Carolina (Mr. BROYHILL).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ASHBROOK

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

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: Page 28, line 12, strike out "or".

Page 28, lines 13 and 14, strike out "or the national security or intelligence functions (including related procurement )of".

Page 28, line 16, strike out "and" and insert in lieu thereof ", or".

Page 28, line 17, strike out all that follows "Energy Commission" down to and including "171)." on line 25 and insert in lieu thereof a period.

Mr. ASHBROOK. Mr. Chairman, simply stated, this amendment would, in effect, reverse the Holifield bill. As it stands now, CPA is not exempted from State and Defense Department activities, and the labor disputes are exempt. The effect of this amendment would be to completely exempt the State Department and Defense Department.

Members might ask why. In the first place, how do we separate the activities of the State and Defense Departments which are proposed for exemptions under the bill? It does state that it would exempt them where there is national security and intelligence functions involved.

In a way, that is somewhat ridiculous because all the functions of the State and Defense Departments are basically integrated to further their constitutional responsibility, which is foreign relations, the foreign policy, and the national security responsibilities of the U.S. Government. How in the world do we separate those? We cannot.

Therefore, in effect, my amendment would exempt across the board the State Department and the Defense Department. As far as labor is concerned, the Holifield bill would keep the CPA out of labor dock strikes and so forth, truck boycotts, which could deprive drivers and homeowners of heating oil and gasoline. To me, this is a very interesting paradox. As far as the former portion is concerned, CPA's could become involved, in effect, in Middle East negotiations; could bring suits possibly to open up the petroleum reserves of the Navy because there is a consumer interest in availability of gasoline and of home heating oil, but if a labor dispute would be involved in the same area, the Holifield bill says, "Stay out of this particular area."

So, in effect, what this amendment does is to reverse the position of the Holifield bill to exempt the State and Defense Departments, while at the same time bringing in labor disputes as an area where CPA's could properly become involved.

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

Mr. ASHBROOK. Mr. Chairman, I will yield to the gentleman from Indiana.

Mr. DENNIS. Mr. Chairman, I would like to associate myself with the gentleman's amendment. I really almost defy anybody to explain why we should interfere with the Defense or the Department of State in a bill of this kind. As far as leaving labor out of the bill, as the bill does—and the gentleman's amendment would correct that—I cannot conceive how we would adopt a bill of this kind regulating every kind of business in the country in the interest of the consumer and deliberately leave out labor disputes which certainly affect consumers.

I think the gentleman is performing a real service. I would like to point out that this is the third time, I think, that I have asked the question this afternoon: What is the rationale for exempting labor? I have not had an answer yet. Does the gentleman know why the distinguished committee members did that?

Mr. ASHBROOK. I have no answer to that, not being a member of the committee. I am struck by the same apparent paradox the gentleman from Indiana cites.

I would further add, in conclusion, that it is apparent on its face that the Defense Department and Department of State are not involved in regulatory functions, and to allow the CPA's to become involved in any aspect of their overall operations, as it is fair to say the Holifield bill does, trying to exempt the national security and intelligence functions of these two Departments, but their constitutional responsibility is such that they have across-the-board, integrated responsibilities to further our foreign policy, foreign relations, or our defense capability.

How one can separate that, I do not know. I think that is the basic reason for exempting the two Departments.

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

Mr. Chairman, the gentleman from Indiana (Mr. DENNIS) asked for an explanation, and I hope that I can give him one that is persuasive.

First, we will take the labor section, which the committee exempted.

The bill exempts labor disputes and labor agreements within the meaning of certain statutes codified in 29 U.S.C. 113, 152, and 171. As the first exemption, it excludes labor injunction suits under the Norris-LaGuardia Act; second, the proceedings before the National Labor Relations Board to elect or determine employee bargaining representatives and to prevent unfair labor practices; and the third is: assistance in the negotiation of labor agreements by the Federal Mediation and Conciliation Service. Your committee considered that the Consumer Protection Agency cannot make a significant contribution in such suits or proceedings, which do not involve the determination of wages, hours, or conditions of employment by the Federal courts or agencies, but only assure that these are negotiated between employers and employees themselves in accordance with fair labor practices.

Mr. Chairman, we have a body of law, a well-defined body of law, in all of these fields for procedures both by management and by labor, and I might say that we were thinking as much on behalf of management as we were on behalf of labor, because Congress has set up these laws which prescribe how to hold these determinations of representation and all that sort of thing.

We just did not think that either management or labor would want to have another agency come in and interfere with the laws and the practices which we have set up in the Congress. I think that is a pretty persuasive reason for exempting them.

Now, let us get to the national security part of this matter. The named agencies—and I will not go over them again—and national security and intelligence functions are excluded because of their sensitive nature and the remote likelihood of their direct involvement with consumer interests. Suggestions were made that entire agencies should be exempt, such as the Department of Defense and the National Aeronautics and Space Administration. Since the involvement of the CPA in an agency's affairs, in the ways prescribed in the bill, depends upon the existence of a significant and valid consumer interest—he has to prove that to begin with—we saw no point in trying to rate agencies according to the probabilities of their association with consumer matters and to determine which should be excluded and which not.

If an agency does not generate a consumer issue meriting the CPA's attention, it will be automatically excluded—like the Corps of Engineers, let us say, for instance. In any case, the CPA can participate only in those agency activities where other persons may participate in some manner under agency rules or practices.

Mr. Chairman, we felt that we were doing the right thing and the well-balanced thing, and we thought that we were actually accommodating both management and labor.

Mr. DENNIS. Mr. Chairman, will the distinguished committee chairman yield?

Mr. HOLIFIELD. Yes, I will yield.

Mr. DENNIS. Mr. Chairman, I am sure that the distinguished Chairman would concede that labor disputes certainly do attract consumer interest. The point I am making is that we have regulated everything else in connection with consumer interests.

Mr. HOLIFIELD. No.

Mr. DENNIS. Mr. Chairman, I remember a year or two ago here an instance where the people in my part of the world could not even ship their grain because of labor disputes, and here we are talking about consumers.

Mr. HOLIFIELD. Mr. Chairman, I understand that, but as I said before—and I do not want to be repetitive—we felt that the great body of labor law which has been passed by the Congress and which has functioned over the years was adequate to control these particular interchanges between labor and management, and we thought that management and labor both seem to be satisfied with it.

So we concluded: Why should we interfere in this type of matter?

Mr. Chairman, I ask for a vote against the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The question was taken, and the Chairman announced that the noes appeared to have it.

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MS. ABZUG

Ms. ABZUG. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. ABZUG: Page 29, line 1, add the following new section:

"SEX DISCRIMINATION

"SEC. 18. No person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity carried on or receiving Federal assistance under this Act. This provision will be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination, under Title VI of the Civil Rights Act of 1964. However, this remedy is not exclusive and will not prejudice or cut off any other legal remedies available to a discriminatee."

Page 29, line 2—renumber section 18 to become section 19.

Page 29, line 6, renumber section 19 to become section 20.

Page 29, line 17, renumber section 20 to become section 21.

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

Ms. ABZUG. I am glad to yield to the chairman.

Mr. HOLIFIELD. The chairman understands that this is now in the law, the nondiscrimination against sex. Is that not true?

Ms. ABZUG. No. Sex discrimination is prohibited under title 7 of the Civil Rights Act, which relates employment by firms with 15 or more employees, but sex discrimination is not prohibited under title 6, which relates to federally assisted activities. This amendment says that no person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program of this particular act.

Mr. HOLIFIELD. I will only say this to the gentlewoman: I am in the fortunate position of being married to a lady and I have four daughters and a number of grandaughters. I feel that the gentlewoman's amendment should be accepted. I want to get away from here as soon as possible and I want to have a home to go home to.

Ms. ABZUG. Thank you, Mr. Chairman.

I yield to the gentleman from New York (Mr. HORTON).

Mr. HORTON. Mr. Chairman, I will accept the amendment.

Ms. ABZUG. Thank you, Mr. HORTON.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Ms. ABZUG).

The amendment was agreed to.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the necessary number of words and rise in opposition to this bill.

Mr. Chairman, I rise to express my strong opposition to H.R. 13163, "Consumer Protection Act of 1974." In my opinion this bill could more properly be called either the "Consumer Regulation Act of 1974" or the "Special Interest Protection Act of 1974." Some Members apparently consider this legislation inevitable and intend to support it regardless of its merits, but there are three major reasons why I believe this bill should be defeated:

First. The bill is fundamentally defective, because it is based on the assumption that Congress can establish a single agency to act as an advocate for "consumers" as a class. The fact is that there are as many consumers as there are citizens, and their interests are as diverse as one can imagine. No single Federal agency could possibly represent them all.

Second. Since it is impossible for a CPA to represent the diverse interests of all consumers, it will inevitably develop that the CPA will represent some consumers while other consumers will be left unrepresented. By establishing a mechanism for the determination of the consumer interest, the CPA will provide a perfect outlet, and a $10 million yearly budget, for the lobbying activities of groups, such as those promoted by Ralph Nader, which speak in the name of consumers on behalf of special interests. Consumers whose interests happen to differ from those of the "dominant" consumer lobby of the moment will not only be left unrepresented by the CPA but will also have to overcome the handicap of having their tax dollars used to support the opposing position. I am quite sure that if this bill becomes law these consumers will feel that it is they, and not the producers of consumer goods, who are being regulated.

Third. Finally, I believe that the creation of a Consumer Protection Agency which is empowered to intervene at whim in court and administrative proceedings will create a chaotic situation which will hamper, rather than promote, the administration of justice. The ability of the CPA to hold up final determination of an issue will serve to enhance the power of the consumer lobby at the expense of denying justice to the parties involved, and to the public as well; for the public, we should remember, has an interest in the speedy resolution of legal and administrative disputes.

An additional concern with this bill has been that there will be no effective means of overseeing the activities of the monster we are creating. It was therefore extremely comforting to learn that my colleague Mr. FUQUA has appointed himself "an unofficial oversight committee of one to keep a close watch on this new agency." I should like to take this opportunity to offer whatever assistance and moral support I can contribute to this "committee's" efforts, for if this agency lives up to the expectations of those of us who oppose it today, Mr. FUQUA, and the American consumer, will need all the help they can get.

The CHAIRMAN. If there are no further amendments, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BOLAND, 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. 13163) to establish a Consumer Protection Agency in order to secure within the Federal Government effective protection and representation of the interests of consumers, and for other purposes, pursuant to House Resolution 1025, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

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

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

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

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

MOTION TO RECOMMIT OFFERED BY MR. BUCHANAN

Mr. BUCHANAN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. BUCHANAN. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. BUCHANAN moves to recommit the bill H.R. 13163, to the Committee on Government Operations.

Mr. BUCHANAN. Mr. Speaker, I move the previous question on the motion to recommit.

The previous question was ordered.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

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

The question was taken.

RECORDED VOTE

Mr. HOLIFIELD. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 293, noes 94, not voting 45, as follows:

[Roll No. 141]

AYES—293

| | | |
|---|---|---|
| Abzug | Brinkley | Culver |
| Adams | Brooks | Daniels, Dominick V. |
| Addabbo | Broomfield | Danielson |
| Alexander | Brotzman | Davis, S.C. |
| Anderson, Calif. | Brown, Calif. | Delaney |
| Anderson, Ill. | Brown, Mich. | Dellenback |
| Andrews, N.C. | Brown, Ohio | Dellums |
| Andrews, N. Dak. | Broyhill, N.C. | Denholm |
| Annunzio | Broyhill, Va. | Dent |
| Arends | Burke, Calif. | Derwinski |
| Ashley | Burke, Fla. | Diggs |
| Aspin | Burke, Mass. | Dingell |
| Badillo | Burlison, Mo. | Donohue |
| Bafalis | Burton | Downing |
| Barrett | Carney, Ohio | Drinan |
| Bell | Chamberlain | Dulski |
| Bennett | Chisholm | du Pont |
| Bergland | Clark | Eckhardt |
| Biaggi | Clausen, Don H. | Edwards, Calif. |
| Biester | Clay | Eilberg |
| Bingham | Cleveland | Erlenborn |
| Blatnik | Cohen | Esch |
| Boggs | Collier | Evans, Colo. |
| Boland | Collins, Ill. | Evins, Tenn. |
| Bolling | Conte | Fascell |
| Brademas | Corman | Findley |
| Brasco | Cotter | Fish |
| Breckinridge | Coughlin | Flood |
| | Cronin | Flowers |

| | | |
|---|---|---|
| Foley | McClory | Rosenthal |
| Ford | McCloskey | Rostenkowski |
| Fountain | McCormack | Roush |
| Fraser | McDade | Roy |
| Frelinghuysen | McFall | Roybal |
| Frey | McKay | Ruppe |
| Fulton | McKinney | Ryan |
| Fuqua | McSpadden | St Germain |
| Gaydos | Macdonald | Sarasin |
| Giaimo | Madden | Sarbanes |
| Gibbons | Madigan | Schroeder |
| Gilman | Mallary | Seiberling |
| Ginn | Maraziti | Shipley |
| Gonzalez | Mathias, Calif. | Shoup |
| Grasso | Matsunaga | Sisk |
| Gray | Mazzoli | Skubitz |
| Green, Oreg. | Meeds | Slack |
| Green, Pa. | Melcher | Smith, Iowa |
| Griffiths | Metcalfe | Snyder |
| Grover | Mezvinsky | Staggers |
| Gude | Mills | Stanton, |
| Gunter | Minish | J. William |
| Guyer | Mink | Stanton, |
| Hamilton | Mitchell, Md. | James V. |
| Hanley | Mitchell, N.Y. | Steed |
| Hanna | Mizell | Steele |
| Hanrahan | Moakley | Steelman |
| Hansen, Idaho | Mollohan | Steiger, Wis. |
| Hansen, Wash. | Morgan | Stokes |
| Harrington | Moss | Stratton |
| Harsha | Murphy, Ill. | Stubblefield |
| Hastings | Murphy, N.Y. | Stuckey |
| Hawkins | Murtha | Studds |
| Hays | Myers | Sullivan |
| Hechler, W. Va. | Natcher | Symington |
| Heinz | Nedzi | Talcott |
| Helstoski | Nix | Taylor, N.C. |
| Hicks | Obey | Thompson, N.J. |
| Hillis | O'Brien | Thomson, Wis. |
| Hinshaw | O'Hara | Thone |
| Hogan | Owens | Thornton |
| Holifield | Parris | Tiernan |
| Holtzman | Patman | Udall |
| Horton | Patten | Ullman |
| Howard | Pepper | Van Deerlin |
| Hungate | Perkins | Vander Veen |
| Hunt | Pettis | Vanik |
| Ichord | Peyser | Veysey |
| Jarman | Pike | Vigorito |
| Johnson, Calif. | Podell | Waldie |
| Johnson, Colo. | Preyer | Walsh |
| Johnson, Pa. | Price, Ill. | Wampler |
| Jones, Ala. | Pritchard | Whalen |
| Jones, Tenn. | Quie | Whitehurst |
| Jordan | Railsback | Widnall |
| Karth | Randall | Wilson, Bob |
| Kastenmeier | Rangel | Wilson, |
| King | Regula | Charles, Tex. |
| Koch | Reuss | Winn |
| Kuykendall | Rhodes | Wolff |
| Kyros | Riegle | Wright |
| Lagomarsino | Rinaldo | Wydler |
| Latta | Robison, N.Y. | Wyman |
| Leggett | Rodino | Yates |
| Lehman | Roe | Yatron |
| Lent | Rogers | Young, Alaska |
| Litton | Roncalio, Wyo. | Young, Ga. |
| Long, La. | Roncallo, N.Y. | Young, Ill. |
| Long, Md. | Rooney, Pa. | Young, Tex. |
| Luken | Rose | Zablocki |

NOES—94

| | | |
|---|---|---|
| Abdnor | Froehlich | Passman |
| Archer | Goldwater | Price, Tex. |
| Armstrong | Goodling | Quillen |
| Ashbrook | Gross | Rarick |
| Baker | Gubser | Roberts |
| Bauman | Haley | Robinson, Va. |
| Beard | Hammer- | Rousselot |
| Bowen | schmidt | Ruth |
| Bray | Henderson | Satterfield |
| Breaux | Holt | Scherle |
| Buchanan | Hosmer | Schneebeli |
| Burgener | Hudnut | Sebelius |
| Burleson, Tex. | Hutchinson | Shuster |
| Byron | Jones, N.C. | Smith, N.Y. |
| Carter | Kemp | Spence |
| Casey, Tex. | Ketchum | Steiger, Ariz. |
| Chappell | Landgrebe | Symms |
| Clancy | Landrum | Taylor, Mo. |
| Clawson, Del | Lott | Teague |
| Cochran | McCollister | Towell, Nev. |
| Collins, Tex. | McEwen | Treen |
| Conable | Mahon | Vander Jagt |
| Daniel, Dan | Mann | Waggonner |
| Daniel, Robert | Martin, Nebr. | White |
| W., Jr. | Martin, N.C. | Whitten |
| Davis, Ga. | Mathis, Ga. | Wiggins |
| de la Garza | Mayne | Wyatt |
| Dennis | Milford | Wylie |
| Duncan | Miller | Young, Fla. |
| Edwards, Ala. | Montgomery | Young, S.C. |
| Eshleman | Moorhead, | Zion |
| Fisher | Calif. | |
| Flynt | Nichols | |

NOT VOTING—45

| | | |
|---|---|---|
| Bevill | Hébert | Rees |
| Blackburn | Heckler, Mass. | Reid |
| Butler | Huber | Rooney, N.Y. |
| Camp | Jones, Okla. | Runnels |
| Carey, N.Y. | Kazen | Sandman |
| Cederberg | Kluczynski | Shriver |
| Conlan | Lujan | Sikes |
| Conyers | Michel | Stark |
| Crane | Minshall, Ohio | Stephens |
| Davis, Wis. | Moorhead, Pa. | Ware |
| Devine | Mosher | Williams |
| Dickinson | Nelsen | Wilson, |
| Dorn | O'Neill | Charles H., |
| Forsythe | Pickle | Calif. |
| Frenzel | Poage | Zwach |
| Gettys | Powell, Ohio | |

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Hébert for, with Mr. Sikes against.

Until further notice:

Mr. O'Neill with Mr. Crane.
Mr. Rooney of New York with Mr. Camp.
Mr. Rees with Mr. Blackburn.
Mr. Carey of New York with Mr. Devine.
Mr. Charles H. Wilson of California with Mrs. Heckler of Massachusetts.
Mr. Reid with Mr. Cederberg.
Mr. Bevill with Mr. Butler.
Mr. Pickle with Mr. Davis of Wisconsin.
Mr. Conyers with Mr. Kluczynski.
Mr. Stark with Mr. Frenzel.
Mr. Moorhead of Pennsylvania with Mr. Conlan.
Mr. Runnels with Mr. Dickinson.
Mr. Stephens with Mr. Huber.
Mr. Gettys with Mr. Lujan.
Mr. Dorn with Mr. Williams.
Mr. Jones of Oklahoma with Mr. Nelsen.
Mr. Forsythe with Mr. Powell of Ohio.
Mr. Mosher with Mr. Shriver.
Mr. Michel with Mr. Ware.
Mr. Sandman with Mr. Zwach.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. HOLIFIELD. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and include extraneous material on the bill (H.R. 13163) just passed.

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

There was no objection.

## INTRODUCTION OF BILL TO ESTABLISH A JOINT COMMITTEE ON ENERGY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Idaho (Mr. HANSEN) is recognized for 5 minutes.

Mr. HANSEN of Idaho. Mr. Speaker, I am introducing, today, H.R. 13936, a bill to establish a Joint Committe on Energy. The new joint committee would supplant the Joint Committee on Atomic Energy, and the present statutory concept of unified thorough Committee oversight of the development of atomic energy would be expanded to include equivalent centralized consideration of research and development programs involving all energy sources and related utilization technologies.

As I explained on the floor of the House several days ago in an expression of opinion respecting the dimensions of our energy problem, I believe that before this decade has passed the posture of our energy deployment capabilities will conspicuously emerge as the number one consideration—outstripping all political, economic, and environmental factors and issues.

Recent trends indicate to me that if we do not act now to confront the long-range implications of our energy requirements as forthrightly and effectively as possible, we could experience an energy deficiency of as much as 30 percent by the mid 1930's, degenerating to an outright catastrophe by the end of this century. This dismal scenario, which amounts to National suicide, would represent an abject failure by our democratic institutions to function in a responsive manner.

I am concerned because it could happen, but enthusiastic over the prospect of organizing and instituting a comprehensive national R. & D. effort that would make such dismal eventuality improbable. But in order to avoid serious energy gaps by the mid-1980's, we must get started now.

There are two major parts to the comprehensive national energy R. & D. effort that must be organized and initiated without delay. One part is on the way. On December 19, last year, we, in the House—I am proud to say—passed a bill which, when enacted into law, will constitute an excellent framework for the formulation and execution of a fully coordinated, thorough national R. & D. program in energy fields. I refer to the ERDA bill (the Energy Reorganization Act of 1973) which would establish an independent Energy Research and Development Administration (ERDA) to exercise central responsibility for policy planning, management and conduct of R. & D. programs and projects involving all promising energy sources and utilization technologies.

ERDA would be comprised of the Atomic Energy Commission's operational and developmental expertise and facilities, the talents of the Office of Coal Research, personnel and resources of the Bureau of Mines' "energy centers" and synthane plant, and additional wherewithal transferred from other Federal agencies. By such efficient realinement and consolidation of key components of our national strength in energy R. & D., the new executive agency will quickly be prepared to deal comprehensively with all energy R. & D.—fossil fuel forms, nuclear programs, solar energy, geothermal processes, advanced conservation techniques, and other promising areas.

