Berner, Terry H., [redacted].
Bleymaier, Theodore P., [redacted].
Bloodgett, Robert H., [redacted].
Brown, Russell D., [redacted].
Buzzell, William A., [redacted].
Carron, Brian E., [redacted].
Craft, Charles M., [redacted].
Davis, Steven J., [redacted].
Duesing, Paul R., [redacted].
Edmonds, Walter L., III, [redacted].
Filippelli, Lawrence J., Jr., [redacted].
Fink, Patrick T., [redacted].
Flom, Elroy A., [redacted].
Flynn, Michael D., [redacted].
French, Andrew H., [redacted].
Furman, Dennis R., [redacted].
Garrett, Henry B., [redacted].
Guidry, Richard M., [redacted].
Hager, Joseph W., [redacted].
Harbaugh, Gerry W., [redacted].
Harmon, Gary R., [redacted].
Hildreth, Joseph H., [redacted].
Hodge, James K., [redacted].
Howard, Geoffry S., [redacted].
Jordan, Michael A., [redacted].
Klet, Leroy E., [redacted].
Korba, Rodney J., [redacted].
Kraft, Stuart A., [redacted].
Landers, Thomas L., [redacted].
MacBain, John A., [redacted].
Mahler, Thomas W., Jr., [redacted].
Manfredi, John T., [redacted].
McKillop, Gregory W., [redacted].
Miklos, William J., [redacted].
Miller, Robert E., [redacted].
Molyneaux, Joel E., [redacted].
Mosora, James A., [redacted].
Mushala, Michael C., [redacted].
O'Callaghan, Kevin W., [redacted].
Owens, Edward S., [redacted].
Patneaud, Edward L., [redacted].
Peters, John E., [redacted].
Porter, Thomas R., [redacted].
Pratt, Frank H., [redacted].
Price, Craig H., [redacted].
Rij, Jerry J., [redacted].
Rodgers, John M., [redacted].
Rohrer, Lawrence A., [redacted].
Shirrell, Charles D., [redacted].
Shunk, Dan L., [redacted].
Silverthorn, James T., [redacted].
Storch, Donn M., [redacted].
Sullivan, Donald J., [redacted].
Utermoehlen, Clifford M., [redacted].
Vaughn, Gregg L., [redacted].
Vivian, Talbot N., [redacted].
Walton, James R., [redacted].
Weber, Edward J., [redacted].
Wenzel, Jeffrey H., [redacted].
Wesley, David J., [redacted].
Wilbeck, James S., [redacted].
Winstead, Charles L., Jr., [redacted].
Yochmowitz, Michael G., [redacted].

CONFIRMATIONS

Executive nominations confirmed by the Senate September 22, 1967:

UNITED NATIONS SESSION REPRESENTATIVES

The following-named persons to be Representatives of the United States of America to the 31st Session of the General Assembly of the United Nations:

William W. Scranton, of Pennsylvania.
W. Tapley Bennett, Jr., of Georgia.
George McGovern, U.S. Senator from the State of South Dakota.
Howard H. Baker, Jr., U.S. Senator from the State of Tennessee.
Rev. Robert P. Hupp, of Nebraska.

The following-named persons to be Alternate Representatives of the United States of America to the 31st Session of the General Assembly of the United Nations:

Albert W. Sherer, Jr., of Illinois.
Jacob M. Myerson, of South Carolina.
Nancy V. Rawls, of Georgia.
Stephen Hess, of the District of Columbia.
ERSA Hines Poston, of New York.

CORPORATION FOR PUBLIC BROADCASTING

Louis P. Terrazas, of Texas, to be a member of the Board of Directors of the Corporation for Public Broadcasting for the remainder of the term expiring March 26, 1978.

Clyde M. Reed, of Kansas, and Charles W. Roll, Jr., of New Jersey, to be Members of the Board of Directors of the Corporation for Public Broadcasting for terms expiring March 26, 1982.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

IN THE DIPLOMATIC AND FOREIGN SERVICE

Diplomatic and Foreign Service nominations beginning Stephen F. Dachi, to be a Foreign Service information officer of class 3, a Consular Officer, and a Secretary in the Diplomatic Service of the United States of America, and ending Mary Bland Marshall, to be a Consular Officer of the United States of America, which nominations were received by the Senate and appeared in the Congressional Record on September 9, 1976.

HOUSE OF REPRESENTATIVES—*Wednesday, September 22, 1976*

The House met at 10 o'clock a.m.

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

What does the Lord require of you but to do justly, to love kindness and to walk humbly with God.—Micah 6: 8.

Almighty God, our Father, whose mercy is over all Thy works and whose will is ever directed to Thy children's good, we come into Thy presence seeking light for our way, strength in our way, and love along our way that we may learn to do justly, to love kindness, and to walk humbly with Thee.

Make our minds shrines of Thy truth, our hearts sanctuaries of Thy love, and send us out into this day with the spirit of those who seek to build highways of peace and justice among the citizens of our land and the nations of our world.

We pray for our beloved country that she may be an instrument of good will in bringing about a deeper unity among the members of our human family to the glory of Thy holy name. Amen.

THE JOURNAL

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

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 11149. An act to amend section 2 of the act entitled "An act to incorporate the National Society of the Daughters of the American Revolution";

H.R. 11722. An act to amend title 18 of the United States Code to prohibit deprivation of employment or other benefit for political contribution, and for other purposes; and

H.R. 11997. An act to amend the Internal Revenue Code of 1954 with respect to the tax treatment of certain divestitures of assets by bank holding companies.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 15193) entitled "An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1977, and for other purposes," and that the Senate agrees to the House amendments to the Senate amendments numbered 3, 6, 16, 48, and 60 to the foregoing bill.