The Government Operations Committee in the Senate has recently completed its final round of hearings on a similar ERDA measure, and I believe the Senate will soon have the opportunity to approve an ERDA bill. ERDA has the administration's strong support, and I have every reason to be confident that the President will be pleased to sign it into law.

The other major part of the national R. & D. effort must be organized and

instituted without delay would be accomplished by the bill I am introducing today.

The high degree of success of our atomic energy program has been attributable, to a great extent, to the unique congressional committee which was created in 1946 as part of the landmark Atomic Energy Act of 1946, and which has functioned continuously to this day in a manner according with the highest standards of devotion to duty and excellence that either House can set for itself. I am privileged to be a member of that committee—the Joint Committee on Atomic Energy—and my judgment respecting the membership and staff is based on long hours of study, special education, and homework on my parties well as my direct participation in the performance of the joint committee's duties for over 3 years. No potentially developable source of energy has had the careful, intensive, thorough scrutiny of the Congress that has continuously been applied to the development of atomic energy. This imbalance must now be adjusted—not to diminish the nature or extent of the congressional oversight mechanism in regard to nuclear programs, but rather to extend to the whole spectrum of potential sources of clean energy and new utilization technologies an equivalent system for complete, coordinated congressional understanding and consideration.

My bill would replace the 18-member Joint Committee on Atomic Energy with a new Joint Committee on Energy composed of 28 members, 14 from each House. The jurisdiction of the joint committee would be enlarged to encompass all energy R. & D. within the purview of our overall national energy R. & D. program. The jurisdiction would essentially parallel ERDA's scope of responsibilities, including the concept of completely separating AEC's licensing and regulatory functions from the Commission's developmental and operational activities.

In line with this concept, the Joint Committee on Energy would not have oversight responsibility in regard to nuclear licensing and related regulatory functions, except to the extent that such functions involve security or R. & D. implications. These nuclear licensing functions would be subject to normally applicable committee jurisdictions—in other words, the Interstate and Foreign Commerce Committee in the House or, under the proposed House resolution measure to restructure the committees, the Energy and Environment Committee.

Mr. Speaker, with ERDA installed in the executive branch and the Joint Committee on Energy in the Congress we will have formed the two pillars of our collective will and strength that will be necessary to support and bring to fruition our great national quest for self-sufficiency in clean energy sources. We cannot afford to do less. We cannot afford to procrastinate. These steps must be promptly and forthrightly taken.

I include as part of my remarks the text of H.R. 13936.

H.R. 13936

A bill to amend the Atomic Energy Act of 1954, as amended, in order to establish a Joint Committee on Energy

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Atomic Energy Act of 1954, as amended, is amended—

(1) by striking out "Atomic" in subsection 11o.;

(2) by striking out "ATOMIC" in the chapter heading of Chapter 17;

(3) by striking out section 201 and inserting in lieu thereof the following:

"SEC. 201. MEMBERSHIP.—There is hereby established a Joint Committee on Energy to be composed of fourteen Members of the Senate to be appointed by the President of the Senate, and fourteen Members of the House of Representatives to be appointed by the Speaker of the House of Representatives. In each instance not more than eight Members shall be Members of the same political party,"; and

(4) by striking out section 202 and inserting in lieu thereof the following:

"SEC. 202. AUTHORITY AND DUTY.—The Joint Committee shall make continuing studies of the activities of the Atomic Energy Commission, and of problems relating to the development, use, and control of atomic energy, excluding all aspects of the licensing and related regulatory activities of the Atomic Energy Commission other than those involving the common defense and security or research and development. The Joint Committee shall also make continuing studies of problems relating to research and development of other energy sources and energy utilization technologies, including aspects pertaining to production, transmission, storage, and conservation, and to the activities and responsibilities of Government agencies relative thereto. The Commission shall keep the Joint Committee fully and currently informed with respect to all of the Commission's activities and matters, other than the excuded licensing and related regulatory aspects referred to above. The Department of Defense and any other Government agency shall keep the Joint Committee fully and currently informed with respect to all activities of and matters within such agency relating to the development, utilization, or application of atomic energy, or to research and development of other energy sources and utilization technologies. Any Government agency shall furnish any information requested by the Joint Committee with respect to the activities or responsibilities of that agency in the field of atomic energy or in research and development pertaining to other energy sources and utilization technologies. All bills, resolutions, and other matters in the Senate or in the House of Representatives relating primarily to research and development of energy sources and utilization techniques, or to the development, use, or control of atomic energy other than the expected licensing and related regulatory aspects referred to above, shall be referred to the Joint Committee. The Members of the Joint Committee who are Members of the Senate shall from time to time report to the Senate, and the Members of the Joint Committee who are Members of the House of Representatives shall from time to time report to the House, by bill or otherwise, their recommendations with respect to matters within the jurisdiction of their respective Houses which are referred to the Joint Committee or otherwise within the jurisdiction of the Joint Committee."

SEC. 2. The International Atomic Energy Agency Participation Act of 1957 (Public Law 85–155), as amended, and all other statutes in which the term "Joint Committee on Atomic Energy" appears are amended by striking out "Atomic" in said term.

## SOCIAL SECURITY AND TAX ADJUSTMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 10 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, today, I have introduced three bills which I believe will correct certain inequities in the existing application of the Internal Revenue Code. While these bills were brought to my attention by residents of Illinois, their reach would extend far beyond the borders of my own State.

The first bill would amend title 218 of the Social Security Act to provide that a policeman or a fireman who has social security coverage pursuant to a State agreement as an individual employee and not as a member of a State or local retirement system may elect to terminate such coverage if he subsequently was required to become a member of such a local retirement system. The reason for this legislation is quite simple. The social security system has traditionally exempted employees of governmental units that were covered by an adequate alternative plan sponsored by that unit. Unfortunately, if an employee is under social security and the unit later requires that he make contributions into a newly established pension plan of the municipality, he cannot stop paying into social security. The effect of this is many growing suburban areas and small towns that have recently established municipal pension plans is that employees are forced to pay into both social security and the new plan. As a result, their net salaries in these communities are lower for the same job than in an adjoining community which had a preexisting pension plan and was thus not under social security. I think that this legislation will help eliminate this inequity which has made social security a factor to be overcome in some community's efforts to recruit top personnel.

My second bill would eliminate another duplication in the social security system.

It is designed to prevent discriminatory collection of social security and unemployment taxes with respect to an employee who, during the year, works for more than one employer. Under the bill two or more employers of the same employee, upon notice to the Internal Revenue Service, would be able to enter into an agreement whereby such employers would pay the social security and unemployment tax attributable only to that part of the employee's compensation which does not exceed the respective wage base to which such taxes apply. If neither employer pays compensation equal to the respective wage base, one employer would pay tax on his compensation to the employee and the remaining employers would pay the tax on that

part of wages in excess of such compensation up to the respective wage base.

Regardless of the amount of compensation paid by each employer, the aggregate tax may be shared by the employers on whatever basis they agree.

For example, social security and unemployment taxes are imposed on wages paid to an employee with a limit on the amount subject to tax. Presently, the limitation is $13,200 for social security and $4,200 for unemployment. In some instances, an employee of related corporations may perform services of potential benefit to one or more of these corporations during the same year. In many cases, he has been treated by the Internal Revenue Service as a separate employee of each of the corporations for which he performs services, and the wages he receives are attributed to each of these corporations. As a result, the $13,200 or $4,200 limitation on wages is applied to the compensation attributed to each company separately rather than to the total compensation received by the employee. Consequently, the payroll taxes collected with respect to the employment may be, and very often are, based on compensation considerably in excess of the statutory limit. While the employee may obtain a refund of any excess social security tax paid, the employers may not. This bill prevents that hardship from occurring.

Precedent for this proposed technique for alleviating discriminatory double taxation of employers of the same employee is found in the case of railroad retirement taxes. This same principle should be adapted to other employment taxes.

My third bill would adjust the investment tax credit on leased urban mass transit properties. Under existing investment tax credit provisions, property owned or used by a governmental unit is not eligible for the 7 percent investment tax credit. This means that the Government as lessor cannot pass the tax credit through to its lessee as is normally permitted a lessor. In enacting this provision, Congress apparently did not contemplate the situation toward which this legislation is directed. Congress was concerned about the circumstances wherein public funds are solely used in making the investment in personal property, and in that case did not wish the lessee of the investing governmental unit to have the credit passed through to it by the lessor.

The situation which has come to my attention involves the investment in mass transportation equipment by the Illinois Central Railroad which, because under the Federal law they could not take ownership of the property involved, were denied the investment tax credit.

The proposed bill would permit the lessor-governmental unit to pass the credit through to its lessee of qualified urban mass transit property. The amount of the credit would be based on the private entity's payment toward the cost of the property during the first 5 years of the lease. The Federal Government's grant is not included in the computation of the investment tax credit available to the lessee.

The investments by the private entities in new commuter car equipment serve the congressional purposes in adopting the Urban Mass Transportation Act of 1964. Such purposes are: First, to assist in the development of improved urban mass transportation facilities, equipment, techniques, and methods; second, to encourage the planning and development of areawide urban mass transportation systems; and, third, to provide assistance to State and local governments in financing such systems, all with the cooperation of public and private mass transit companies. The subject bill would also be consistent with the congressional intent of the tax laws to allow the tax credit to lessees where the investment in qualified property is not made solely by a governmental unit.

The proposed legislation would aid the development of urban mass transit facilities and systems. It would offer a clear incentive to private entities engaged in the public transportation industry which are requested to bear part of the total cost of acquiring commuter equipment when the funds are not available to the local governmental authority. It would lessen the penalty incurred by the private entity in being denied ownership of the equipment and the resulting tax benefits. While Chicago appears in the forefront in illustrating the cooperative effort of public and private interests to resolve the mass transportation problems, other urban areas obviously intend to follow suit and the subject legislation would encourage such joint effort. There is ample reason to believe that Congress should view with favor this type of investment incentive designed to aid in solving a complex nationwide problem.

There is also reason to believe that such recognition would promote the development of such innovative transportation projects as sky buses, monorails, and moving sidewalks. If such incentive were available, common terminals between publicly and privately owned transportation systems could be financed by a combination of public and private moneys to provide improved facilities for the traveling public.

In one instance the Illinois Central Railroad leased commuter cars for a period of 25 years and was required to pay the nonfederal portion of the cost of 130 commuter cars in 1971 and 1972 during construction of the equipment in an amount approximating $13.3 million. The commuter line would have purchased a one-third interest in the commuter cars for $13.3 million but was unable to do so because of the requirements of the Urban Mass Transportation Act of 1964. The cars are, and must be, owned by the mass transit district involved. Had the railroad been permitted to purchase an interest in the equipment, the legislation I now introduce would be unnecessary. The railroad would have been eligibile for the tax credit on its investment and also would have been taking accelerated depreciation on the equipment. The mass transit district involved is a governmental agency without taxing power. In order to secure the one-third local or State share for construction of the equipment, the transit district had to resort to the railroad for assistance. Without the railroad's payment the project would not have proceeded.

What is also unfortunate is that the $13.3 million investment is not permitted to be included in the railroad's rate base for determining its commuter fares and, therefore, the railroad will probably receive no return on this substantial investment. The commuter operations have resulted in a loss over the last few years. The railroad's commuter operations are not expected to permit a reasonable return even on the substantial existing investment in commuter operations wholly apart from the $13.3 million investment.

I cite but one example. In the Chicago area there are other instances of the local portion of the investment in new transportation equipment being paid by the private transportation entities involved. Congress has expressed its concern about the problems in securing an efficient mass transportation system throughout the Nation. Obviously, there will be required cooperation of the governments involved and the private mass transit companies. The legislation I introduce would encourage cooperative efforts of interested parties toward resolving our mass transportation problems.

## JUDICIARY COMMITTEE SHOULD CONSIDER LEGAL SERVICES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GOLDWATER) is recognized for 10 minutes.

Mr. GOLDWATER. Mr. Speaker, in both the House and the Senate, the legal services corporation bills have come out of the committees which deal with antipoverty and social problems. Thus, the House Committee on Education and Labor and the Senate Labor and Public Welfare Committee considered the legislation. At several points during the Senate debate the point was made that the Judiciary Committee should be the one considering the matter, since so much of the bill dealt with matters affecting the judicial process, the legal profession, and law enforcement.

I also am of the persuasion that the Judiciary Committee ought, at least, to have some input into the bill, some chance to influence its drafting, since the legal profession and matters relating to it affect the judicial branch of government first and foremost. I realize that the Judiciary Committee, especially in the House, is exceptionally busy this year, and has been for some time, and that this has been advanced as an argument why that committee should not discuss legal services. I ask, Mr. Speaker, what is the rush? If the Judiciary Committee cannot consider the bill this month, very well, then let us wait a few months until they can consider it. Their suggestions and advice would be invaluable, I am sure. Remember, we are talking about a permanent program, one that may last as long as our lives. In such terms, a few months matter little. Some critics have claimed this bill has the potential for socializing the legal profession in 10 or 15 years—such charges should not

be taken lightly. The Judiciary Committee should be consulted when the stakes are that high.

I have culled a number of articles from the Clearinghouse Review which indicate the nature of cases concerning the judicial process in this country that legal services attorneys have gotten themselves involved in. I commend my colleagues' attention to these articles, which implicitly reveal the political bias of the legal services efforts as well:

PHILADELPHIA BLACKS CHALLENGE PATTERN OF POLICE HARASSMENT AND INTIMIDATION

3415. Alexander v. Rizzo, (E.D. Pa.). Plaintiffs represented by Charles H. Baron, Daniel E. Farmer, Robert B. Nicholas, William M. Eichbaum, John David Stoner, Peter W. Brown, and Harvey N. Schmidt. Community Legal Services, Inc., 313 South Juniper Street, Philadelphia, Pa. 19107. Of counsel, Harold I. Goodman, David Scholl, Bruce Endy, and Barry Permut [Here reported: 3415A Complaint (24 pp.); 3415B Memorandum of Law in Support of Plaintiffs' Motion for Leave to Take Immediate Discovery (4 pp.).]

The complaint alleges that the 600,000 black persons in Philadelphia have been subjected to a regular pattern of police harassment and intimidation in disregard of their fourth amendment rights. Plaintiffs claim that defendants have authorized and encouraged investigations of alleged crime by making wholesale, warrantless, dragnet arrests of persons as to whom there was no probable cause for believing that they had committed any crime. The complaint recites incidents where dragnet operations followed the killing of a police officer, with numerous arrests, re-arrests, and interrogation of blacks. They contend that this conduct deprived plaintiffs of their liberty without due process and the equal protection of the law guaranteed by the fourteenth amendment. They seek injunctive relief against the alleged police conduct.

SUIT SEEKS TO HALT POLICE HARASSMENT IN BUFFALO, N.Y.

3589. Build of Buffalo, Inc. v. Sedita, (D. N.Y.). Plaintiffs represented by Herman Schwartz, Richard Lipsitz, David Gerald Jay, Edward I. Koren, Corwin R. Putrino, 1 Niagara Square, Buffalo, N.Y. 14202. [Here reported: 3589A Complaint (26 pp.).]

Plaintiffs, in this class action, individuals and community organizations, allege police harassment over a period of several years taking the form of individual acts of violence, intimidation, humiliation, unlawful detentions usually not resulting in the filing of any charges, and other acts of police misconduct. Plaintiffs argue that the acts of the police officers and officials involved in this case are illegal, improper and unrelated to any legitimate activity in which the Buffalo Police Department, or its members may properly engage in the course of performing their duties, and that such acts violate plaintiffs' first, fourth, fifth, sixth, eighth, ninth, thirteenth, and fourteenth amendment rights, as well as rights guaranteed under Title 28 U.S.C. § 1343, and Title 32 U.S.C. §§ 1981, 1982, 1983, 1986, 1988, 1989, and 1990. Sought is declaratory and injunctive relief, mandatory damages and the appointment of a special Master as Receiver of the Buffalo Police Department.

ARREST RECORDS OF JUVENILE DEMONSTRATORS ORDERED SEALED AND EXPUNGED

6178. *In re* S.I.A., *formerly In re Doe*, No. Demo (1)–J–71 (D.C. Super. Ct., Fam. Div., Jan. 11, 1973). Respondents represented by Lawrence H. Schwartz, Public Defender Service, 601 Indiana Ave., NW, Washington, D.C. 20001; Stanley Herr and Julian Tepper, NLADA National Law Office, 1601 Connectcut Ave., NW, Washington, D.C. 20009, Alan K. Kaplan, 2121 Virginia Ave., NW, Washington, D.C. 20067, John Rigby, 1229 Nineteenth St., NW, Washington, D.C. 20036; Richard T. Seymour, Washington Research Project, 1823 Jefferson Pl., NW, Washington, D.C. 20036. Amicus curiae, Donald B. King, National Juvenile Law Center, St. Louis University School of Law, 3642 Lindell Blvd., St. Louis, Mo. 63108. [Here reported: 6178B Order to Seal Records (3 pp.). Previously reported: 6178A Amicus Brief (34 pp.), 5 CLEARINGHOUSE REV. 418 (November 1971).]

The court has ordered to be sealed the arrest and related records of 622 juvenile 1971 Mayday demonstrators, who were arrested but against whom charges were not pressed. The court further ordered that thereafter the "child himself and all persons, institutions or agencies having notice of this order, although not named in this order, must reply with respect to any inquiry about the child that no record exists wtih respect to such child, and the child himself may reply with respect to such inquiry that no record exists concerning him."

The sealing order covers all records generated by the arrests including all case and social records, and all law enforcement recods and files of the children. It requires the police department, social services division, court clerk and any other person or agency with knowledge of the order to seal or otherwise expunge all records in their possession concerning the child and to furnish a certificate of compliance to the court. Disclosure, receipt or use of information concerning the child in violation of this order is punishable by fine or imprisonment.

CRY OF BLACK YOUTHS: HARASSMENT AND FALSE PROSECUTION

4450. C.O.B.Y., Inc. v. Grady (S.D. Fla., file 1970). Plaintiffs represented by James Keenan, 113 E. Parish St., Durham, N.C.; Stephen K. Johnson, Benjamin R. Patterson, 132 S.W. Avenue B, Belle Glade, Fla. 33430, (305) 996–5266. [Here reported: 4450A Complaint (13 pp.); 4450B Amended Complaint (5 pp.); 4450C Plaintiffs Memo of Law (29 pp.).].

When C.O.B.Y., a black community action group, was formed, plaintiffs solicited donations. Defendants, mayor, city manager, police chief, etc.—are now charging them with extortion. Plaintiffs argue that this bad faith prosecution has a "chilling affect" on their first amendment rights as interpreted in *Dombroski v. Pfister*, 380 U.S. 479 (1965). Hence, they contend it ought to be federally enjoined. Plaintiffs further argue that the extortion statute is overbroad, vague, and infringes on their right to free speech and should therefore be declared unconstitutional on its face. Plaintiffs, citing a long list of unprovoked police attacks in recent months, additionally seek to enjoin the harassment of Belle Glade's black citizenry.

CHALLENGE POLICE ACTION IN 1969 BERKELEY DEMONSTRATIONS

2442. Kessel v. Madigan, No. 51868 (D. Cal. May, 1969). Plaintiffs represented by Peter Haberfeld, Alan S. Koenig, Carol Ruth Silver, Don P. Kates, Jr., Laurence Duga, Doron Weinberg and Thomas Frank, Berkeley Neighborhood Legal Services, 2229 Fourth Street, Berkeley, Calif. [Here reported: 2442C Plaintiffs' Memorandum (17 pp.); 2442D Answer and Counterclaim (19 pp.); 2442G Plaintiffs' Answer to Counterclaim (3 pp.). Previously reported: 2442A Complaint (25 pp.); 2442B Supplemental Memorandum (7 pp.), 3 Clearinghouse Rev. 146 (Oct. 1969).]

In a class action suit growing out of police conduct during 1969 Berkeley, California demonstrations, plaintiffs sought preliminary injunctive relief against defendants from engaging in alleged unlawful police action. Plaintiffs alleged violations of the first, fourth, eighth, and fourteenth amendments, and 42 U.S.C. §§ 1983–88.

In reply to defendants' motion to dismiss, plaintiffs argue that their case is not mooted by the possibility that defendants may refrain from repeating their unlawful conduct in the future, or because of changed circumstances which presently prevent defendants from engaging in such conduct, since the previous unlawful conduct has the present and continuing effect of deterring plaintiffs from engaging in constitutionally protected activities. Further, plaintiffs contend that they have presented a claim upon which relief can be granted under the Civil Rights Acts. Defendant answered that a September 19, 1969, order dismissing the complaint on the merits is *res judicata;* that suits for damages provide an adequate remedy at law precluding equitable relief sought; and that all incidents alleged, if they did occur, occurred during a "period of the existence of a state of extreme emergency" in Berkeley, and were justified by "the existence of probable cause for arrest, reasonable misunderstanding of law or fact, or the duty of central riots and unlawful demonstrations."

Plaintiffs answered defendants' counterclaim for declaratory and injunctive relief arguing that the counterclaim does not invoke the court's jurisdiction, fails to join indispensable parties, fails to present a case or controversy and does not state a claim upon which relief can be granted.

ADULT ATTEMPTS TO EXPUNGE JUVENILE ARREST RECORD OF SPECIFIC CHARGES

4437. Dugan v. Camden Police Department, L 3 5503–68 PW and A–1560 (N.J. Super. Ct., App. Div., filed Aug. 3, 1970). Plaintiffs represented by David H. Duggan, III, Camden Regional Legal Services Inc., 647 Viola St., Camden, N.J. 08104. (609) 966–1132. On the brief: Leonard H. Wallach, Allen S. Zeller, Michele Bates. Of counsel, Leonard H. Wallach, Law Student Clinic, Rutger Law School Bldg., Point and Pearl Sts., Camden, N.J. 08102, (609) 964–2012. [Here reported: 4437A Complaint (3 pp.); 4437B Answer (1 p.); 4437C Pre-Trial Brief (10 pp.); 4437D Super. Ct. Judgment (2 pp.); 4437E Brief of Plaintiff-Appellant (18 pp.).]

Plaintiff brings an action to have his arrest record expunged and to supplement it with a past finding of juvenile delinquency. Dugan's police records reflect that when he was seventeen he was arrested and charged with indecent assault on a minor, later amended to disorderly conduct.

While the trial court recognized that it was the public policy to protect juveniles against the stigma attached to a criminal offense committed while a juvenile, that a juvenile court could not adjudicate a specific charge, and even after stating "I am going to grant you the relief you are after," all the court would do was supplement the record with the finding of juvenile delinquency, not expunge the arrest charges.

On appeal Dugan argues that both legislative policy and a state supreme court decision prohibit the indiscriminate and uncontrolled disclosure of juvenile indiscretions, and therefore, his record must reflect only a finding of delinquency, not the specific offense charged. He argues that since his police record violates state law, he is thereby deprived of his equal protection rights. Finally plaintiff argues that since the trial court scheduled the case for trial prior to his motion for summary judgment return date, he was deprived of its procedural value in violation of equal protection of the law.

POLICE HARASSMENT OF YIPPIES CHALLENGED AS IMPROPER POLICE ACTIVITY

2863. Manis v. Donovan, (N.D.N.Y., filed Jan. 1970). Plaintiff represented by Onondaga Neighborhood Legal Services, Inc., 227 Gifford Street; Syracuse, N.Y. 13202. [Here reported: 2863A Complaint (5 pp.).]

Plaintiff maintains a class action consisting of all residents of Onondaga County who

evidence through long hair, unconventional dress and flower-decorated cars, an unorthodox hippie appearance. Defendants are members of the New York State Police. Plaintiff asserts that the defendants have subjected and are subjecting plaintiff and members of his class to a pattern of conduct consisting of harassment, intimidation, and humiliation solely on account of their appearance and exercise of an unpopular life style. He alleges that a defendant police officer stopped plaintiff, who was driving his auto, and verbally harassed plaintiff and searched his auto without a warrant. Plaintiff claims that he was deprived of his right to freedom from illegal search as secured by the Fourth and Fourteenth Amendments and 42 U.S.C. § 1983. He asserts that although defendants have knowledge of the systematic pattern of harassment and intimidation inflicted upon members of plaintiff's class, defendants have refused to take any disciplinary action. The complaint alleges that the acts of harassment have no justification and are unrelated to proper police activity. Plaintiff claims that he has suffered mental anguish and public humiliation, and demands damages and injunctive relief enjoining defendants from such a pattern of harassment and illegal searches.

SEEK TO ENJOIN CITY COUNCIL PAYING FOR LEGAL DEFENSE OF POLICE INDICTED BY FEDERAL GRAND JURY

5608. Cruz v. Los Angeles City Council (Cal. Super. Ct., Los Angeles County, March 24, 1971). Plantiffs represented by Errol J. Gordon, Stanley P. Berg, 1006 E. Pacific Coast Highway, Long Beach, Cal. 90806, (213) 591-8771; Kenyon F. Dobberteen, Toby Rothschild, Los Angeles Neighborhood Legal Services of East Los Angeles, 5228 Whittier Blvd., Los Angeles, Cal. 90022, (213) 266–6550; Mason, Breyer, Bryant, Dikles and Randolph, Los Angeles Neighborhood Legal Services of Watts, 10925 S. Central Ave., Los Angeles, Cal. 90002, (213) 564–6971; Carl E. Jones, 1140 Crenshow Blvd., Los Angeles, Cal. 90008, (213) 931–1423; Anthony Castanares, 639 S. Spring St., Los Angeles, Cal. 90014, (213) 627–8822. [Here reported: 5608A Petition for Writ of Mandate (9 pp.); 5608B Points and Authorities (22 pp.).]

Plaintiffs, minority citizens and taxpayers of Los Angeles, seek a writ of mandate and injunctive relief to prevent the Los Angeles City Council from providing funds for the legal defense of three city policemen indicted by a federal grand jury. The policemen were indicted under 18 U.S.C. § 242 for violation of Mexican-American citizens' civil rights during a shooting incident. Subsequently the Los Angeles City Council held a hearing on the matter and voted to provide funds for the legal defense of the indicted policemen finding specifically that they acted in good faith within the scope of their employment and in the public's interest as statutorily required before funds can be made available.

Plaintiffs contend that the City Council's decision was an abuse of its discretion because it was based on incompetent evidence which violated due process gurantees. Plaintiffs also argue that the Council's actions violate the supremacy clause asserting that individual's civil rights as protected by federal statutes supersede any interest the city might have in providing legal funds pursuant to a state statute. Standing is based on plaintiffs' status as taxpayers and as members of the class protected by the civil rights statute under which the policemen were indicted. Plaintiffs regard a writ of mandate as a proper remedy since the Council acted as an adjudicatory administrative body by holding a fact finding hearing. Further, plaintiffs' requested injuction is intended to restrain the alleged illegal disbursement of municipal funds.

CHALLENGE REPEATED ARRESTS OF HIPPY MINORS

4529. Youth Coalition for Self-Deefnse v. Berkeley Police Department, Civ. No. C–701682LHB (N.D. Cal. August 7, 1970). Plaintiffs represented by B. E. Bergensen, III, Barbara Rhine, Youth Law Center, 795 Turk St., San Francisco, Cal. 94102, (415) 474–5865; Stephen M. Bingham, Carol Ruth Silver, Alan S. Koenig, Berkeley Neighborhood Legal Services, 2229 Fouth St., Berkeley, Cal.; Joseph C. Rhine, 2424 Pine St., San Francisco. Of counsel, Susanne Martinez, Thomas McPherson, Jeffery Stearnes, 795 Turk St., San Francisco, Cal. [Here reported: 4529C Reply Brief (23 pp.). Previously reported: 4529A Complaint (20 pp.); 4529B Memorandum of Points and Authorities (43 pp.), 4 Clearinghouse Rev. 384 (December 1970).]

Plaintiff, a coalition of community organization, filed a class action alleging that the Berkeley Police Department engaged in a deliberate policy of indiscriminately arresting minors of hip appearance, purportedly under the authority of California Law providing for the apprehension of minors who are absent from their homes without parental consent, or who are not subject to adequate parental or adult supervision. The police allegedly had not attempted to restrict their arrests to minors who are ill or under the influence of drugs or alcohol, or who are suspected of committing a crime. Plaintiff contends that this policy violates the privileges and immunities and commerce clauses and the first, fourth, sixth, eighth, ninth and fourteenth amendments of the Constitution.

In its reply brief, plaintiff stressed that the state law fails to meet the constitutional requirement that statutes infringing on freedom of association must be narrowly drawn to define and punish specific conduct as constituting a clear and present danger to a substantial interest of the state, and that the police's "dragnet" approach to implementing the law ignores the fourth amendment's protection against arrest without reasonable cause. Moreover, plaintiff asserts that "(t)he harmful and chilling effect of First Amendment rights by the Berkeley Police Department is manifest, and unless enjoined, will go far towards the creation of a police state." Plaintiff seeks a declaratory judgment, an injunction against further administration of a policy of indiscriminate arrests, and deletion of arrest records already compiled.

DISMISSAL OF DISORDERLY CONDUCT CHARGE FOR CALLING POLICEMAN A "PIG"

7140. Kansas City v. Wilcott, No. 0471 (Mo. Cir. Ct., Dec. 11, 1971). Defendant represented by James A. Kushner, Legal Aid and Defender Society of Greater Kansas City, Inc. 2920 E. 31st St., Kansas City, Mo. 64128, (816) 861 9388. [Here reported: 7140A Partial Transcript on Proceedings (7 pp.); 7140B Suggestions in Support of Defendant's Motion to Quash the Information and Dismiss the Action (13 pp.); 7140C Defendant's Request for Findings of Fact and Declaration of Law (2 pp.); 7140D Suggestion in Opposition to Motion to Quash and Dismiss (5 pp.); 7140E Reply Suggestions in Support of Defendant's Motion to Quash the Information and Dismiss the Action (4 pp.).]

The court held that calling a police officer a "pig" is constitutionally protected speech. Although the court recognized that the word is offensive and insulting, it was uttered without the necessary intent to provoke a breach of the peace. The judge accordingly sustained the motion to quash and dismiss the action.

Defense counsel argued that Section 26.10 of the Kansas City Code was vague in violation of due process. The ordinance does not state the kind of conduct nor the necessary facts that constitute an intent to provoke a breach of the peace. It also fails to inform the defendant of the nature and the cause of the accusation in violation of the sixth amendment. Its vagueness allows for the selective and discriminatory enforcement by the prosecution.

The mere utterance of the word "pig" in the presence of a police officer rendered the defendant liable for disorderly conduct under the ordinance. Such restriction of speech is not justified by the clear and present danger test. Thus, the ordinance abridged the defendant's first amendment guarantee to freedom of speech.

AMICUS BRIEF SUPPORTS EXPUNGEMENT OF JUVENILE ARREST RECORDS ARISING FROM "MAY DAY" ARRESTS

6178. *In re* Doe (D.C. Super. Ct., Juvenile Branch, 1971). Amicus curiae, Donald B. King, National Juvenile Law Center, St. Louis University School of Law, 3642 Lindell Blvd., St. Louis, Mo. 63108, (314) 533–8868. [Here reported: 6178A Amicus Curiae Brief (34 pp.).]

This case concerns the expungement of juvenile arrest and court records. The case arose out of the May Day demonstrations in Washington, D.C., where the police procedures resulted in the mass arrest of many juveniles whose cases eventually came under the jurisdiction of the juvenile court. Although charges have been dismissed or apparently will be dismissed against the class of individuals represented by petitioners, their police records remain and, in some instances, have been released to the police departments in their home towns.

Petitioners have filed this action to expunge these records. Their arguments include the following: maintenance of the arrest records seriously impairs substantial juvenile rights, no public interest is served by keeping the records, the unique circumstances surrounding the arrests dictates expungement, due process is violated because there has either been no petition filed or no adjudication hearing held. maintenance of the records serves as an indirect restraint on the exercise of constitutional rights, and the juvenile court philosophy supports expungement. It is important to note that the amicus brief contains a fairly detailed bibliography of materials relevant to the question of expungement of juvenile records.

## QUESTIONS ABOUT GREECE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. FRELINGHUYSEN) is recognized for 10 minutes.

Mr. FRELINGHUYSEN. Mr. Speaker, early last February, I spent a day and a night in Athens, en route to the Middle East, South Asia, and Vietnam. In the brief time at my disposal, I met with the Greek Prime Minister and their foreign minister, both of whom received me with the utmost courtesy. I conferred also with Ambassador Tasca and members of his staff, and met informally with a group of distinguished exparliamentarians.

My overall impression of the current Greek political scene, on the basis of this limited exposure, is one of uneasiness, mixed with foreboding. The mood of confidence which was evident at the time of my previous visit, in the fall of 1971, has changed to one of uncertainty and drift. Exactly where the Government of Greece is drifting is not clear—in fact, just who

actually controls that government is difficult to discern.

I make these observations reluctantly, Mr. Speaker, and with some misgivings. Certainly I have no desire to promote unconstructive congressional reactions, which would serve only to exacerbate an already sensitive and complex United States-Greek relationship. As Members will recall, I have consistently opposed a course of confrontation with the military leadership of Greece by congressional fiat. I have argued against the imposition of rigid limitations on the President's ability to deal with this problem on a discretionary basis, as I have felt such restrictions were not helpful in bringing about the internal changes which we seek, but which we cannot impose. It has seemed to me wiser to maintain our contacts with those in power, rather than arbitrarily to negate whatever influence we may still have with the Government of Greece.

What is clear to me, after my most recent discussions with Greek and American officials, is that at the present time there is no movement—or even a pretense of movement—toward elections, nor even toward a more diversified political representation within the government structure.

Some promises were made just after the November coup, but there is now no such talk. Although there were indications that Prime Minister Papadopoulos was making a serious effort to broaden his political base before his overthrow last fall, this is now a subject of purely academic interest. For the moment at least, there appears to be little ambiguity about the present government's position on this important issue.

Other ambiguities, however, remain. An attempt has apparently been made to enhance the government's image by placing reputable civilian officials in key positions, but it is obvious, even to an outsider, that these individuals are charged with implementing rather than formulating official policy. At the same time, I should add, even the government's critics indicated to me that these civilian leaders, unlike some of their predecessors, are untainted by charges of corruption or scandal. This is, however, only one bright spot on an otherwise clouded horizon.

Rumors abound that a power struggle is currently in progress, and that the military is now divided into competing factions, with no one group in a position of dominance. This, in turn, may be contributing to a state of temporary governmental paralysis.

In the meantime, there are indications that the alienation of citizens from their government is spreading, not only among students and intellectuals as in the past, but also among the previously quiescent middle class. Inflation, which had been kept under fair control prior to 1973, is now an additional complication. Gasoline, for instance, sells for $2.50 per gallon, the highest rate in Europe.

There could be real danger, Mr. Speaker, if there should be growing opposition from moderate elements in the Greek political spectrum. Such a development could be given impetus by the recent arrest of the former Center Union political leader, George Mavros. One can only wonder what conceivable purpose that arbitrary, ill-advised action was intended to achieve.

Through the years of the Papadopoulos regime the U.S. Government evolved a policy that protected the mutual security interests of both Greece and the United States, particularly in the context of our NATO relationship. Our policy also has reflected America's fundamental belief that these security interests would best be served over the long-run if Greece would return to a government enjoying broad popular support. Since experience has shown that the evolution of the political situation in any country depends largely on internal developments brought about by its own people, that is probably the best policy for the United States to continue to adhere to.

Recently, Secretary Kissinger, in his confirmation hearings before the Senate, discussed the nature of this country's role in the internal developments in other countries. While not discussing the Greek situation directly, the Secretary did set out the guidelines that underlie our policy. His comments on the issue of human rights are particularly relevant:

> There is no question about where we stand on this issue morally and individually. Nor is there any question about where we stand as a government. We favor the exercise of human freedoms by all countries. The difficulty arises as to what the United States as a government should do in the conduct of our foreign policy, and to what extent we should make specific results dependent on essentially domestic developments in various countries.
>
> "This is a hard question to answer in the abstract. But on the whole, our principle has been that we should focus our first attention on the exercise of the foreign policy of the countries with which we are dealing.

The Secretary went on to comment that this view of the conduct of foreign relations would not preclude us in our individual capacities—obviously enhanced if one happens to hold an official position—from pointing out to foreign leaders the impact of certain developments in their country on their relations with the United States, and on the public conscience in the United States. That, Mr. Speaker, is the pure and simple intent of my remarks today.

## THE FERTILIZER SHORTAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. RAILSBACK) is recognized for 5 minutes.

Mr. RAILSBACK. Mr. Speaker, over the past several weeks, I have heard from and met with many Illinois farmers who are facing very real problems obtaining fertilizer. Small independent suppliers are losing their usual allotments, and many of their customers are then faced with no source of supply at any price. Those who are fortunate enough to obtain supplies are having to pay inflated prices. Many of these customers are small farmers.

On March 21, the Department of Agriculture issued a report on the present supply of fertilizer in relation to current demand. The report shows nitrogen in the tightest supply position. A total of 44 States report a nitrogen shortage; 41 States indicate a phosphate shortage; and 39 States report a potash shortage. Shortages of mixed fertilizer were reported by 42 States.

I am deeply concerned about the shortages indicated in this report, and the consequences for the American farmer, the consumer, and our overall economy

This year, the Department of Agriculture has urged all-out crop production, and the American farmer is eager to comply. The demand for U.S. farm products is at an all-time high, both from domestic and foreign markets.

But the expectation of a greatly increased harvest this year is seriously threatened by the fertilizer shortage. Fertilizer is a basic agricultural input. American agricultural yields are highly dependent upon fertilizer; 96 percent of our planted acreage is fertilized, and added nutrients may account for 30 percent of our annual yield.

Since 1970 domestic consumption of fertilizer has reached 40 millions tons a year. This year, with 20 million additional acres available for cultivation, fertilizer demand has risen 10 to 12 percent.

Approximately 60 American firms operating about 90 plants produce nitrogen fertilizer. They are currently operating at 95 percent of capacity and will produce 5 to 8 percent more fertilizer this year than they did in 1973. The 30 plants which produce phosphate fertilizer are also operating near capacity, although their production will increase only slightly over the 1973 figure.

Unfortunately, this leaves the U.S. fertilizer supply far short of current demand. The Department of Agriculture predicts a 5 percent shortage of nitrogen fertilizer in 1974. The fertilizer industry puts the figure at 15 percent. The industry feels that the Department is presenting too optimistic an estimate, while the Department claims that the industry has over-estimated the farmers' needs and that individual farmers have placed orders in several places, not expecting all of them to be filled.

Regardless of which forecast one accepts, the fact remains that a serious shortage exists, and the American farm harvest will be less because of the shortage. In fact, the grain harvest may be 22.5 million tons less than it would be if fertilizer demands could be met. Should this be the case, predictions that food prices will level off later this year may not materialize. There will be less food than anticipated in the marketplace, and it will eventually cost the consumer more. The Government must take action to minimize the economic impact of the fertilizer shortage on our economy.

The fertilizer shortage is worse than it has to be in certain parts of the country because the distribution system is not functioning efficiently. Shipments are not reaching their final destinations at the crucial time. Farmers must have fertilizer available locally at the right moment to assure high crop yields.

I was encouraged a few weeks ago by Secretary Butz' request that the Interstate Commerce Commission designate 4,000 additional rail cars to transport

fertilizer from Florida to the Midwest. But the response by the ICC was disappointing. The agency allocated only 1,100 rail cars. We just cannot allow transportation bottlenecks to hinder the movement of available fertilizer supplies, reduce our harvest, and cause further increases in food prices.

As a partial, short-term solution to the fertilizer shortage, the industry should be encouraged to buy as much fertilizer as possible on the world market. Some fertilizer is now available from international markets, though at prices substantially higher than U.S. prices. Perhaps to avoid large discrepancies in price between supplies that are imported and those produced by domestic plants, suppliers could blend their foreign and domestic supplies and average their prices.

As a long-range solution, the Government must encourage expansion of the domestic fertilizer industry, especially the production of nitrogen fertilizer. Businessmen will not invest millions of dollars in the construction of new fertilizer until they are assured of a constant, adequate supply of natural gas—the basic ingredient from which nitrogen fertilizer is made. It is clear the Government must rethink its allocation of fuels and its classification of industries that are important to food production.

The fertilizer shortage is a problem we cannot afford to ignore. Unless we take affirmative action quickly, it will have serious consequences on the American economy—not only in 1974, but for years to come.

## VIVE POMPIDOU

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. FINDLEY) is recognized for 10 minutes.

Mr. FINDLEY. Mr. Speaker, the chief of state of America's oldest ally, President Georges Pompidou of France, is dead. President Pompidou was the epitome of the French ideals of liberty, equality, and fraternity, ideals which we have shared since our own Constitution was established almost 200 years ago. All through those years France and the United States have alternated in inspiring and sustaining each other.

Pompidou was the first President of the Republic of France elected by universal suffrage ever to visit the United States and address a joint session of Congress. In February of 1970, U.S. relations with France were somewhat strained as they have been in recent months. Then, as now, there was a basic difference over Middle East policy. But the President of France came to America nevertheless and spoke eloquently of the many common goals and principles which our two countries shared in addition to the occasional differences.

I remember President Pompidou's 1970 visit with special pride because I had encouraged it, and because only a few weeks previous to it I had been in Paris meeting with French officials. Among the men I met was Michel Jobert, the chief of cabinet to Pompidou and now foreign minister. I assured them that the Congress and others in the United States would give their President a warm and respectful reception. Indeed, the Congress of the United States did.

In his address to Congress, President Pompidou cited our two nations' "friendship which reaches both into a distant and a recent past, into the struggles waged together, the invaluable services rendered, whether long ago for your independence or 25 years ago—as no Frenchman has forgotten—for our liberation." He described our countries' friendship as "living and active" because "over and above interests which sometimes are bound to differ, there are common ideals which unite us and command our action." he said:

> Such is first of all, love of liberty, that is, the firm desire to safeguard our own freedom, to maintain it in our institutions, to defend it if necessary against any external threat.

This love of liberty was, of course, the touchstone of our initial relationship with France during our war for independence. It has sustained that relationship from the plains of Saratoga to the beaches of Normandy.

The second great ideal which President Pompidou believed we shared in common was the desire for peace. He told the Congress:

> The Alliance which unites us has no other aim but to defend, were it necessary, our freedom and our independence. It threatens no one; it rejects all spirit of aggression. France, having known war only too well, seeks merely to safeguard her own peace and to facilitate, within her means, the re-establishment or maintenance of this peace throughout the world.

With these great guiding principles, President Pompidou led France on a course which at times differed markedly from our own, but which always preserved the basic friendship and principles which unite us. In truth, it can be said that the Middle East policy which France advanced in 1970 became the Middle East policy to which the United States repaired after the war in 1973—unflinching support for United Nations Resolution 242.

Pompidou saw in 1970 a need in the western alliance for understanding and good relations with the Arab world as well as with Israel.

Pompidou spoke of a far-reaching vision which he held for all mankind, a vision which could be brought to reality only through cooperation between the United States and France. He said:

> So many necessary and exciting tasks await us, if we are allowed to devote ourselves to them. With you, as with us, there is poverty which is not yet overcome, human dignity which is far from always being guaranteed. There are innumberable perils stemming from technical and scientific progress and problems by the growth of enormous and often inhuman cities. There are whole continents around us where underdevelopment nurtures want. We have no duty more imperious than to help them develop without seeking to make them dependent; decolonization must be coupled with an active cooperation whereby the richer nations assist the less-favored without encroaching on their independence. Poverty is proud, let us respect it as such but let us help it.

For what should Americans remember Georges Pompidou? For his love of liberty, peace, and cooperation with the United States, even when he viewed France's own national interests as diverging slightly from our own.

> Liberty, peace, cooperation. These are what closely unites us because they correspond to our common concept of life and of the destiny of mankind. Of course, there are times where immediate interests prevail. Sometimes these words—liberty, peace, cooperation—are distorted and they are used for less honorable ends.
>
> We know full well that men are not perfect and states even less so. But our ambition must be to resist the lurking temptations of individual or national selfishness.
>
> Never have men seemed so divided yet never have they been so close.

His words have special meaning today, and it is one of the gratifying compensations of nature that his death, unfortunate though it is, should bring into focus his wise counsel of yesterday.

Perhaps Pompidou's death and the gatherings and communication on an international basis that this sad occasion will cause will draw public attention as never before to the wisdom expressed in his 1970 address to the Congress.

His words then were heard but not heeded. They were drowned out by the controversy over the sale of French fighter planes to Libya. He saw the virtue of establishing and maintaining a constructive influence in Arab capitals. Now the United States has seen fit, wisely, I think, to establish and broaden its own credentials and influence in Arab capitals. All the world is the better for this transition.

Pompidou was destined to succeed the legendary figure, Charles deGaulle. He measured up to this immense challenge with distinction and a greatness of spirit that will enrich long into the future Atlantic relations—and the cause of liberty for all mankind.

## THE CRIME OF APARTHEID

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. DIGGS) is recognized for 5 minutes.

Mr. DIGGS. Mr. Speaker, I would like to insert for the thoughtful attention of my colleagues a publication of the Unit on Apartheid of the United Nations entitled "International Convention on the Suppression and Publishment of the Crime of Apartheid" issued in December 1973.

It is a matter of deep regret that the United States did not support this convention.

The text follows:

INTERNATIONAL CONVENTION ON THE SUPPRESSION AND PUNISHMENT OF THE CRIME OF APARTHEID

(NOTE. On 30 November 1973, the United Nations General Assembly adopted—by 9 votes to 4, with 26 abstentions—the International Convention on the Suppression and Punishment of the Crime of Apartheid, and appealed to all States to sign and ratify it is soon as possible. It requested all Governments and inter-governmental and non-governmental organizations to acquaint the public as widely as possible with the text of

the Convention which, it considered, would be an important step towards the eradication of the policies and practices of apartheid.

(This issue of "Notes and Documents" contains the text of the Convention.)

*The States Parties to the Present Convention,*

*Recalling* the provisions of the Charter of the United Nations, in which all Members pledged themselves to take joint and separate action in co-operation with the Organization for the achievement of universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

*Considering* the Universal Declaration of Human Rights, which states that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth in the Declaration, without distinction of any kind, such as race, colour or national origin,

*Considering* the Declaration on the Granting of Independence to Colonial Countries and Peoples, in which the General Assembly stated that the process of liberation is irresistible and irreversible and that, in the interests of human dignity, progress and justice, an end must be put to colonialism and all practices of segregation and discrimination associated therewith,

*Observing* that, in accordance with the International Convention on the Elimination of All Forms of Racial Discrimination, States particularly condemn racial segregation and *apartheid* and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction,

*Observing* that, in the Convention on the Prevention and Punishment of the Crime of Genocide, certain acts which may also be qualified as acts of *apartheid* constitute a crime under international law,

*Observing that,* in the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, "inhuman acts resulting from the policy of *apartheid*" are qualified as crimes against humanity,

*Observing* that the General Assembly of the United Nations has adopted a number of resolutions in which the policies and practices of *apartheid* are condemned as a crime against humanity,

*Observing* that the Security Council has emphasized that *apartheid,* its continued intensification and expansion, seriously disturbs and threatens international peace and security,

*Convinced* that an International Convention on the Suppression and Punishment of the Crime of *Apartheid* would make it possible to take more effective measures at the international and national levels with a view to the suppression and punishment of the crime of *apartheid,*

*Have agreed* as follows:

ARTICLE I

1. The States Parties to the present Convention declare that *apartheid* is a crime against humanity and that inhuman acts resulting from the policies and practices of racial segregation and discrimination, as defined in article II of the Convention, are crimes violating the principles of international law, in particular the purposes and principles of the Charter of the United Nations, and constituting a serious threat to international peace and security.

2. The States Parties to the present Convention declare criminal those organizations, institutions and individuals committing the crime of *apartheid.*

ARTICLE II

For the purpose of the present Convention, the term "the crime of *apartheid*", which shall include similar policies and practices of racial segregation and discrimination as practised in southern Africa, shall apply to the following inhuman acts committed for the purpose of establishing and maintaining domination by one racial group of persons over any other racial group of persons and systematically oppressing them:

(*a*) Denial to a member or members of a racial group or groups of the right to life and liberty of person:

(i) By murder of members of a racial group or groups;

(ii) By the infliction upon the members of a racial group or groups of serious bodily or mental harm by the infringement of their freedom or dignity, or by subjecting them to torture or to cruel, inhuman or degrading treatment or punishment;

(iii) By arbitrary arrest and illegal imprisonment of the members of a racial group or groups;

(*b*) Deliberate imposition on a racial group or groups of living conditions calculated to cause its or their physical destruction in whole or in part;

(*c*) Any legislative measures and other measures calculated to prevent a racial group or groups from participation in the political, social, economic and cultural life of the country and the deliberate creation of conditions preventing the full development of such a group or groups, in particular by denying to members of a racial group or groups basic human rights and freedoms, including the right to work, the right to form recognized trade unions, the right to education, the right to leave and to return to their country, the right to a nationality, the right to freedom of movement and residence, the right to freedom of opinion and expression, and the right to freedom of peaceful assembly and association;

(*d*) Any measures, including legislative measures, designed to divide the population along racial lines by the creation of separate reserves and ghettos for the members of a racial group or groups, the prohibition of mixed marriages among members of various racial groups, the expropriation of landed property belonging to a racial group or groups or to members thereof;

(*e*) Exploitation of the labour of the members of a racial group or groups, in particular by submitting them to forced labour;

(*f*) Persecution of organizations and persons, by depriving them of fundamental rights and freedoms, because they oppose *apartheid.*

ARTICLE III

International criminal responsibility shall apply, irrespective of the motive involved, to individuals, members of organizations and institutions and representatives of the State, whether residing in the territory of the State in which the acts are perpetrated or in some other State, whenever they:

(*a*) Commit, participate in, directly incite or conspire in the commission of the acts mentioned in article II of the present Convention;

(*b*) Directly abet, encourage or co-operate in the commission of the crime of *apartheid.*

ARTICLE IV

The States Parties to the present Convention undertake:

(*a*) To adopt any legislative or other measures necessary to suppress as well as to prevent any encouragement of the crime of *apartheid* and similar segregationist policies or their manifestations and to punish persons guilty of that crime;

(*b*) To adopt legislative, judicial and administrative measures to prosecute, bring to trial and punish in accordance with their jurisdiction persons responsible for, or accused of, the acts defined in article II of the present Convention, whether or not such persons reside in the territory of the State in which the acts are committed or are nationals of that State or of some other State or are stateless persons.

ARTICLE V

Persons charged with the acts enumerated in article II of the present Convention may be tried by a competent tribunal of any State Party to the Convention which may acquire jurisdiction over the person of the accused or by an international penal tribunal having jurisdiction with respect to those States Parties which shall have accepted its jurisdiction.

ARTICLE VI

The States Parties to the present Convention undertake to accept and carry out in accordance with the Charter of the United Nations the decisions taken by the Security Council aimed at the prevention, suppression and punishment of the crime of *apartheid,* and to co-operate in the implementation of decisions adopted by other competent organs of the United Nations with a view to achieving the purposes of the Convention.

ARTICLE VII

1. The States Parties to the present Convention undertake to submit periodic reports to the group established under article IX on the legislative, judicial, administrative or other measures that they have adopted and that give effect to the provisions of the Convention.

2. Copies of the reports shall be transmitted through the Secretary-General of the United Nations to the Special Committee on *Apartheid.*

ARTICLE VIII

Any State Party to the present Convention may call upon any competent organ of the United Nations to take such action under the Charter of the United Nations as it considers appropriate for the prevention and suppression of the crime of *apartheid.*

ARTICLE IX

1. The Chairman of the Commission on Human Rights shall appoint a group consisting of three members of the Commission on Human Rights, who are also representatives of States Parties to the present Convention, to consider reports submitted by States Parties in accordance with article VII.

2. If, among the members of the Commission on Human Rights, there are no representatives of States Parties to the present Convention or if there are fewer than three such representatives, the Secretary-General of the United Nations shall, after consulting all States Parties to the Convention, designate a representative of the State Party or representatives of the States Parties which are not members of the Commission on Human Rights to take part in the work of the group established in accordance with paragraph 1 of this article, until such time as representatives of the States Parties to the Convention are elected to the Commission on Human Rights.

3. The group may meet for a period of not more than five days, either before the opening or after the closing of the session of the Commission on Human Rights, to consider the reports submitted in accordance with article VII.

ARTICLE X

1. The States Parties to the present Convention empower the Commission on Human Rights:

(*a*) To request United Nations organs, when transmitting copies of petitions under article 15 of the International Convention on the Elimination of All Forms of Racial Discrimination, to draw its attention to complaints concerning acts which are enumerated in article II of the present Convention;

(*b*) To prepare, on the basis of reports from competent organs of the United Nations and periodic reports from States Parties to the present Convention, a list of individuals, organizations, institutions and representa-

tives of States which are alleged to be responsible for the crimes enumerated in article II of the Convention, as well as those against whom legal proceedings have been undertaken by States Parties to the Convention;

(c) To request information from the competent United Nations organs concerning measures taken by the authorities responsible for the administration of Trust and Non-Self-Governing Territories, and all other Territories to which General Assembly resolution 1514 (XV) of 14 December 1960 applies, with regard to such individuals alleged to be responsible for crimes under article II of the Convention who are believed to be under their territorial and administrative jurisdiction.

2. Pending the achievement of the objectives of the Declaration on the Granting of Independence to Colonial Countries and Peoples, contained in General Assembly resolution 1514 (XV), the provisions of the present Convention shall in no way limit the right of petition granted to those peoples by other international instruments or by the United Nations and its specialized agencies.

ARTICLE XI

1. Acts enumerated in article II of the present Convention shall not be considered political crimes for the purpose of extradition.

2. The States Parties to the present Convention undertake in such cases to grant extradition in accordance with their legislation and with the treaties in force.

ARTICLE XII

Disputes between States Parties arising out of the interpretation, application or implementation of the present Convention which have not been settled by negotiation shall, at the request of the States Parties to the dispute, be brought before the International Court of Justice, save where the parties to the dispute have agreed on some other form of settlement.

ARTICLE XIII

The present Convention is open for signature by all States. Any State which does not sign the Convention before its entry into force may accede to it.

ARTICLE XIV

1. The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

2. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

ARTICLE XV

1. The present Convention shall enter into force on the thirtieth day after the date of the deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

2. For each State ratifying the present Convention or acceding to it after the deposit of the twentieth instrument of ratification or instrument of accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument or ratification or instrument of accession.

ARTICLE XVI

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.

ARTICLE XVII

1. A request for the revision of this Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General of the United Nations.

2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such request.

ARTICLE XVIII

The Secretary-General of the United Nations shall inform all States of the following particulars:

(a) Signatures, ratifications and accessions under articles XIII and XIV;

(b) The date of entry into force of the present Convention under article XV;

(c) Denunciations under article XVI;

(d) Notifications under article XVII.

ARTICLE XIX

1. The present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Convention to all States.

## BASIC EDUCATIONAL OPPORTUNITY GRANTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. MEZVINSKY) is recognized for 5 minutes.

Mr. MEZVINSKY. Mr. Speaker, the budget which the President recently submitted to Congress proposes a drastic restructuring of Federal support programs for higher education. Similar to last year's proposal, it would terminate many current aid programs of demonstrated value and concentrate the bulk of Federal funds in the new basic educational opportunity grants—BOG's.

Although the administration claims that it is merely redirecting—not reducing—Federal funds, the increase in BOG's would in no way compensate for the cutbacks in institutional assistance and in other forms of student aid. BOG's are aimed primarily at low-income students. Although this addresses a critical problem, it ignores the legitimate needs of middle-income students. The existing student aid programs provide greater flexibility than the BOG's in meeting individual student needs. And, although the BOG program might assist a greater number of students, the individual student would receive a smaller amount of aid, increasing pressure on States and institutions to make up the difference. A lack of funds with which to provide basic educational services might very well force many institutions to turn away students whether or not they had the required tuition in hand. Institutions of higher learning are already under tremendous financial stress. The President's budget would further hamper them in their efforts to meet their responsibilities to their students.

Determining national policies and priorities is the prerogative of Congress, not the executive branch. I am very hopeful that my colleagues will again resist the administration's attempt to use the appropriations process to reduce the quantity and impair the quality of Federal aid to higher education.

## STATEMENT OF CONGRESSMAN JOHN M. MURPHY ON THE INTRODUCTION OF A VIETNAM VETERAN BILL OF RIGHTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. MURPHY) is recognized for 10 minutes.

Mr. MURPHY of New York. Mr. Speaker, veterans of the Vietnam war are bitterly protesting—and rightly so—because they have received fewer benefits in many vital areas as compared to veterans of previous wars.

All of a sudden everyone has found the Vietnam veteran and wants to do something for him—and quick.

There is currently pending before the appropriate committees of the Congress, legislation that, if enacted, would cure many of the ills that have befallen the 7 million Vietnam era veterans. The resolution I introduce today is a call to the members and the chairmen of these committees, and, indeed, to the entire Congress to give veterans' legislation the highest order of priority and to move as swiftly as possible to enact it into law.

I realize many Members of this body have been working tirelessly in behalf of the veterans; however, without a full commitment by every Member of this Congress, we will not be able to handle veterans' needs which appear to have peaked at this time and now approach crisis proportions.

I realize most of us want to forget the tragic war in Southeast Asia. But I implore you not to forget the men who fought in it.

These young men fought an unpopular war—where over 45,000 unsung heroes lost their lives defending a defenseless country against an assault from tyranny. Many of them were in the House Caucus Room on Friday, March 29, 1974. They bear the scars of battle wounds and terrible memories which will remain to haunt them the rest of their lives.

For their patriotism and obedience to the law of the land, the United States owes them a debt that can never be paid in full.

But, as I told them on Friday, Mr. Speaker, they must be treated with the same honor we have always bestowed on those who have sacrificed a part of their lives to serve their country.

Providing benefits and programs which compensate the ex-serviceman in full measure for his service to his country is an obligation which has historically been met enthusiastically by the American people. Veterans of service in this century, either during war or peacetime, have received benefits commensurate with the sacrifices they made, in the understanding that the veteran has many times endured hardship and an interruption in his private life in order to serve his country.

Today, however, after a controversial war in Southeast Asia that most Americans want to forget, we have allowed veterans benefits to lag behind the needs of the GI Joes of the 1960's and 1970's who answered their country's call. There were no victory parades for these young men, no wild street celebrations—it all ended with a whimper. And now large numbers of them face reemployment and adjustment problems much more severe than those faced after World War I, World War II, and Korea.

In an effort to correct this vast oversight in meeting our obligation to today's veteran for my own part I have devoted substantial time and energy to

the enactment of new veterans legislation designed to meet their reentry needs.

The principal bill in my program is the Veterans Comprehensive Education Act which was written to meet the financial needs of today's veteran who returns to school or college following his service. The bill would abolish the current system of straight benefit payments to GI's and substitute direct payments by the Veterans' Administration to schools and colleges attended by veterans.

This formula worked successfully after Korea, and insures that any veteran who desires to return to vocational school, college, or certain job training programs may do so. The formula also provides generous subsistence payments to veterans based on their marital status and dependent status. The House Veterans Committee is currently holding hearings on this and similar legislation and I will be testifying and speaking for my bill in the weeks to come.

Under my plan, the VA would pay veterans' tuition as well as laboratory, library, health, infirmary, and other similar fees, in addition to also paying for books, supplies, equipment, and other necessary expenses, including board and lodging. This was the intention of today's GI bill, but skyrocketing education costs have made the fixed benefits schedule inadequate and obsolete, even in the face of increases passed this year in the House and Senate.

Additional legislation I have introduced would provide: changes in the computation of active duty training for education benefits; expanded employment opportunities for veterans following discharge; expanded educational opportunities for handicapped veterans; removal of the time limitation within which programs of education for veterans must be completed, and revised and enlarged readjustment assistance; job counseling, training, and placement services for veterans.

A major concern has been the problem of drug addiction in the military and of course among veterans of military service. I have been in the forefront of the effort to provide effective treatment and rehabilitation services for veterans, especially from Southeast Asia where the problem was so acute.

Many of these military addicts, the GI who became hooked in the service of his country, are true casualties of that war. They went into the service drug free and with no criminal records. Today the criminal population of New York City has been swollen by these servicemen who end up in our jails and our free dope clinics—and the same is true in other American cities.

There are several hundred thousand Vietnam era veterans currently residing in the city of New York. The addiction services agency estimates that of the Vietnam era veterans in New York City there are over 10,000 men who are addicted or abusing drugs not now in treatment. I would estimate based on discussions with agency officials that this figure may be as high as 30,000 or 40,000 veterans not in treatment living in New York City during the past few years.

The Nixon administration offered these ex-GI addicts 30 days of detoxification, discharge, and simple referral to a VA hospital for further treatment. This approach has failed miserably. Out of the tens of thousands of drug users there were never more than 1,000 ex-GI's in treatment in VA programs in the whole United States at any given time. They refused to go. My position as outlined in legislation I have proposed would provide for:

The civil commitment where necessary of a drug addicted serviceman to the Federal program for drug treatment for a period of up to 42 months of medical treatment and rehabilitation.

The establishment of an outreach program within the Department of Defense to review discharge records and move aggressively into our communities to retrieve as many addicted veterans as possible and locate them in federally sponsored addict treatment programs in their own localities.

A new program within the Department of Defense to inform former addict veterans and the treatment personnel of our Nation's drug rehabilitation programs of the DOD recharacterization policy.

A provision to enable the convening of review boards in our major population centers to enable the ex-serviceman to appear personally. This will mitigate the unconscionable practice of making the veteran pay his own travel expenses across the country to come to Washington in order to plead on his own behalf.

By this large-scale commitment to assisting today's veteran, I do not mean to suggest that we can ignore the needs of older veterans. And one day the Vietnam veterans will all be older veterans. So we must continue to insure that various increases and changes in social security benefit programs and medicare in no way diminish the benefits available to veterans. And as we move toward a comprehensive program of national health insurance, I will work to insure that the veterans continue to receive full statutory protection within a veterans hospital system second to none.

Mr. Speaker, whatever our personal view of the war in Southeast Asia, we must recognize that today's veteran carries all the burdens American soldiers have traditionally carried in wartime. He is a modern hero, no more, but certainly no less, than those before him. And as such he is entitled to gratitude and understanding from his countrymen, and I am determined to insure that we do not fail in that obligation.

Over and over again, I have heard the despair of a Vietnam veteran who can find no one who understands his unique problems. And his problems are unique. They even have a name for his condition—PVS—Post Vietnam Syndrome. But his friends, his family, the people he passes in the street, even the guy in the bar who will not buy the vet a drink, do not understand.

Some veterans attribute this behavior to some failure on their part and they cannot understand it.

Of course they cannot understand it.

The problem is not with them.

It is with the people here. We sent them to fight in a war—a war we could not even commit ourselves enough to to win. A war some could not even commit themselves enough to to lose. The guilt does not lie with the veteran—it rests with the Nation. The people of America want to forget the war—blot it out of their minds. And in the process they have forgotten the veteran.

This lapse is most evident in the administration—at least until a few days ago.

Until an internal memo caught up with him, the President thought the unemployment picture for veterans was looking up. Apparently he had to change his statement at the last minute when the facts were made known to him last Friday. Unemployment is still a stark reality to Vietnam veterans far out of proportion to the rest of the labor force.

Current efforts to upgrade educational aid to veterans is meeting the same weak responses from the White House. On the recently debated GI education bill, the President wanted to increase educational benefits by only 8 percent, the House by 13.9 percent, and the Senate by 44 percent. I hope the House will accept a figure close to the Senate's.

These are only a few of the more acute areas facing the veteran. The resolution I introduce today calls on Congress to recognize a bill of rights for Vietnam-era veterans. It calls for the Congress to provide the best this country has to offer in medical aid, job opportunities, educational benefits, on-the-job training, counseling for service-connected disabilities, small business loans, housing benefits, low-cost GI insurance, and a veterans health insurance program. The resolution also calls for the elimination of discriminatory discharges, a 10-point hiring preference to Vietnam veterans by the Civil Service Commission, and a 15-point hiring preference to disabled Vietnam veterans by the Commission. Finally, the resolution calls for a Veterans' Administration which is responsive to the needs of the Vietnam-era veteran.

Much of what is called for in my resolution is in the legislative process at this very moment. Because of the urgency of veterans' needs at this point in time, however, I feel Congress must make a special effort to push veterans' legislation before millions of veterans are lost beyond retrieval. I urge Members to support this resolution.

The resolution reads as follows:

CONCURRENT RESOLUTION

Whereas, the Congress recognizes the right of all wounded and disabled veterans to the finest medical, psychological, educational and therapeutic attention available; and

Whereas, the Congress recognizes the right of Vietnam veterans to have available job opportunities and special programs to provide same; and

Whereas, the Congress recognizes the right of Vietnam veterans to receive educational benefits equal to those afforded veterans of previous wars; and

Whereas, the Congress recognizes the right of Vietnam veterans to on-the-job training programs equal to the efforts made by the U.S. government for veterans of previous wars; and

Whereas, the Congress recognizes the right of Vietnam veterans to have available coun-

seling programs to handle readjustment problems related to service connected problems such as dishonorable discharges, alcohol dependence and narcotic addiction, combat related traumas, etc.; and

Whereas, the Congress recognizes the right of Vietnam veterans to have available small business loans under the same conditions as those given to veterans of previous wars; and

Whereas, the Congress recognizes the right of Vietnam veterans to have available the same housing benefits, including counseling and loans as veterans of previous wars; and

Whereas, the Congress recognizes the right of Vietnam veterans to have available low cost G.I. insurance under the same conditions as those given to veterans of previous wars; and

Whereas, the Congress recognizes the right of Vietnam veterans to a Veterans Administration as responsive to their needs as it has been to the needs of veterans of previous wars; and

Whereas, the Congress recognizes the right of Vietnam veterans to a veterans health insurance program for moderate cost dental and medical coverage; and

Whereas, the Congress recognizes the right of Vietnam veterans to an equitable discharge certificate which eliminates discriminatory Separation Program Numbers; and

Whereas, the Congress recognizes the right of Vietnam veterans to a ten point hiring preference by the Civil Service Commission, and in the case of disabled Vietnam veterans, a fifteen point hiring preference; and

Whereas, a crisis point has arrived for the seven million Vietnam veterans in all of the areas listed above; Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring)*, That the appropriate Committees and Subcommittees of the House and Senate take immediate action on the legislation currently pending before them that was specifically designed to solve the problems outlined above taking into account the current inflationary spiral and the urgency of the needs of the Vietnam veterans; and

That the House and Senate proceed with all due haste to process the above legislation and forward it to the President for his signature into law.

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## KISSINGER-TACK "AGREEMENT ON PRINCIPLES" FOR PANAMA CANAL TREATY: A FAILURE OF U.S. DIPLOMACY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 10 minutes.

Mr. FLOOD. Mr. Speaker on February 7, 1974, in Panama City, R.P., U.S. Secretary of State Henry A. Kissinger and Panamanian Foreign Minister Juan A. Tack signed an eight-point "agreement of principles" to serve as guidelines to govern the negotiation of a new treaty for the Panama Canal.

Stripped of its ambiguities, contradictions, and sophistries, this agreement is a blue print for an abject and ignominious surrender of U.S. sovereign rights, power, and authority over what is the jugular vein of the Americas. Specifically, it contemplates, without the prior authorization of the Congress, the abrogation of the original 1903 Treaty, elimination of its provisions for U.S. sovereign control of the Canal Zone in perpetuity, transfer of U.S. jurisdiction over the zone to Panama, giving Panama greatly increased benefits from toll revenues, including the placement of Panamanians in the administration of the canal, its protection and defense, and in the making of vital decisions for a major increase of canal capacity, which authority is already possessed by the United States under existing treaty provisions. In this light, the agreement constitutes the most disgraceful diplomatic episode in American history.

Despite the failure of major organs in the mass news media, the alarm has been sounded and the sovereign people of the United States are reacting with resounding letters to Members of Congress from all parts of the Nation in strong protest against the projected giveaway of U.S.-owned territory and property. In addition, there have been many articles by well-informed writers exposing what has transpired at Panama, among them Allan C. Brownfeld, a capable young writer of Washington, D.C., and Harold Lord Varney, president of the Committee on Pan American Policy of New York.

When these two appraisals of recent events at Panama are read in connection with the February 7, 1974, Joint Statement of Secretary Kissinger and Foreign Minister Tack, the magnitude of the proposed giveaway will be clearer.

Of the highest significance there have been introduced in the Congress some 18 multisponsored identical resolutions in defense of continued undiluted U.S. sovereignty over the zone territory and canal and influential Members of both Houses have made known their intended resistance to the projected surrenders.

As has been stated on many occasions, Panama is a land of endemic revolution and endless political intrigue. When the Kissinger-Tack agreement is evaluated objectively there is no wonder that its proposals are not only incredible to Latin-Americans but also conducive to ridicule and contempt. Certainly at this juncture in world power politics the United States must not allow itself to be shown up as a "paper tiger."

To facilitate a critical perusal of the February 7 Kissinger-Tack Joint Statement, I quote it along with the indicated Varney and Brownfeld articles as parts of my remarks:

[From the Review of the News, Feb. 27, 1974]

### PERIL IN PANAMA

(By Harold Lord Varney)

The Nixon Administration has now openly committed us to surrender of the Panama Canal. While the moves that have led to this disaster have been obscured by doubletalk, it is easy now to trace the pattern.

The first break in the American position of strength occurred in 1969, when the White House announced the resumption of negotiations with Panama for a new treaty. These had been broken off in 1967 when Panama rejected the draft of an earlier renegotiation in which the United States had made major concessions. Had President Nixon refused to agree to new talks the United States would have continued to hold the winning hand in the situation. Dictator Omar Torrijos saw the agreement to continue the talks as a plain sign of American funk, and it emboldened him to raise the ante.

There followed a curious series of statements by members of the Nixon Administration, all carefully redefining and weakening our Panama policy. They were obviously inspired by a single source, reportedly the office of Henry Kissinger. First came the controversial statement by Under Secretary of State Charles A. Meyer, pledging that the United States never again would intervene with force in Latin America—not even in the case of a Communist takeover. Then there was the 1972 statement of David H. Ward, Mr. Nixon's new treaty negotiator, advocating the ceding to Panama of U.S. authority in the Isthmus and the ultimate termination of U.S. sovereignty in the Canal Zone. And then came the 1973 address before the Panama City Rotary Club by U.S. Ambassador Robert M. Sayre, employing the Marxist rhetoric openly to acknowledge that the Canal Zone is a "colonial enclave."

An even more revealing move was the hush-hush meeting in Panama City on February 15, 1973, between Henry Kissinger's personal representative, William Jordan, and Panama's tinpot dictator, General Omar Torrijos. The censored *El Panama America* described it as "the forerunner of a Kissinger-Torrijos meeting to break the stalemate in the Canal treaty negotiations." It was this anticipated final confrontation which brought the protracted Panama debate to a climax. Mr. Kissinger did indeed go to Panama City to speak the final word. It was a word that has stunned self-respecting Americans and raised Congressional anger to a fever pitch. The word was that the United States would surrender.

#### THE COMMUNIST ROLE

The debate over whether General Torrijos is a Communist or a Marxist is only a matter of semantics. It is the same sort of meaningless argument that was raised about Allende of Chile.

In 1968, Torrijos executed the coup that put him in power in tandem with Major Boris Martinez, an open Marxist. Fearing that Martinez might dispute with him for supreme power, Torrijos quickly exiled him along with some of the noisier leaders of the Panama Communist Party. This was designed to reassure Washington. But, once his power was consolidated, Omar Torrijos made a sharp turn to the Left. At the moment, some sixty members of the last elected Congress, the core of Panama's anti-Communists, are in exile.

Before taking power, Torrijos was a member of the People's Party, which is a catch-all for Panamanians who favor Communist policies but avoid the Communist name. As dictator, he has surrounded himself with members of the People's Party.

There is even an unconfirmed but widespread report that as early as 1971, when Soviet Premier Kosygin visited Cuba, Omar Torrijos, Foreign Minister Juan Tack, and University Rector Romulo Escobar Bethancourt secretly visited Cuba and conferred with Kosygin. Shortly afterward, Bethancourt, an identified Communist, visited Castro openly and conferred with Cuban officials. Torrijos was thereafter a darling of the Cuban press. And, in the international picture, Castro has backed Torrijos without reservation, playing an important part in setting the stage for the United Nations Security Council meeting in Panama City in 1973 which, with Cuban Ambassador Raul Roa leading the uproar, degenerated into an ugly attack on the United States and demanded that the United States get out of the Canal Zone.

There is certainly significance in the fact that, with Kissinger on his way to Panama City to surrender the Canal Zone, Leonid Brezhnev visited Cuba to confer with Castro. Soviet Russia is clearly trying to move into the Caribbean and means to play a hand in

Panama as well as Cuba. The recent Kissinger kowtow in Panama City gives off a familiar odor—this time of a Torrijos-Castro-Kissinger pact. The loser, as in all of Secretary Kissinger's operations, will be the United States.

With the proposal of the Nixon "Partnership" to replace the Monroe Doctrine, the United States has shown itself to be a paper tiger. If we continue to do so, the Soviets will soon be operating the Panama Canal and dominating the whole of the Caribbean as thoroughly as they do Cuba.

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[From the Anaheim Bulletin, Mar. 1, 1974]

A FAILURE OF U.S. DIPLOMACY

(By Allan C. Brownfeld)

WASHINGTON.—In early February, 1974, the United States and Panama concluded an agreement that will guide the negotiations of a new Panama Canal treaty, eventually transferring sovereignty over the waterway to the Panamanians.

The agreement, whose eight principles include a statement that there shall be "a fixed termination date," was signed in a solemn ceremony by Panama's Foreign Minister, Juan Antonio Tack, and Secretary of State Henry Kissinger.

As envisioned in the declaration and underlined in a speech by Mr. Kissinger, the new treaty would give Panama a sense of equality with the United States for the first time, ultimately ending the grant "in perpetuity" of the 550-square mile Canal Zone laid down by the canal treaty of 1903.

This agreement overlooks the historic fact that the U.S. acquired sovereign control "in perpetuity" over the Canal Zone by means of the 1903 treaty with Panama, which is still in effect. We do not rent or lease the Canal Zone but bought it outright and paid the full purchase price $10 million. The terms "rent" or "lease" are not used in the Treaty with Panama but the word "grats" is used in the Treaty nineteen times.

In addition, the U.S. has paid every expense of building and maintaining the Panama Canal. By 1973, our net investment in the Canal and the Canal Zone totaled almost $5.7 billion. The original cost of constructing the Canal has never been amortized and we have operated the Canal as an interoceanic public utility available to the maritime nations of the world at tolls which are generally agreed to be just and equitable.

The principles under which the new treaty is being negotiated, states Sen. Strom Thurmond, R-South Carolina, "are self-contradictory and invite disaster. They deny the minimum necessary conditions under which the United States can operate, maintain, and defend the Canal. There is no way in which defense can be based on split jurisdiction, when the ultimate authority rests with the weaker party, and the primary interests rest with the stronger. Either we would lose the canal completely in a crisis, or we would be driven to take armed action that would flout the principles of international law and bring down upon us the censure of the civilized world. Neither course is acceptable."

TWO ENDS

Senator Thurmond declared, "The withdrawal of U.S. authority from the Canal Zone will have a dangerous impact upon the stability of the Western Hemisphere and, indeed, the peace of the world . . . By every test, the Canal Zone is U.S. territory; the only right retained by Panama is that of a residuary legatee in the event that we cease to operate, maintain and defend the canal. . . I do not think that our sovereignty should be negotiable."

Last year, just before the special meeting of the U.N. Security Council at Panama City, a majority of the members of the Senate Armed Services Committee wrote a letter to President Nixon in which they declared, " . . . it is our view that U.S. policy should be ordered towards two ends. In the short range, we should use our diplomatic channels to make it absolutely clear to Panama and to the other nations represented at the special U.N. session that we will not brook any encroachment upon our present operational and jurisdictional rights in the Zone, and that we stand ready to protect American lives, property, and obligations. In the long range we must reverse the current trend and work with Panama to help her understand that the best guarantee of her sovereignty, security, prosperity and nationhood lies in maintaining the historic grant of sovereignty to the U.S. in the Canal Zone."

This letter was signed by Senators Symington, Tower, Harry Byrd, Ervin, Thurmond, Dominick, Nunn, McIntyre and William Scott. Senator Thurmond, speaking in the Senate after the latest negotiations had been disclosed, noted, "The announced action of Secretary Kissinger runs directly counter to such ends. The unprecedented action of 'initialing' a 'statement of principles' leading to treaty negotiations creates a situation in which the Senate is presented with an accomplished fact in which the essential points have been conceded before the negotiations begin. There is, indeed, nothing of consequence left to negotiate once we surrender our rights . . . "

The fact is that if we gave up the Canal Zone, we would be entrusting the security of the Canal to one of the most unstable countries in the Western Hemisphere. Discussing the history of Panama, just since World War II, Rep. Philip M. Crane, R-Ill., a former Professor of History, notes, "Enrique Jimenez became President under a new Constitution. He served until the elections of 1948 which were declared a fraud, and was succeeded by Daniel Chanis. Police Chief Jose Remon forced Chanis to resign and Roberto Chiari was declared President. The Supreme Court voided Chiari's appointment, and Arnulfo Arias took office. Police Chief Remon pressured Arias out of office and Alcibiades Arosemena was put in. He served about a year . . ."

The story is lengthy. Bringing it up to date, Representative Crane notes that Arnulfo Arias was inaugurated in October, 1968, and "After just eleven days, Arias was overthrown by the guard and Col. Omar Torrijos, the present dictator, seized control and abolished the Constitution."

Wresting control of the Panama Canal from the U.S., states Rep. Daniel Flood, D-Pa., is a key Soviet goal and is "part of the global struggle for domination of strategic areas and waterways." Why Secretary Kissinger seems willing to assist the Soviets in this task is difficult to understand. Perhaps it is another part of the price we have agreed to pay for "detente."

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JOINT STATEMENT BY THE HONORABLE HENRY A. KISSINGER, SECRETARY OF STATE OF THE UNITED STATES OF AMERICA, AND HIS EXCELLENCY JUAN ANTONIO TACK, MINISTER OF FOREIGN AFFAIRS OF THE REPUBLIC OF PANAMA, ON FEBRUARY 7, 1974 AT PANAMA

The United States of America and the Republic of Panama have been engaged in negotiations to conclude an entirely new treaty respecting the Panama Canal, negotiations which were made possible by the Joint Declaration between the two countries of April 3, 1964, agreed to under the auspices of the Permanent Council of the Organization of American States acting provisionally as the Organ of Consultation. The new treaty would abrogate the treaty existing since 1903 and its subsequent amendments, establishing the necessary conditions for a modern relationship between the two countries based on the most profound mutual respect.

Since the end of last November, the authorized representatives of the two governments have been holding important conversations which have permitted agreement to be reached on a set of fundamental principles which will serve to guide the negotiators in the effort to conclude a just and equitable treaty eliminating, once and for all, the causes of conflict between the two countries.

The principles to which we have agreed, on behalf of our respective governments, are as follows:

1. The treaty of 1903 and its amendments will be abrogated by the conclusion of an entirely new interoceanic canal treaty.

2. The concept of perpetuity will be eliminated. The new treaty concerning the lock canal shall have a fixed termination date.

3. Termination of United States jurisdiction over Panamanian territory shall take place promptly in accordance with terms specified in the treaty.

4. The Panamanian territory in which the canal is situated shall be returned to the jurisdiction of the Republic of Panama. The Republic of Panama, in its capacity as territorial sovereign, shall grant to the United States of America, for the duration of the new interoceanic canal treaty and in accordance with what that treaty states, the right to use the lands, waters, and airspace which may be necessary for the operation, maintenance, protection and defense of the canal and the transit of ships.

5. The Republic of Panama shall have a just and equitable share of the benefits derived from the operation of the canal in its territory. It is recognized that the geographic position of its territory constitutes the principal resource of the Republic of Panama.

6. The Republic of Panama shall participate in the administration of the canal, in accordance with a procedure to be agreed upon in the treaty. The treaty shall also provide that Panama will assume total responsibility for the operation of the canal upon the termination of the treaty. The Republic of Panama shall grant to the United States of America the rights necessary to regulate the transit of ships through the canal, to operate, maintain, protect and defend the canal, and to undertake any other specific activity related to those ends, as may be agreed upon in the treaty.

7. The Republic of Panama shall participate with the United States of America in the protection and defense of the canal in accordance with what is agreed upon in the new treaty.

8. The United States of America and the Republic of Panama, recognizing the important services rendered by the interoceanic Panama Canal to international maritime traffic, and bearing in mind the possibility that the present canal could become inadequate for said traffic, shall agree bilaterally on provisions for new projects which will enlarge canal capacity. Such provisions will be incorporated in the new treaty in accord with the concepts established in principle 2.

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## IRS MUST ACT IMMEDIATELY ON PRESIDENT NIXON'S TAXES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

Mr. VANIK. Mr. Speaker, today, the staff of the Joint Committee on Internal Revenue Taxation made public an examination of the President's tax returns from 1969 to 1972 and came to the find-

ing that the President owes $476,431. However, it also must be noted in its report that the payment of $171,055 would be a voluntary action by the President, since the tax claim for 1969 would be outlawed by the 3-year statute of limitations.

Up to the present time, the Internal Revenue Service has made no finding with respect to the President's taxes. Unless a finding is made by the Internal Revenue Service, the determination made by the staff of the Joint Committee has a purely advisory affect, since this committee does not have legal power to enforce payment.

In fact, due to the statute of limitations, if the Internal Revenue Service does not make a deficiency claim against the President by April 15, 12 days from now, the President would not be obligated to pay $93,410 and interest of $16,638 which the staff of the Joint Committee believes to be due and owing for 1970 taxes.

The claim against the President for unpaid 1970 taxes cannot be pressed unless the Internal Revenue Service takes appropriate action immediately. The IRS must confirm the finding of the Joint Committee in full or in part and serve on the President notice of deficiency on his 1970 taxes if it is to stop the tolling of the statute of limitations, which would otherwise wash out this part of the clam.

The integrity of the Internal Revenue Service and the tax system of the United States upon which this country so much depends will be critically threatened, unless the Internal Revenue Service moves forward at once to immediately protect the claim against the President for unpaid taxes.

## THE POST AND THE PRESIDENT

(Mr. WAGGONNER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. WAGGONNER. Mr. Speaker, the Washington Post has again attacked President Nixon.

There is nothing new to this—except this time they have said editorially that the President is unable to conduct foreign policy effectively because his Watergate-related problems are causing him trouble on the home front.

Coming from the editorial writers on Post, such a statement is an outrage.

If the President is unable to conduct foreign policy—which is an absolutely incorrect statement—the Washington Post must bear a large part of the blame. The Post has been riding Richard Nixon since he took his hand down after taking the oath of office back in January 1969.

In the most relentless siege of the presidency in history, the Post has worked overtime in an effort to discredit President Nixon. In story after story, editorial after editorial, the Washington newspaper has tried every way possible to give the President the black eye.

Now they have the audacity to say that he is unable to function on the foreign policy front. If such were true—and it is certainly not—they must accept blame themselves.

So much for the vendetta of the Washington Post. Now let us look at the truth—or lack of it—behind their conclusion.

To say that President Nixon's problems with Watergate make it impossible for him to conduct foreign policy simply does not hold water.

One has only to look at the détente with Russia and China, the honorable end to the war in Southeast Asia, the masterpiece of diplomatic peace efforts in the Middle East to see that the Post is way off base.

Today we are talking with the Russians and the Chinese instead of running a continuing cold war with the Communist bloc. thanks to Richard Nixon. We have brought our men home from the Southeast Asian combat; and no American is dying on a foreign battlefield, thanks to Richard Nixon.

And who—6 months ago—would have believed that Arab and Israeli would sit down to talk peace in a Middle East which has known nothing but war for a generation? But, thanks again to our President, we are now approaching not just a Middle East cease-fire, but we are building a foundation for a lasting peace in one of the most critical and troubled spots in the world.

Finally, the President sends his Secretary of State to Russia as a preliminary to a new summit with the Russians and the Post comes up and says the reason Henry Kissinger did not achieve a major breakthrough was because they do not think the President can make good on his promises because of Watergate. It seems to me that the pessimistic sounds that followed Kissinger's Russian trip came from the press who covered the trip—not from the Kissinger party or the Russians, who said exactly the opposite.

So, the Post says the President cannot run the country because of his troubles here at home—the troubles that the Post has continually stirred.

I say that the President can run the country—because he is running it—despite the Washington Post.

## ANN ARBOR AND YPSILANTI, MICH., LEAD THE WAY

(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 would like to bring to the attention of the House a vote which took place yesterday in Ann Arbor and Ypsilanti, Mich. reported in today's newspapers. The vote reduced the penalty for the use and sale of marihuana to a $5 fine.

I bring this to the attention of the House because I believe that the Congress should enact national legislation which would decriminalize the personal use and possession of marihuana. The Shafer Commission established that 24 million Americans have tried marihuana at least once, that 8,300,000 still use the drug occasionally, and that 500,000 are heavy users. The Shafer Commission's most recent figures as of February 1973 showed that 26 million Americans, or 16 percent of the adult population, has used marihuana at least once, and that 13 million Americans smoked marihuana on a regular basis. The number of potential felons under the law that thus exist is simply staggering. This wholesale disregard for the marihuana statutes by a substantial segment of our population can only serve to bring law in general into disrepute and public contempt.

We must remove the present savage penalties that apply to the mere possession of marihuana. The Javits-Koch bill, S. 746 and H.R. 6570, was first introduced on January 6, 1973. The House sponsors are KOCH, BADILLO, CONYERS, EDWARDS, HARRINGTON, PODELL and RANGEL. I urge our colleagues to cosponsor the legislation and the Committee on Interstate and Foreign Commerce to hold hearings on this legislation.

## NATIONAL CEMETERY FOR FLORIDA

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, I am introducing a bill today to establish a national cemetery at Eglin Air Force Base in Florida. I have consistently favored the location of a national cemetery on this site, as well as a general broadening of the national cemetery program.

Almost since the beginning of our Republic, it has been the policy of a grateful Nation to make available gravesites for those who gave their lives in defense of the United States. This is as it should be for each national cemetery serves to remind us all that the price of freedom is dear but the price of slavery is unthinkable.

Now we have come to the point in time when it seems too little attention is being paid the tradition of national cemeteries. None have been established since 1950. The tremendous number who served in the Armed Forces in recent years plus the heavy casualties of the war in Vietnam have resulted in an ever increasing demand for cemetery space for deceased veterans and servicemen. National cemeteries now in existence are rapidly becoming unavailable to those in need simply because of lack of space. The number of grave sites required for veterans of World War II is growing year by year. The same is true of veterans of the Korean conflict who deserve the honor of resting with their comrades. I am told that Arlington Cemetery is expected to be declared completely filled sometime in 1976.

Florida has one of the largest concentrations of veteran population in the country. Our Florida veterans number almost 1½ million. In addition to serving the Florida veterans a cemetery in western Florida will also serve Alabama and other nearby southern States. We must provide the widows, relatives and friends of these men reasonable accessibility to a cemetery where their spouse, relative or

friend has been buried. It is inconceivable that our Nation not honor the men who bravely fought by denying them burial in a national cemetery near to the largest concentration of people who can visit it.

Certainly there are obstacles in the attempts to expand our available cemetery space. There is the high cost of land and the far greater expense of converting this land to cemetery use. At Eglin Air Force Base, however, there is ample land which could be used for this purpose without cost to the Government.

For a decade, the policy of the Veterans' Administration has been to provide cash benefits for burial payments to veterans to ease the demand for cemetery space. But burial in a national cemetery is a unique and perpetual honor which a subsidized private burial cannot duplicate. Every veteran deserves the option of burial in a national cemetery if he so chooses.

The national cemetery problem is a real and pressing issue which we cannot ignore. We must do something now. I urge the Veterans' Affairs Committee to take swift and favorable action on this needed legislation.

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## VITAL SPEECHES OF THE DAY

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, the publication, Vital Speeches of the Day contains a very interesting discussion on inflation by A. Bruce Johnson, associate professor, University of West Florida, at Pensacola.

This speech offers a very interesting discussion of the problems of inflation and suggests a new, generally overlooked solution. The author proposes to transfer the store of value, or standard of deferred payments, function of money to contractual instruments; this would leave money with only a single function, that of a medium of current exchange.

In an age when inflation is the most serious threat to our security as a Nation, it is well to consider all the alternatives. The speech provides very interesting reading and it deserves careful consideration.

### INFLATION AND MONEY MARKETS TO DEBAUCH THE CURRENCY

(By A. Bruce Johnson)

In his syndicated column Art Buchwald once asked his readers, "Where does the word inflation come from?" Answer: In 1887 there was a bar and grill owner in San Francisco named George Inflation. One day he failed to receive a shipment of booze from the East. Since the demand for booze was great, George Inflation decided to charge 15 cents for a shot of whiskey, instead of the standard 10 cents. He also made the shot glass smaller. This did not stop his customers from buying booze, so he raised the price to 20 cents, then 25 cents. The other bars in San Francisco raised their prices accordingly and when their customers complained the other bar and grill owners would say, "Blame it on Inflation." Thus inflation soon became a part of the English language.

Buchwald's second question was, "Why is everyone so fascinated by inflation? Answer: Because there are so many things that you can do with it. You can hold it; you can turn it around; you can spiral it; you can send it sky high; you can let it get out of hand; you can try to curb it; restrain it; stop it; and during feeding hours, you can go to the bank and watch it eat up your savings.

Inflation certainly eats into purchasing power of fixed monetary assets and fixed incomes, and we can do many things with inflation—including put a stop to it—if we are willing to pay the cost.

But before considering what can be done to stop, or at least curtail inflation, perhaps we should insure we know the definition of inflation. Mr. Art Buchwald, not being an economist, can be excused for his erroneous definition of inflation; unfortunately, the mistake he has made is the same mistake some economists and high level public officials make. George Inflation in San Francisco in 1887 raised the price of a shot of whisky, not because of inflation but because of a shortage in the supply of whisky. Imbalances in supply demand conditions will, under free market conditions, correct themselves over time. The sharp rise in food prices recently is not so much due to inflation as mis-management by government through negotiating increased exports of grain without first dismantling agriculture support programs designed to restrict production of food.

In other words, inflation is not a price rise due to temporary shortages in supply or increases in demand, nor are price changes due to the business cycles. Inflation is a monetary phenomenon whose root cause is an excess of money and credit in the economic body. Inflation is *a long-run rise* in the general level of all prices.

It is important that these distinctions be kept separate. In this sense, the term bottleneck inflation is a misnomer because the price rise referred to is not due to inflation but a temporary shortage in supply. If inflation exists and the economy is on the upswing of the business cycle, prices and interest rates will rise and the portion attributable to inflation and the portion to the cycle cannot be determined accurately. The point however is, there is a distinction and it should be recognized conceptually.

Why do we suffer from inflation? The answers are legion but perhaps they can be categorized in three broad frameworks: 1) A group of economists whom I refer to as Neo-Keynesians, who think that money is important, but not very important, have been advisors to Presidents and Congressmen too long, 2) Excessive credit creation, and 3) A failure of the Congress to comply with a constitutional provision requiring them to regulate the value of money. Let us consider these three points.

Who are the Neo-Keynesians? "We are," as Milton Friedman says, "all Keynesians" to a degree, for we all owe a debt of gratitude to John M. Keynes and his 1936 book, *The General Theory*. Neo-Keynesians in contrast to plain economists seem to forget Keynes was writing during the great depression and prescribed a government interventionist approach into the private sector to bolster aggregate demand. To a Neo-Keynesian a government dollar in the income stream is no different than a private investment dollar. They seem to forget *The General Theory* was speaking to a closed economy. The Neo-Keynesian attitude toward debt is the size of Federal Debt is not too important for "we owe it to ourselves." Fiscal policy is much more important than monetary policy. Maintaining the optimum level of aggregate demand is of overriding importance, full employment (whatever that means) shall be attained by adjusting, or fine tuning aggregate demand through fiscal policy. The Neo-Keynesians take the position that at the level of full employment price stability is a norm, free reserves of the banking system will not be monetized, therefore monetary policy is not too important. Inflation, if it occurs is a cost-push phenomena; correct it with wage-price controls.

Dr. John Exter, speaking recently in Pensacola, took his degree in economics from Harvard University some 30 years ago. He said he had not succumbed to the Neo-Keynesian attitude because he is so constituted he calls a spade a spade. He is a classmate of Paul Samuelson and knows economics as Walter Heller and Arthur Okun. It is his view that members of the school of thought I am calling Neo-Keynesians (Exter called them Keynesians) are intellectually arrogant. Perhaps that is too harsh, but certainly they are interventionists.

The second reason for inflation, excessive credit creation stems from the fact that budget deficits during periods of full employment induce overly expansive monetary policy and the fact that there is little or no deterrent against government resorting to printing press dollars, government gains from inflation.

To visualize the process of credit and money creation I will draw on one of Dr. Exter's analogies. Imagine an inverted pyramid that can grow. The upside down pinnacle holds the credit base—the substance upon which the upper portion of the pyramid rests; the upper portion contains paper IOU's. A nation under a gold standard has gold as its credit base; the number of paper IOU's that fill the upper portion of the inverted pyramid are limited by a fixed ratio of credit to gold; and the paper IOU's can be converted to gold on demand. Under a gold standard—gold provides a bench-mark estimate of value and a limit to the number of IOU's a nation can print or allow to be printed. Gold acts here as a bridle on a horse, it prevents galloping inflation. It prevents creation of excessive IOU's (checking accounts) to finance federal budget deficits and excess credit expansion. Because of its restraining influence, gold is referred to by the Neo-Keynesians as a "barbarous relic."

The first break-down in the gold standard came in 1922 when the great nations agreed to a gold exchange standard. In addition to gold as a credit base in the small end of the pyramid, nations could also include some paper, IOU's of trading partners; such as pounds, francs, marks, escudos, etc.

In the 1960's, in the United States, the gold base for domestic credit expansion was entirely eliminated when the Congress repealed the law that Federal Reserve Notes ($ bills issued) required a 25 per cent gold reserve and when they also eliminated the 25 per cent gold base against commercial bank reserves. With this action the IOU's (credit) of the U.S. became what John Exter calls "IOU Nothings." There was now no limit to the creation of credit and money for the base itself became paper. U.S. Government bonds and bills. The pyramid could grow continuously so long as holders and creators of IOU's could pass them to others.

How is the credit base expanded? Text books call the process open market operations—by the Federal Reserve "purchasing" government securities—usually bills—in the open market. The words "purchase government securities" is a mis-nomer. The money represented by the Feds check when it buys government securities doesn't come from taxes, it doesn't come from Reserve Bank earnings, nor is it borrowed. The money represented by the check is created by the stroke of a pen. The check, in any event, ends up as a deposit in a bank or banks. The reserves (credit base) of the commercial banks are increased by the amount of the check. Since we have a fractional reserve

banking system, the banks can, in turn, issue more of their own IOU's i.e., create checking accounts for customers and thus create more money. The pyramid grows with the weakest holders of new IOU's being added to its top. Excessive paper in the system causes the value of that paper, i.e., money to fall in relation to goods and services—that is inflation.

The Neo-Keynesians refer to a 1 percent to 2 percent rate of inflation as no inflation; a spade is a spade, any rate of inflation is inflation. They also mis-use the word "borrow" in reference to methods of financing public debt necessary to service deficits in budgets. If tax revenues accruing to the Treasury are insufficient to meet government spending outlays, the Treasury issues IOU's called Government Bonds. If you or I, the private sector, buy these borrowing instruments this is true government borrowing for our command over resources is transferred to the federal government—there is no increase in aggregate demand. But suppose you and I, representing the private sector, refuse to buy these bonds for one reason or another. Further suppose the banks are loaned up, i.e., have no free reserves. This is no deterrent to further credit creation. Through open market operations the Federal Reserve can literally *give* reserves to the commercial bank who in turn swap this gift, on a multiple basis, for the newly issued Treasury Bonds; the banks add the bonds to their total assets and credit the Federal Government with checking accounts of the same dollar amount. These newly created checking accounts are then used to pay government expenses. Newly created government debt has been monetized. Printing press dollars have been created. If excess demand already exists in the economy this debt monetization, in contra-distinction to real borrowing, is purely inflationary. It is in this sense that overly expansive fiscal policy can breed overly expansive monetary policy. Government obligations have to be paid whether or not said payment expand the money supply.

The foregoing raises the question why monetization of federal debt may become necessary even when inflationary. I would suggest the first reason is because "potential" gross national product as used with the full employment budget concept is not potential, rather, it is outside the production possibilities curve in the never-never land of Alice in Wonderland, as it were. The long-run real growth rate of the economy has not been as high as 4.4 percent annually, the currently used expectation. It is closer to the 3.5 percent rate previously used at the anchor year 1955. Gross national product in constant 1958 dollars was, $440 billion in mid-year 1955 when the full employment budget surplus was zero. Projecting this $440 billion dollar GNP at a reasonably expected growth rate of 3.5 percent per annum yielded a potential GNP in mid-1972 of $789.6 billion. As projected by the Council of Economic Advisors at the higher rate, potential GNP was supposed to be $820 billion. At the given point in time this level of GNP appears not to be sustainable, even if attainable. The difference between the $820 billion estimate and the more realistic $789.6 billion estimate is $30.4 billion in 1958 dollars, or $44.1 billion in current 1972 dollars. Therefore, real "full employment" may be far below GNP estimates of government planners.

This is to say, on the basis of the foregoing "guesstimate" of the level of "full employment" if there were no gap in GNP on the basis of the above approach, using the "guesstimate" of the Council of Economic Advisors at the same point in time there would be a gap of some $44.1 billion. This would, in turn justify larger budget deficits. The science of economics is not so exact. The inflationary experience of recent years would suggest prudence through underestimating rather than overestimating potential GNP.

Or to restate the foregoing another way, if government spending is authorized at the high level such that it would be matched by tax revenues if the economy were at the "potential" level, but the "potential" level is not sustainable, it is obvious continuous budget deficits will occur. Experience since 1960 seems to justify this conclusion.

Regardless of how financed, raids of the Treasury into the money markets tend to drive interest rates up and crowd-out private bidders. The higher interest rates induce the Federal Reserve to expand the money base which has, in recent years at least, resulted in a multiple expansion of the money supply at average rates in excess of 3.5 per cent annually. One of the reasons for this is that the barometer the Federal Reserve Board of Governors has used for open market operations has been "money market conditions," in true Neo-Keynesian style, with little or no attention to changes in monetary aggregates. Hopefully this policy is now changing. But to the extent the commercial banks absorb reserves by "buying" the newly created bonds or bills, federal debt is monetized and government obligations are paid with "printing press" checking accounts, i.e., dollars.

For the remaining reasons why a government may resort to inflationary measures, or "issue money" the work of Phillip Cagan is pertinent. If a government cannot fully finance its expenditures either from directly levied tax revenues, authorized by the Congress, or real borrowing it has two backdoor avenues open to it. It can (1) impose an unlegislated tax (which should be unconstitutional) on cash balances by monetizing debt, or "issuing money," (2) increase real governmental revenue as a by-product of (1) because a rise in the price level reduces the real value of the total indebtedness. These will be referred to as (a) the unlegislated tax effect and (b) the wealth effect, respectively. It would be well to remember the legal distinction here between appropriation authorizations to spend *vs* authorizations to tax. The mechanics of imposing the unlegislated tax is the same as monetization of debt but here the frame of reference is associated with law because only the Congress, under Constitutional provisions, has the right to impose taxes upon the people. Thus, in this sense monetary manipulations, which operate as silently as a ship-in-the-night, can circumvent law. Through such measures, the government, the public sector, can increase its share of the pie of Gross National Product at the expense of the private sector by simultaneously increasing real revenue and reducing the real value (though not nominal value) of its indebtedness.

In addition to the above, the government gains from inflation when income tax rates on nominal income remain constant. As nominal income of persons rises while real income remains constant, tax payers are continuously thrown into higher tax brackets. Under a progressive income tax system real income to the government is continuously augmented as tax rates are not deflated at a rate commensurate with the rate of inflation of the yardstick, the dollar. So-called "fiscal dividends" as propagandized by the Neo-Keynesians have been proven to be another mirage of that school.

What might be done to improve the situation? Money serves two basic functions, (1) as a medium of exchange and (2) as a standard of deferred payments or store of value. Obviously, during periods of inflation money cannot perform its second function, as a store of value. I would recommend that we take away from the dollar its store of value or measure of deferred payments function and transfer this function to legal instruments, contracts.

But to do this requires successful communication with the legal profession and law makers.

Consider the legal framework in relationship to the monetary unit, the dollar. In law a "dollar is a dollar" regardless of the time periods involved or the intensity of interim inflation. The judicial system's failure to recognize the economic reality that the value of money does in fact change over time is equivalent to legal fiction. If general judicial note of this real world condition is not recognized how can equal justice under law prevail with respect to monetary judgments? An understanding of this attitude is made more difficult in consideration of the fact that the maker of the law of the land, the Congress of the United States, is directed by the U.S. Constitution not only to "coin money" but to "regulate the value thereof."

Rightly or wrongly as to choice of method, the Congress until 1933 did attempt to comply with Constitutional requirements by pegging the dollar to gold. Once Congress assumes a responsibility provided for under the Constitution, thereafter Congress has no right of choice, it *must* carry on said responsibility. To change the "rule of the game" in mid-stream has the same effect as amending the Constitution, by default. To amend the Constitution is not the prerogative of the Congress: "The provisions of these solemn instruments are not advisory, or mere suggestions of what would be fit and proper but commands (in law) which must be obeyed—." In 1933, when it was made illegal for citizens to own gold, the gold standard for domestic purposes was abolished. This action is within the prerogative of the Congress. However, the Congress did not at the same time provide for any other method to "regulate the value thereof," and this omission is not within the powers of the Congress. If the drafters of the Constitution recognized instability of the monetary unit in the sense of inflation and deflation, in contradistinction to Adam Smith's higgling and jiggling of prices, why then have the people and the legal profession permitted Congress to default under the Constitutional mandate? This aspect of reestablishing a proper framework of law, while purely legal, requires the assistance of economists in the promotion of communication and understanding both among and between the separate professions.

Reference is now made to a method that Congress could choose to "regulate the value thereof," i.e., the value of money. One can regulate value if he explicitly recognizes any changes in the yardstick by which said value is measured. The choice of the method herein proposed raises the two main questions of (a) the legal necessity and (b) the economic wisdom of relieving the dollar of its function as a standard of deferred payments and the transfer of this function to obligational instruments. Thus regulating the value of money entails a legal affirmation that the yardstick, the ratio of nominal dollars to real value, can and does change over time. Economists generally recognize this. If this is recognized any argument that the dollar serves as a store of value, or standard of deferred payments becomes a *reductio ad absurdum*. It would follow logically, that fulfillment of any contracts should consider whether or not the yardstick used has changed its dimensions over the life of the contract. If so, adjustments would seem in order, i.e., adjustment of nominal dollar terms of the contract to real value terms by use of a price index, such as Consumer Price Index. Thus a constancy of value in discharging obligations (deferred payments) could be maintained as though the purchasing power of the dollar had not changed, when in fact it had changed.

The monetary unit, the dollar, would then become recognized as performing only its primary function, that of a medium of ex-

change. If from one time period to another there occurred a change in the purchasing power of the dollar in terms of real goods and services, the change would be compensated for by adjusting the nominal dollar terms of the obligation. It might be said that under such conditions the economy would be operating with phantom stable prices.

In conclusion, it might be well to note this proposal is certainly not new. One of the first economists to propose "an authoritative standard of purchasing power independent of the currency" was Alfred Marshall, who said: "I shall argue—that the only effective remedy—is to be sought in relieving the currency of the duty, which it is not fit to perform, of acting as a standard of value—." What is new, is that this plan encompasses *all* types of long term obligational arrangements, non-retroactive, and that it be made effective not as a recommendation but required by law. However, upon completion of a contract, terms could be modified by mutual assent of parties concerned; *freedom* of individual initiative would not be violated. The type of law envisioned would foster economic justice and promote the free enterprise system. The legal necessity thus derives from justice considerations in that all members of society, at whatever level, would be protected in contractual arrangements against unearned losses or gains attributable to inflation (deflation). This type of law would tend to remove types of institutional constraints that led to wage-price controls that were imposed on the economy August 15, 1971.

Finally, may I quote from John M. Keynes:

"Lenin is said to have declared that the best way to destroy the Capitalistic System is to debauch the currency—Lenin was certainly right. There is no subtler, no surer means of overturning the existing basis of society other than to debauch the currency. The process engages all the hidden forces of economic law on the side of destruction; and does it in a manner in which not one man in a million is able to diagnose."

## HONORS FOR CONGRESSMAN CLAUDE PEPPER

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, my good friend and distinguished colleague, the distinguished gentleman from Florida (Mr. PEPPER) recently received deserved recognition in his home city of Miami. In two events, awards were given by Miami organizations for outstanding service by Mr. PEPPER to his constituents and for mankind during his years of distinguished service in the Congress.

On February 24, CLAUDE was awarded the America-Israel Friendship Bronze Medallion Award by the American Mizrachi Women during their Florida Council Conference in Miami Beach.

This award exemplifies the work CLAUDE has done on behalf of better relations between this Nation and Israel and is well deserved.

On March 13, CLAUDE and his wife, Mildred, were jointly honored by being named Man of the Year by the Miami Beach Chamber of Commerce.

Mrs. Pepper was included in the award because, as was explained by the chamber official Arthur Courshon "Mildred runs the Pepper family."

There is no doubt that both Mildred and CLAUDE richly deserve this additional recognition for the work and sacrifice in public service beginning in 1929 has entailed.

I am pleased to join his good friends in Dade County, in Florida and in the Nation in applauding CLAUDE and Mildred Pepper.

I enclose clippings which further describe the awards from the Miami Sun Reporter of February 21 and from the Miami Herald of March 21:

[From the Sun-Reporter, Feb. 21, 1974]

PEPPER RECEIVES AWARD

Mrs. Alfred Finkelstein, president of the Florida Council of American Mizrachi Women, announces the annual all day conference on Sunday, in the French Room of the Fontainbleau Hotel, inviting the entire community.

Mrs. Leo Oster and Mrs. Morris Zellner, chairmen of the conference, have planned the afternoon session from 1 to 4:30 p.m. Films will be shown and Mrs. Alfred Stone, Council coordinator and national vice-president, will moderate the plenary sessions with panelists from the Women's Division of the Greater Miami Jewish Federation together with the local Mizrachi Women mentioned above including Mrs. Fred Wang, Council Membership Chairman. From the Federation there will be Mrs. Burton Levey, immediate past president, and Mrs. Sol Landau, vice-president and head of the education department. From Mizrachi Women's national roster there will also be a prominent personality. There will be a stimulating question and answer period.

Climaxing the afternoon will be the formal dinner in the same French Room at 7 p.m., at which the Hon. Claude Pepper will be presented with the American-Israel Friendship Bronze Medallion Award by none other than Richard (Dick) Stone, Secretary of State, who was the first Florida recipient of this coveted award three years ago.

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[From the Miami Herald, Mar. 21, 1974]

BOTH PEPPERS ARE CHAMBER'S "MAN OF THE YEAR"

(By John McDermott)

It took 38 years of being married for U.S. Rep. Claude Pepper to find out that his wife, Mildred, runs his family—and his life in Congress.

But he found out for sure Wednesday night at the Diplomat Hotel in Hallandale. The occasion was the annual dinner of the Miami Beach Chamber of Commerce.

In a unique citation, the veteran Democratic congressman, from Dade's 14th district, and his wife were named recipients of the Chamber's "Man of the Year" award. Pepper's first term in Congress began in 1929. He was elected to the U.S. Senate in 1936.

Arthur Courshon, Miami Beach banker and a top finance official in the Democratic Party, told the dinner guests, "I know who really runs the world . . . who runs the Pepper family . . . it's Mildred."

Courshon, with tongue in cheek, said Mildred "had good judgment until she made a mistake—a mistake that began the moment she decided to marry Claude." They were married in 1936.

He referred to the 73-year-old Pepper, as "the fellow who works for Mildred."

The crowd applauded enthusiastically.

Courshon recited some of the highlights of Pepper's colorful past, including his role as a "sounding board" for the late President Franklin Delano Roosevelt.

He also said that Pepper was "a man ahead of his time" for having sponsored national health insurance in the 1940s and for expressing views that all Americans are created equal—he was "color blind."

Courshon hailed Pepper for having made an imprint not only in Dade County and the nation, but throughout the world during his years in Washington.

The chamber presented the Peppers with an impressionistic portrait of themselves, painted by Tony Scornavacca.

President Nixon sent a telegram saying, "Pat and I wholeheartedly share in the Chamber's admiration and affection."

The President added that the Chamber's tribute to Pepper's years of public service "reflects sentiments that are echoed by all of those who have followed your remarkable career."

Barton Goldberg, president of Jefferson National Bank, was installed as the new Chamber president. He succeeds president James McDonald.

Also sworn in at the 53d anniversary dinner were vice presidents Leon Manne, Jay Jason, Jim Wade, Larry Abermon and Bob Frehling.

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## NORMAN ALLEN IS LEGEND AMONG KENTUCKY JOURNALISTS

(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, when the expression "gentleman of the press" is used, there is no more apt reference than to an old friend of mine, Norman Allen of Prestonsburg. Recently the Ashland Daily Independent wrote a profile of Norman, and I think a reading of the profile will back up my comment. Norman says what he thinks, and he is a pretty clear thinker—an attribute which could be given to many of our eastern Kentucky journalists. Mr. Speaker, I insert the article about Norman Allen, owner and editor of the Floyd County Times, in the RECORD:

[From the Ashland (Ky.) Daily Independent, Mar. 31, 1974]

ALLEN IS LEGEND AMONG KENTUCKY JOURNALISTS

(By Gurney Johnson)

PRESTONSBURG.—On his desk sits a poster-picture of an old hound dog scrambling over a barbed wire fence. It bears a Walt Whitman quote:

"From this hour, freedom! Going where I like, my own master . . ."

The desk, which is a legend in itself, belongs to Norman Allen, owner and editor of the Floyd County Times.

He has been the editor of the weekly newspaper for 47 years. Last week's edition was Volume XLVI, No. 14. That means Norman Allen has put out the Floyd County Times 2,392 times.

"I wrote the whole first edition by hand—that was in 1927—because I didn't have a typewriter," Allen said with a smile.

Norman Allen and his Floyd County Times span almost a half century. When he started his newspaper Prestonsburg was a little town of about 1,200 people spread out over four or five blocks. It has now grown into a thriving little community of about 4,700.

And, Allen probably knows most of them. People walk in off the street to pass the time of day, discuss fishing or maybe the unfortunate passing of an old friend.

Or, an advertiser stops by to remind him that "Norman, you forgot our ad this week." He rummages through the papers on his desk and admits that he did leave it out. The advertiser nods his head and politely adds, "Well, maybe you'll think of it next time."

Norman Allen seems to never take his hat off. His colorful, quiet approach to the problems of life—with "going fishing" as a principal solution—has brought him wide respect among Bluegrass journalists.

He is a legend in his own right. Norman Allen stories are told throughout Eastern Kentucky and the entire state.

One story about his perpetually cluttered desk, which Allen will only concede "might be true," involves a birth announcement he is said to have found buried beneath a pile of paper.

He put it in the newspaper and a few days later received a letter from a little girl pointing out that he was seven years late on her birth announcement.

Several stories concern his deaf dog, Dal, who died about five years ago. When Allen went out to collect the news, for 10 years, Dal was never far behind.

"He would follow anyplace I went. If a door cracked open, he'd go inside. And, you know, when he was here at the office, he insisted on lying on a desk. I always had an office dog, but after Dal died, I got out of the dog business."

The Floyd County Times, which now has a circulation of 8,300, is respected in newspaper circles. It is often cited as a principal source of research on Eastern Kentucky for the past 40 years.

A newspaper is no better than its editorial policy. Allen has taken a hard stand for what he thinks is right and he has done it with integrity.

"It's always been my practice not to make any difference in this person and another. Everybody's name goes in. If it was my own son his name would go in with the rest.

"I'm a Democrat but I never tried to force my political views on the people. We never supported any candidate except Bert Combs for governor. We're non-political. I have my thinking but never take part in any campaigns."

His journalism has always been strongly tempered with a love for his native Eastern Kentucky and its people. The issues that have raised his ardor the most in recent years have been the ones that have had the biggest effect on his country and people—strip mining and welfare.

"I'm outspoken on things I feel are detrimental to the county. The coal people think I'm against them due to my strip mine stand, but I got sense enough to know there wouldn't be much here without coal. The hills, forests and streams should be protected. There should be something left when the coal is all gone.

"Any industry should comply with the law. We have some responsible coal operators. Eastern Kentucky is not dying. The only thing that can kill this country is to destroy its beauty, its streams and forests, gut it, and leave nothing in its place."

Concerning welfare, he points out that "there's the aged and sick and some people who honestly want work and can't get it. The government is responsible for part of it. People saying if I make so much they'll cut me off.

"There's hundreds of garden plots in this county that haven't been disturbed. If the government would furnish seed and tell them 'we'll furnish the know how in planting and canning,' it would restore a little pride and give them something to do.

"Diversity of industry is what we're needing. Coal mining doesn't give enough men jobs—especially strip mining."

Newspapering has been Norman Allen's life for the past 50 years, since that first job with the Big Sandy News in Louisa.

He was teaching all eight grades in a one-room school near Hueysville when he got into the business. He was 21-years-old and had been teaching for four years, sometimes as many as 86 pupils.

"That was the hardest work I ever did. It was the only job I ever had I wasn't sorry when I quit."

"I had always been an omnivorous reader and got to thinking that I'd like to be able to express myself like that. I was working as a stringer for the Cincinnati Post and Courier-Journal when the Courier had an essay contest. I wrote a thing on the Constitution and won the contest."

M. F. Conley, owner of the Big Sandy News, saw the essay, liked it, and wrote a letter to Allen offering him a job.

After working there for a year, Allen decided he needed some education in journalism. He enrolled in the University of Kentucky as a special student and stayed one semester before getting a job on the Lexington Leader at $30 a week.

After eight months, he was state editor and homesick for Floyd County.

"My father and some people wanted me to start a newspaper here, so in 1927 I started the Floyd County Times. My dad got about 100 of his friends out in the county to subscribe to it. I never had the nerve to ask anybody to subscribe to a paper that hadn't published yet."

That initial publishing venture lasted only eight months. Allen built the paper's circulation up to about 1,100 and then "a bakery next door caught fire and burned us out."

"I almost got out of the newspaper business. We didn't have a cent of insurance and I had just gotten married and owed for all my furniture."

Although the Times didn't publish for a couple of months, Allen came back and bought the rival Prestonsburg Post and merged it into the Floyd County Times.

The Times was once again off and running, publishing continuously until the 1955 flood when the Big Sandy River forced Allen to miss an edition. He hasn't missed an edition since. Not even in February of 1973 when faulty wiring caused a fire which gutted building and destroyed much of his modern offset equipment.

"I edited it from home and got it out the next week. We printed two weeks like that, didn't miss an issue."

In reflecting on almost half a century Allen remembers best the bloody years and the depression.

"There was awhile here a week didn't go by that we didn't have at least one murder. In the late 20s and 30s I've written as high as five in one week. Isolation caused a lot of it. There were no roads or transportation. Boys would congregate at beer joints. Everybody had a gun on his hip. One commonwealth attorney called it the bloodiest soil on the Western hemisphere.

"I've made a living and educated a family. It hasn't always been easy. One time, during the depression, I had to sell my typewriter to pay a grocery bill. During the depression I took apples, cabbages, anything that enabled people to keep reading the paper and us eating."

Although one of his sons is doing all the photography and most of the news, Allen still writes all the editorials and his weekly column, "This Town—That World."

"I'm hoping my children can take it over one day. I want to get out of here before they carry me out."

Then leaning back with his pipe and reflecting on the years, he added, "I've thought of getting out of it several times but I don't know what else I could do. As long as I'm able to mosy around, I'm not going to sit down."

Norman Allen, who has only worked for two men in his life, has been his own master. As the slogan of his paper advertises, he has spent that life "Speaking of and for Floyd County."

## IT'S ONLY FAIR

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

Mr. PODELL. Mr. Speaker, on the first of this month a considerable number of my constituents received their monthly supplemental security income assistance checks. These payments are made under the program recently passed by the Congress to provide for a basic level of income to those who are aged, blind, or disabled. Tomorow and the next day, many of the elderly who are receiving SSI payments will also be receiving their April social security checks.

Those social security checks will be 7 percent greater than the checks they received in March, the first stage of an 11-percent increase in benefits which we also recently enacted. Unfortunately, SSI checks to the elderly will be reduced by a proportionate amount.

In January of 1974, when the SSI program was instituted, a basic level of payments was established to give the very poorest of the elderly in our society a guaranteed minimum income. The word "minimum" is hardly descriptive, for the maximum payment under SSI is $140 a month, and most recipients get considerably less. When supplemental payments to the elderly are reduced, it defeats the entire purpose of setting a minimum income floor for them. A floor is supposed to stay level, not rise and fall in conjunction with other forces. The supplemental payments are designed to provide a certain minimum level of income, and this is not being done if these payments are reduced as social security benefits rise. But that is the present state of the law.

Now I ask you, Mr. Speaker, where is the sense in this? Where is the fairness or the justice? When we passed the increase in social security benefits, it was to give more money to those living on fixed and pitifully small incomes, to help them withstand the ravages of inflation. What good does it do them, when with one hand we give the elderly more money, and then take it away with the other hand? How can we in good conscience say that we are helping the aged, and the blind and disabled, those segments of our population who are among the poorest and the hardest hit by inflation, when we permit laws to stay on the books that allow such things to happen.

My district office has been swamped by the pleas of the elderly receiving both SSI and social security payments, asking me to do something, anything, so that they will have the extra money they counted on when they learned that a benefit increase had been enacted. In fact, there was one elderly couple in my district who actually suffered a net loss in monthly benefits as a result of this so-called increase.

This was, indeed, a cruel April Fools' joke to play on the people who are receiving SSI payments. So many of my constituents look to this as their sole source of income, and a pitifully small source it is. I cannot in good conscience sit idly by and tell the people who voted for me that there is nothing I can do to help them.

We knew this problem would arise when the original legislation was before us. If only our foresight was as good as our hindsight now seems to be. But it is not and, therefore, we must do everything possible, and do it as soon as possible, to end this intolerable inequity.

I am today introducing legislation to amend the Social Security Act to provide

that increases in social security benefits will not result in a proportionate decrease in SSI payments. I am also calling at this time for immediate hearings on this legislation, in the hope that Congress will move quickly to enact this proposal into law and thereby end once and for all a cruel injustice we are committing against this Nation's elderly.

## BILL TO RAISE CONSERVATION FUND TO $900 MILLION

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, I am today reintroducing a bill, along with 32 of our colleagues, to amend the Land and Water Conservation Fund Act of 1965 to increase the annual authorization for the fund from $300 to $900 million. The fund is used by State governments on a 50–50 matching basis to acquire and develop recreation lands, and by Federal agencies like the National Park Service to acquire lands needed to satisfy national conservation goals.

The land and water conservation fund has been very useful in meeting certain needs for outdoor recreation. The States have responded enthusiastically to the program. Many States—such as Ohio, New York, Florida, and California, among others—have succeeded in raising large sums to match their share of the State portion of the fund. States are given 3 years to obligate funds, which gives them and their political subdivisions time to make plans and obtain money needed for their matching share. According to the Bureau of Outdoor Recreation—BOR—which administers the fund—

> Over the life of the program practically no money has reverted because it was unobligated in this three-year period.

The apportionment system used by BOR is as follows: Two-fifths divided equally among the 50 States and three-fifths divided among "55 States" on the basis of need—5 percent for contingencies, 30 percent on the basis of total "State" population, and 25 percent on the basis of population of SMSA's in the State. The following is BOR's State-by-State breakdown of the estimated fiscal year 1975 apportionment of $196 million:

*Estimated fiscal year 1975 apportionment of $196,000,000*

| | *Apportionment* |
|---|---|
| Alabama | $3,201,660 |
| Alaska | 1,700,300 |
| Arizona | 2,519,580 |
| Arkansas | 2,315,740 |
| California | 13,575,940 |
| Colorado | 2,731,260 |
| Connecticut | 3,280,600 |
| Delaware | 1,859,060 |
| Florida | 5,369,420 |
| Georgia | 3,653,440 |
| Hawaii | 2,001,160 |
| Idaho | 1,813,000 |
| Illinois | 7,755,720 |
| Indiana | 4,137,560 |
| Iowa | 2,716,560 |
| Kansas | 2,532,320 |
| Kentucky | 2,921,380 |
| Louisiana | 3,324,160 |
| Maine | 1,923,740 |
| Maryland | 3,807,300 |
| Massachusetts | $4,827,480 |
| Michigan | 6,459,180 |
| Minnesota | 3,390,800 |
| Mississippi | 2,335,340 |
| Missouri | 3,917,060 |
| Montana | 1,826,720 |
| Nebraska | 2,206,960 |
| Nevada | 1,841,420 |
| New Hampshire | 1,848,280 |
| New Jersey | 5,838,840 |
| New Mexico | 1,963,920 |
| New York | 12,230,400 |
| North Carolina | 3,716,160 |
| North Dakota | 1,768,900 |
| Ohio | 7,435,260 |
| Oklahoma | 2,733,220 |
| Oregon | 2,597,980 |
| Pennsylvania | 8,145,760 |
| Rhode Island | 2,112,880 |
| South Carolina | 2,710,680 |
| South Dakota | 1,790,460 |
| Tennessee | 3,336,900 |
| Texas | 7,607,740 |
| Utah | 2,147,180 |
| Vermont | 1,697,360 |
| Virginia | 3,856,300 |
| Washington | 3,381,000 |
| West Virginia | 2,283,400 |
| Wisconsin | 3,688,720 |
| Wyoming | 1,662,080 |
| District of Columbia | 782,360 |
| Puerto Rico | 1,492,860 |
| Virgin Islands | 72,640 |
| Guam | 78,520 |
| American Samoa | 60,880 |
| Apportioned to States | 186,985,000 |
| Contingency | 9,015,000 |
| Total appropriated | 196,000,000 |

Unfortunately, the funds available under the present program are falling far short of meeting the national needs for outdoor recreation land and facilities. Traditionally, park programs have taken a back seat to other State and local priorities. Only in recent years, has outdoor recreation been recognized as an important and basic human need. At the same time, with the rapid disappearance of suitable open space, particularly around our central cities, fewer opportunities have been available for outdoor recreation. And the need grows more acute every year.

Although 78 percent of the Nation's population live in cities, only 11 percent of State park lands are located near urban areas. The problem is one of funding. Many State park projects have been located in rural areas, where open space is more available and land prices are cheaper.

The problem is the same on the Federal level. The annual share of the fund for eligible Federal agencies is about 33 percent of the total authorization. This is not enough to meet our country's growing needs. For example, the National Park Service estimates it will require well over $400 million—with the additions of Big Thicket and Big Cypress—to acquire lands already authorized by Congress. This is a conservative figure; some estimates put that total as high as $2 billion. Yet the Park Service share of the fund for fiscal year 1975 is only about $71 million. It receives no new funds in fiscal year 1974. At this erratic, low rate of funding, it will be many years before sufficient park lands can be acquired. And in the meantime, land prices are escalating rapidly and many key parcels of land can be lost forever to development.

The fund is derived from a number of sources, including revenues from leases on offshore oil wells. These revenues are expected to reach $6 billion in fiscal year 1974 and $8.2 in fiscal year 1975. The Secretary of the Interior has announced plans to increase offshore oil drilling by tenfold, which would more than cover a threefold increase in the fund.

The purpose in using these oil revenues for the Conservation Fund has been to convert a natural resource that is being depleted into a natural resource that will not be depleted, one which all our people can share. And as we increase the rate at which we deplete our oil resources, we should also increase the rate at which we protect and improve our environment. Otherwise we would be allowing a substantial cut in the percentage of offshore oil revenues going into the fund.

Mr. Speaker, the following are the Members who have joined me in cosponsoring this legislation: Ms. ABZUG, Mr. BADILLO, Mr. BELL, Mr. BINGHAM, Mr. BROWN of California, Mr. CLEVELAND, Mr. DELLUMS, Mr. DE LUGO, Mr. EDWARDS of California, Mr. FORD, Mr. FREY, Mr. GUDE, Mr. HARRINGTON, Mr. HAMILTON, Mr. HECHLER of West Virginia, Mr. LEGGETT, Mr. MORGAN, Mr. LUJAN, Mr. MOLLOHAN, Mr. MCCORMACK, Mr. MOAKLEY, Mr. O'HARA, Mr. QUIE, Mr. ROSTENKOWSKI, Mr. RIEGLE, Mr. ROUSH, Mr. SARBANES, Ms. SCHROEDER, Mr. VANIK, Mr. CHARLES H. WILSON of California, Mr. CHARLES WILSON of Texas, and Mr. YOUNG of Georgia.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. REES (at the request of Mr. O'NEILL), for today and Thursday, April 4, on account of official business.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. CRONIN) to revise and extend their remarks and include extraneous material:)

Mr. GOLDWATER, for 10 minutes, today.

Mr. FRELINGHUYSEN, for 10 minutes, today.

Mr. RAILSBACK, for 5 minutes, today.

Mr. FINDLEY, for 10 minutes, today.

(The following Members (at the request of Mr. VANDER VEEN) and to include extraneous matter:)

Mr. DIGGS, for 5 minutes, today.

Mr. MEZVINSKY, for 5 minutes, today.

Mr. MURPHY of New York, for 10 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. FLOOD, for 10 minutes, today.

Mr. VANIK, for 5 minutes, today.

Mr. FOUNTAIN, for 60 minutes, on April 10.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the re-

quest of Mr. CRONIN) and to include extraneous material:)

Mr. QUIE in two instances.
Mr. WYMAN in two instances.
Mr. HOSMER in two instances.
Mr. BEARD.
Mr. SHOUP in three instances.
Mr. LOTT.
Mr. BROYHILL of Virginia.
Mr. ARCHER.
Mr. SYMMS in two instances.
Mr. BAKER.
Mr. THONE.
Mr. HUBER in two instances.
Mr. CLANCY.
Mr. SCHERLE in 10 instances.
Mr. WHALEN.
Mr. STEIGER of Wisconsin.
Mr. FRELINGHUYSEN.
Mr. ROBISON of New York.
Mr. ESCH.
Mr. MYERS.
Mr. ASHBROOK in five instances.
Mr. HOGAN in two instances.
Mr. BOB WILSON in three instances.

(The following Members (at the request of Mr. VANDER VEEN) and to include extraneous matter:)

Mrs. BURKE of California in 10 instances.
Mr. MCCORMACK.
Mr. JAMES V. STANTON.
Mr. FRASER in five instances.
Mr. FISHER in four instances.
Mr. ST GERMAIN in five instances.
Mr. RARICK in three instances.
Mr. GONZALEZ in three instances.
Mr. STOKES in five instances.
Mr. STARK in 10 instances.
Mr. ROY.
Mr. EDWARDS of California.
Mr. BADILLO in two instances.
Mr. MITCHELL of Maryland.
Mr. MURTHA.
Mr. ULLMAN in three instances.
Mr. DELLUMS in 10 instances.
Mr. LEGGETT.
Mr. ALEXANDER in 10 instances.
Mr. BROWN of California in 10 instances.
Mr. HUNGATE.
Mr. WHITE.
Mr. ROGERS in five instances.
Mr. FLOWERS in three instances.
Mr. DULSKI in three instances.

## SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1017. An act to promote maximum Indian participation in the government and education of the Indian people; to provide for the full participation of Indian tribes in programs and services conducted by the Federal Government for Indians and to encourage the development of the human resources of the Indian people; to establish a program of assistance to upgrade Indian education; to support the right of Indian citizens to control their own educational activities; to train professionals in Indian education; to establish an Indian youth intern program; and for other purposes; to the Committee on Interior and Insular Affairs.

## ENROLLED BILLS SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1321. An act for the relief of Dominga Pettit;

H.R. 5106. An act for the relief of Flora Datiles Tabayo; and

H.R. 7363. An act for the relief of Rito E. Judilla and Virna J. Pasicaran.

## SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 71. An act for the relief of Uhel D. Polly;

S. 205. An act for the relief of Jorge Mario Bell;

S. 507. An act for the relief of Wilhelm J. R. Maly;

S. 816. An act for the relief of Mrs. Jozefa Sokolowska Domanski;

S. 912. An act for the relief of Mahmood Shareef Suleiman; and

S. 2112. An act for the relief of Vo Thi Suong (Nini Anne Hoyt).

## ADJOURNMENT

Mr. VANDER VEEN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 1 minute p.m.) the House adjourned until tomorrow, Thursday, April 4, 1974, 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:

2134. A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, transmitting a report that the food stamp program account, Food and Nutrition Service, Department of Agriculture, has been reapportioned to reflect a more accurate estimate of requirements, pursuant to 31 U.S.C. 665; to the Committee on Appropriations.

2135. A letter from the Secretary of Interior, transmitting a draft of proposed legislation to enable the Secretary of the Interior to provide for the operation, maintenance, and continued construction of the Federal transmission system in the Pacific Northwest by use of the revenues of the Federal Columbia River Power System and the proceeds of revenue bonds, and for other purposes; to the Committee on Interior and Insular Affairs.

2136. A letter from the Acting Secretary of the Interior, transmitting a consolidated financial statement for the electric power generating projects and the transmission system comprising the Federal Columbia River Power System, pursuant to 16 U.S.C. 835j; to the Committee on Interior and Insular Affairs.

2137. A letter from the Chairman, Indian Claims Commission, transmitting the final determinations of the Commission in Docket No. 84, *the Six Nations, by Dean Williams, et al.; the Seneca Nation of Indians; the Cayuga Nation, by Stewart Jamison, et al.; the Oneida Nation, by Julius Danforth, et al.; the Seneca-Cayuga Tribe of Oklahoma; the Oneida Nation of New York; the Oneida Tribe of Indians of Wisconsin; the Tuscarora Nation,* Plaintiffs v. *the United States of America,* Defendant, and docket No. 300–B, *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.

2138. A letter from the Attorney General, transmitting a draft of proposed legislation to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to provide appropriations to the Drug Enforcement Administration on a continuing basis; to the Committee on Interstate and Foreign Commerce.

2139. A letter from the Securities and Exchange Commission, transmitting the Commission's 39th Annual Report, covering fiscal year 1973, pursuant to 15 U.S.C. 78w(b), 79w, 80a–45(a), and 80b–16 and 22 U.S.C. 286k–2, 283h(b), and 285h(b); to the Committee on Interstate and Foreign Commerce.

2140. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204 (d) of the Immigration and Nationality Act, as amended [8 U.S.C. 1154(d)]; to the Committee on the Judiciary.

2141. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders suspending deportation, together with a list of the persons involved, pursuant to section 244(a)(1) of the Immigration and Nationality Act, as amended [8 U.S.C. 1254(c)(1)]; to the Committee on the Judiciary.

2142. A letter from the Secretary of Health, Education, and Welfare, transmitting the sixth annual report on medicare, covering fiscal year 1972, pursuant to 42 U.S.C. 1395*ll* (b) (H. Doc. No. 93–252); to the Committee on Ways and Means and ordered to be printed with illustrations.

RECEIVED FROM THE COMPTROLLER GENERAL

2143. A letter from the Comptroller General of the United States, transmitting a report on progress and problems in developing nuclear and other experimental techniques for recovering natural gas in the Rocky Mountain area; to the Committee on Government Operations.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MILLS: Joint Committee on Internal Revenue Taxation. Report on the examination of President Nixon's tax returns for 1969 through 1972 (Rept. No. 93–966). Referred to the Committee of the Whole House on the State of the Union.

Mr. McSPADDEN: Committee on Rules. House Resolution 1026.—Resolution providing for the consideration of H.R. 12565. A bill to authorize appropriations during the fiscal year 1974 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, and other weapons and research, development, test and evaluation for the Armed Forces, and to authorize construction at certain installations, and for other purposes (Rept. No. 93–967). Referred to the House Calendar.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 11013. A bill to designate certain lands in the Farallon National Wildlife Refuge, San Francisco County, Calif., as wilderness with amendment (Rept. No. 93–968). Referred to the Committee of the Whole House on the State of the Union.

Mr. PRICE of Illinois: Joint Committee on Atomic Energy. H.R. 13919. A bill to authorize appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes. (Rept. No. 93–969).

Referred to the Committee of the Whole House on the State of the Union.

## PUBLIC BILLS AND RESOLUTIONS

By Mr. J. WILLIAM STANTON:

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

H.R. 13922. A bill to provide for the orderly transition from mandatory economic controls, continued monitoring of the economy and for other purposes; to the Committee on Banking and Currency.

By Mr. ANDERSON of California:

H.R. 13923. A bill to amend the Internal Revenue Code of 1954 to provide an additional intemized deduction for individuals who perform voluntary public service by working for certain organizations; to the Committee on Ways and means.

By Mr. BEARD (for himself, Mr. DAN DANIEL, Mr. COLLINS of Texas, Mr. BAFALIS, Mr. DAVIS of Georgia, Mr. BAKER, Mr. WHITEHURST, Mr. KETCHUM, Mr. TREEN, Mr. FISHER, Mr. MANN, Mr. ROBERT W. DANIEL, Jr., Mr. LOTT, Mr. GUNTER, Mr. SPENCE, Mr. YOUNG of Florida, Mr. TALCOTT, Mr. DEVINE, Mr. DERWINSKI, Mrs. HOLT, Mr. FROEHLICH, Mr. BOB WILSON, Mr. DENNIS, Mr. ABDNOR, and Mr. JONES of North Carolina):

H.R. 13924. A bill to amend the Occupational Safety and Health Act of 1970, and for other purposes; to the Committee on Education and Labor.

By Mr. BEARD (for himself, Mr. MARTIN of North Carolina, Mr. MONTGOMERY, Mr. ARCHER, Mr. RARICK, Mr. SHUSTER, Mr. BURGENER, Mr. HUBER, Mr. ROBINSON of Virginia, Mr. GOLDWATER, Mr. POWELL of Ohio, Mr. BAUMAN, Mr. SHOUP, Mr. PARRIS, Mr. WINN, Mr. SCHERLE, and Mr. KUYKENDALL):

H.R. 13925. A bill to amend the Occupational Safety and Health Act of 1970, and for other purposes; to the Committee on Education and Labor.

By Mr. BIAGGI:

H.R. 13926. A bill to establish rational criteria for the mandatory imposition of the sentence of death, and for other purposes; to the Committee on the Judiciary.

By Mr. BROWN of California (for himself, Ms. ABZUG, Mr. BINGHAM, Mr. DELLUMS, Mr. DRINAN, Mr. HARRINGTON, Mr. HELSTOSKI, Mr. METCALFE, Mr. MITCHELL of Maryland, Mr. MOAKLEY, Mr. OBEY, Mr. RANGEL, Mr. REES, Mr. ROSENTHAL, Mrs. SCHROEDER, Mr. STARK, Mr. THOMPSON of New Jersey, Mr. TIERNAN, Mr. WALDIE, and Mr. YOUNG of Georgia):

H.R. 13927. A bill to authorize a 5-year extension of the period of temporary admission into the United States for certain residents of Chile who are in the United States as nonimmigrant aliens, and for other purposes; to the Committee on the Judiciary.

By Mr. BROYHILL of Virginia (for himself and Mr. FRELINGHUYSEN):

H.R. 13928. A bill to amend the Foreign Service Act of 1946 to allow credit for service with Radio Free Europe and Radio Liberty for purposes of retirement; to the Committee on Foreign Affairs.

By Mr. DENT:

H.R. 13929. A bill to amend title 5, United States Code, to permit employees of Federal executive agencies and individuals employed by the government of the District of Columbia to engage in certain political campaign activities; to the Committee on House Administration.

H.R. 13930. A bill to amend title 5, United States Code, to permit State and local officers and employees to engage in certain political campaign activities; to the Committee on House Administration.

By Mr. FROEHLICH:

H.R. 13931. A bill to amend title 39, United States Code, to provide for the mailing of letter mail to Senators and Representatives in Congress at no cost to the sender, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 13932. A bill to amend the Internal Revenue Code of 1954 to exempt septic tank pumping units from the manufacturers excise tax on automotive and related items; to the Committee on Ways and Means.

By Mr. FULTON:

H.R. 13933. A bill to extend certain programs under the Economic Opportunity Act of 1964, and for other purposes; to the Committee on Education and Labor.

H.R. 13934. A bill to amend title 5, United States Code, to restore or grant family member status for coverage under the Federal employees health benefits program of a child under age 22 who lost or was not granted such coverage because of marriage later terminated by divorce or death of spouse; to the Committee on Post Office and Civil Service.

H.R. 13935. A bill to amend the Internal Revenue Code of 1954 to allow a credit against income tax to individuals for certain expenses incurred in providing higher education; to the Committee on Ways and Means.

By Mr. HANSEN of Idaho:

H.R. 13936. A bill to amend the Atomic Energy Act of 1954, as amended, in order to establish a Joint Committee on Energy; to the Committee on Rules.

By Mr. HÉBERT (for himself and Mr. BRAY) (by request):

H.R. 13937. A bill to amend title 37, United States Code, to refine the procedures for adjustments in military compensation, and for other purposes; to the Committee on Armed Services.

By Mr. HELSTOSKI:

H.R. 13938. A bill to amend the Internal Revenue Code of 1954 to provide that a taxpayer conscientiously opposed to participation in war may elect to have his income, estate, or gift tax payments spent for nonmilitary purposes; to create a trust fund (the World Peace Tax Fund) to receive these tax payments; to establish a World Peace Tax Fund Board of Trustees; and for other purposes; to the Committee on Ways and Means.

By Mr. MURTHA:

H.R. 13939. A bill to direct the Comptroller General of the United States to conduct a study of the burden of reporting requirements of Federal regulatory programs on independent business establishments, and for other purposes; to the Committee on Government Operations.

By Mr. PEPPER:

H.R. 13940. A bill to amend the Social Security Act to establish a national health insurance program for all Americans within the social security system, to improve the benefits in the medicare program including a new program of long-term care, to improve Federal programs to create the health resources needed to supply health care, to provide for the administration of the national health insurance program and the existing social security programs by a newly established independent Social Security Administration, to provide for the administration of health resource development by a semi-independent board in the Department of Health, Education, and Welfare, and for other purposes; to the Committee on Ways and Means.

By Mr. PEYSER:

H.R. 13941. A bill to correct certain inequities regarding the making and termination of appointments under Executive Order No. 11521, relating to veterans readjustment appointments for veterans of the Vietnam era, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 13942. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for expenses incurred by a taxpayer in making repairs and improvements to his residence, and to allow the owner of rental housing to amortize at an accelerated rate the cost of rehabilitating or restoring such housing; to the Committee on Ways and Means.

By Mr. PODELL:

H.R. 13943. A bill to amend title II of the Social Security Act to provide that increases in monthly insurance benefits thereunder (whether occurring by reason of increases in the cost of living or enacted by law) shall not be considered as annual income for purposes of certain other benefit programs; to the Committee on Ways and Means.

By Mr. RAILSBACK:

H.R. 13944. A bill to prohibit for a temporary period the exportation of ferrous scrap, and for other purposes; to the Committee on Banking and Currency.

By Mr. ROONEY of Pennsylvania:

H.R. 13945. A bill to amend section 5051 of the Internal Revenue Code of 1954 (relating to the Federal excise tax on beer); to the Committee on Ways and Means.

By Mr. ROONEY of Pennsylvania (for himself, Mr. NIX, and Mr. BARRETT):

H.R. 13946. A bill to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970; to the Committee on Interstate and Foreign Commerce.

By Mr. ROONEY of Pennsylvania (for himself, Mr. PREYER, and Mr. CARNEY of Ohio):

H.R. 13947. A bill to amend the Federal Trade Commission Act to provide that under certain circumstances exclusive territorial arrangements shall be deemed lawful; to the Committee on Interstate and Foreign Commerce.

By Mr. ROSTENKOWSKI:

H.R. 13948. A bill to amend section 218 of the Social Security Act to provide that a policeman or fireman who has social security coverage pursuant to State agreement as an individual employee and not as a member of a State or local retirement system may elect to terminate such coverage if he is subsequently required to become a member of such a retirement system; to the Committee on Ways and Means.

H.R. 13949. A bill to amend the Internal Revenue Code of 1954 to avoid duplication of tax imposed under the Federal Insurance Contributions Act and the Federal Unemployment Tax Act in the case of employers of the same employee; to the Committee on Ways and Means.

H.R. 13950. A bill to amend the Internal Revenue Code of 1954 to provide that the investment credit shall apply to certain leased commuter cars; to the Committee on Ways and Means.

By Mr. SEIBERLING (for himself, Ms. ABZUG, Mr. BADILLO, Mr. BELL, Mr. EDWARDS of California, Mr. BINGHAM, Mr. BROWN of California, Mr. CLEVELAND, Mr. DELLUMS, Mr. DE LUGO, Mr. FORD, Mr. FREY, Mr. GUDE, Mr. HARRINGTON, Mr. HAMILTON, Mr. HECHLER of West Virginia, Mr. LEGGETT, and Mr. MORGAN):

H.R. 13951. A bill to amend the Land and Water Conservation Fund Act of 1965 to increase the authorization of appropriation for the Land and Water Conservation Fund; to the Committee on Interior and Insular Affairs.

By Mr. SEIBERLING (for himself, Mr. LUJAN, Mr. MOLLOHAN, Mr. MCCORMACK, Mr. MOAKLEY, Mr. O'HARA, Mr. QUIE, Mr. ROSTENKOWSKI, Mr. RIEGLE, Mr. ROUSH, Mr. SARBANES, Ms. SCHROEDER, Mr. VANIK, Mr. CHARLES H. WILSON of California,

Mr. CHARLES WILSON of Texas, and Mr. YOUNG of Georgia):

H.R. 13952. A bill to amend the Land and Water Conservation Fund Act of 1965 to increase the authorization of appropriation for the Land and Water Conservation Fund; to the Committee on Interior and Insular Affairs.

By Mr. SIKES:

H.R. 13953. A bill to provide for the establishment of a national cemetery within the Eglin Air Force Base Reservation, Fla.; to the Committee on Veterans' Affairs.

By Mr. STEIGER of Arizona (for himself, Mr. JOHNSON of California, and Mr. UDALL):

H.R. 13954. A bill to authorize the Secretary of the Interior to engage in a feasibility investigation of a water supply delivery system for the city of Yuma, Ariz.; to the Committee on Interior and Insular Affairs.

By Ms. ABZUG:

H.R. 13955. A bill to amend title 39, United States Code, to eliminate certain restrictions on the rights of officers and employees of the U.S. Postal Service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. COTTER:

H.R. 13956. A bill for the relief of certain orphans in Vietnam; to the Committee on the Judiciary.

By Mr. FLYNT:

H.R. 13957. A bill to abolish the Commission on Executive, Legislative, and Judicial Salaries; to the Committee on Post Office and Civil Service.

By Mr. FROEHLICH:

H.R. 13958. A bill to amend title XVIII of the Social Security Act to provide that the determination of the "reasonable charge" for services furnished in any State by a physician or other person under the supplementary medical insurance program shall be made on the basis of the prevailing and customary charges for similar services throughout such State rather than on the basis of the corresponding charges in a particular locality; to the Committee on Ways and Means.

By Mrs. MINK:

H.R. 13959. A bill to amend the Federal Aviation Act of 1958 to require certain air carriers to grant free air transportation to certain attorneys and witnesses attending proceedings before the Civil Aeronautics Board and to require the Board to hold public hearings in additional locations; to the Committee on Interstate and Foreign Commerce.

H.R. 13960. A bill to provide that local governments may receive reimbursement from the United States for protection provided by such governments to visiting Federal and foreign governmental officials; to the Committee on the Judiciary.

By Mr. TEAGUE (by request):

H.R. 13961. A bill to amend section 203(b) of the National Aeronautics and Space Act of 1958; to the Committee on Science and Astronautics.

By Mr. WHITEHURST (for himself and Mr. ROBINSON of Virginia):

H.J. Res. 966. Joint resolution proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. FORSYTHE:

H. Con. Res. 459. Concurrent resolution expressing the sense of the Congress with respect to the imprisonment in the Soviet Union of a Lithuanian seaman who unsuccessfully sought asylum aboard a U.S. Coast Guard ship; to the Committee on Foreign Affairs.

Mr. Mr. MURPHY of New York:

H. Con. Res. 460. Concurrent resolution expressing the sense of Congress with respect to a bill of rights for Vietnam veterans; to the Committee on Veterans Affairs.

By Mr. RODINO:

H. Res. 1027. Resolution to provide funds for the Committee on the Judiciary; to the Committee on House Administration.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mrs. BURKE of California:

H.R. 13962. A bill for the relief of Dea Lay-Hong; to the Committee on the Judiciary.

By Mr. McCLORY:

H.R. 13963. A bill for the relief of Trinidad P. Yumul, and minor children, Randy Eugene Richardson and Raymond Yumul; to the Committee on the Judiciary.

By Mrs. MINK:

H.R. 13964. A bill for the relief of Pham Manh Quynh; to the Committee on the Judiciary.

By Mr. PARRIS:

H.R. 13965. A bill for the relief of Lt. Comdr. Rodney H. Lovdal; to the Committee on Armed Services.

# EXTENSIONS OF REMARKS

## PRAISE FOR THE VOLUNTEER FIREMEN

### HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 2, 1974*

Mr. BAUMAN. Mr. Speaker, representing as I do more than one half of the counties of Maryland, most of them predominately rural in character, I have become well acquainted with one group of dedicated public servants who receive no compensation other than the respect of their fellow citizens. I am speaking, of course, of the volunteer firemen.

In an age when citizen participation and involvement are often avoided, these men are willing to give of their time and energy to help others.

I include in my remarks an excellent statement concerning the volunteer firemen which appeared in the Maryland State News, and which is written by Joe Bachelor, Sr., an instructor at the University of Maryland Fire Service Extension. It is called "The Volunteers."

The article follows:

MARYLAND FIRE OFFICIAL PRAISES "THE VOLUNTEERS"

(By Dan Tabler)

COLLEGE PARK, MD.—Six months ago, more or less, a Canadian broadcaster by the name of Gordon Sinclair sat in front of his microphone and did a two-minute, 48-second commentary on "the good Americans" that has been picked up, recorded and sold over a million copies.

A take-off on Sinclair's now-famous prose was given before the Kent and Queen Anne's Volunteer Firemen's Association March meeting in Millington by Joe Bachelor, senior instructor at the University of Maryland Fire Service Extension. He called it "The Volunteers."

I thought it deserved exposure to people other than volunteer fire fighters, and asked him to send me a copy. Here 'tis:

The volunteer firemen took another pounding in the newspapers this morning. Their renown and popularity hitting the lowest point ever known in this community. Their splendid service has apparently been forgotten and this observer thinks it's time to speak up for the volunteers as the most generous and possibly the least appreciated people in America.

As long ago as 30 years ago, when I first joined the volunteer fire service, I heard stories of disasters. Who rushed in and gave of themselves to help? The volunteers did! They have helped control emergencies at every crossroads in this county. Today they are in trouble and no one cares.

Thousands of citizens have been lifted out of their problems by volunteer firemen who poured out countless hours of their time. None of those citizens is today willing to give an hour of his time in return.

When the volunteers saw the need for a full time fire force to support their thinning ranks, they established paid positions, and their reward was to be insulted and pushed aside in their own fire stations. I was there! I saw it!

When great vision and enthusiasm was needed in the past to build modern fire defenses for a growing community, the volunteers planned and implemented new stations and communications centers and fire prevention bureaus and training programs. I'd like to see the people who are gloating over the erosion of the volunteer fire service to point to just one achievement which doesn't have its roots in what the volunteers established in the years gone by.

Come on! Let's hear it! Does anybody else in town leave the security of his own home at three o'clock on a winter morning to fight his neighbor's fire for free? Does anybody else in town, without hesitation, ruin his only good suit while pulling an unknown stranger from a crushed car on the highway? Is anybody else in town, without pay, willing to perform the hours of unglamorous and unseen work necessary to plan for the future, to maintain emergency equipment and to train?

You talk about the "professional" fire fighter and you get a man doing a job for 40 or 48 or 56 hours a week. You talk about the volunteer fireman and you get a man who lives, breathes, eats, sleeps and loves fire fighting above all else.

You talk about problems and the volunteers will admit they have them. No group as diverse and as large as the volunteer firemen, is going to be always perfect.

When the volunteers look back on this period, who could blame them if they said, "The hell with the rest of you! Let someone else fight your fires! Let someone else bloody his hands at your accidents! Let someone else pay the taxes to buy the services we've so willingly given free!"

When the community needed the support of the volunteers, they were ready and willing to serve. When the volunteers need the support of the community, nobody is willing to extend a hand.

I can name you 500,000 times when the volunteers have raced to the help of other people in trouble. Can you name me even one time when someone raced to the help of the volunteers in trouble? I don't think most communities even take the time to say, "Thanks".

The volunteer firemen have done it alone, and I'm one citizen who's damned tired of hearing them kicked around. They will come out of this with their morale high, and when they do, they are entitled to thumb their nose at the people who are gloating over their present trouble.

Finally, it is sad to note today, when the