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

S. 3095. An act to increase the protection of consumers by reducing permissible deviations in the manufacture of articles made in whole or in part of gold.

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

S. 798. An act to amend chapter 5, subchapter II, of title 5, United States Code, to provide for improved administrative procedures.

ORLANDO LETELIER

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

Mr. FASCELL. Mr. Speaker, I was shocked to learn of the tragic death of Orlando Letelier, former Chilean Foreign Minister and Ambassador to the United States, apparently at the hands of political assassins. This senseless and brutal murder snuffed out the life of a gracious gentleman and a patriotic Chilean who served his nation during a most difficult period.

While I frequently disagreed with the policies of the government of the late President, Salvador Allende, I must say that I always found the Ambassador, Orlando Letelier, an honest, forthright, courageous, and eloquent spokesman for the government he served. While I am sure he, too, harbored some doubts about the wisdom of many of his own government's policies, in the manner of a true diplomat he served his government loyally and steadfastly.

Mr. Letelier was here as a refugee from Chile. He was a guest of the people of the United States and his murder is an offense against us all.

Mr. Speaker, I am sure that I speak for all in this Chamber when I express the hope that the perpetrators of this act of political cowardice will be swiftly brought to justice.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

THE MURDER OF ORLANDO LETELIER

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

Mr. MOFFETT. Mr. Speaker, Members of the House, in a short time I am going to attempt to bring up a resolution which is cosponsored by over 130 Members of this body on both sides of the aisle relating to the subject just covered by the gentleman from Florida (Mr. FASCELL); that is, the tragic death of Orlando Letelier yesterday.

In less than 2 hours yesterday on the House floor, over 130 Members put their signatures on the resolution, which does nothing more than deplore the killing of the former Ambassador, and urges a Federal investigation.

It calls for no new bureaucracy to be set up, no new committee. It makes no judgment as to who is to blame in this terrible act. It simply puts this body on record as deploring this type of violence.

I understand a similar resolution is being introduced in the Senate sometime today. It seems to me that this is the least we can do. It is not something that warrants a great deal of discussion or argument on the need for this sort of thing, but this body should be on record as deploring these acts.

I sincerely hope that no Member will object to this resolution being brought up.

MOTION TO DISCHARGE COMMITTEE ON DISTRICT OF COLUMBIA FROM FURTHER CONSIDERATION OF HOUSE RESOLUTION 1481

Mr. PAUL. Mr. Speaker, I would like to make a motion.

Mr. Speaker, pursuant to the legislative veto provision of Public Law 93–198, 87 Statutes 774, sections 602(c)(2) and 604, (d), (e), and (f), the District of Columbia Self-Government and Governmental Reorganization Act, which provide that if a resolution disapproving any action of the District of Columbia City Council has been introduced and not reported by the District of Columbia Committee at the end of 20 calendar days after its introduction, it is in order to discharge that committee from the further consideration of the resolution by the use of a highly privileged motion, not subject to an amendment.

Therefore, Mr. Speaker, I move to discharge the Committee on the District of Columbia from further consideration of House Resolution 1481, and ask for its immediate consideration.

POINT OF ORDER

Mr. DIGGS. Mr. Speaker, I rise to a point of order against the motion.

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

Mr. DIGGS. Mr. Speaker, the proper procedure for congressional review of Council acts, specifically Council Act 1–142 of the Firearms Regulation Act, is a concurrent resolution passed by both the House and the Senate, as provided in section 602(c)(1) of the Home Rule Act.

The gentleman from Texas (Mr. PAUL) recognizes by the introduction of House Concurrent Resolution 694, which was referred to the District of Columbia Committee and a hearing held, that this is pending action of the committee. As a matter of fact, we held a hearing on the 25th of August, and we have had four subsequent meetings with respect to this matter. A quorum was not present to take action.

This procedure was not subject to one member making a motion to discharge the committee.

The second procedure being pursued by the gentleman from Texas (Mr. PAUL) is a single House veto of Council acts, provided for in Home Rule Act, section 602(c)(2), including the ability of one member to make a highly privileged motion to discharge the committee and commence 10 hours of debate on the veto resolution, I would remind the Members, which is provided for in section 604 (d), (e), and (f).

The legislative history, Mr. Speaker, of the Home Rule Act is clear that the second procedure will be used only after the Council gains the power to amend titles 22, 23, and 24 of the District of Columbia Criminal Code.

The conference report stated that the conference committee also agreed to transfer authority to the Council to make changes in titles 22, 23, and 24 of the District of Columbia Code, effective January 22, 1977.

After that date—and I emphasize after that date—changes in titles 22, 23, and 24 by the Council shall then be subject to congressional veto by either House of Congress within 30 legislative days.

The citation for that is the House Report No. 93–703.

So that any Council amendment to titles 22, 23, and 24, Mr. Speaker, before 1979 is void, not merely voidable, by Congress.

The second point we want to make is that even after 1977, which was changed to 1979 by Public Law 94–402, the one-House veto will apply only to Council changes in titles 22, 23, and 24, not to every act in any way dealing with subject matter included in titles 22, 23, and 24, which is the District of Columbia Criminal Code, and not to a broad concept of criminal law.

So the use of the three words, "with respect to" any provision of title 23, and so forth, in the Home Rule Act does not lead to a broader interpretation.

Congressional discussion during the home rule debate makes it clear that the restriction on the Council extended only to changes in titles 22, 23, and 24, the District of Columbia Criminal Code.

The next point is that congressional practice has set the precedent for the narrow interpretation set by the legislative history.

The third point is that a broad interpretation that tries to reach every criminal law section of the Code would restrict the Council as to literally hundreds of sections such as licensing barbers, false ID cards of welfare recipients, selling mattresses, and many other matters.

In any event, Council Act 1–142 is a revision of regulations asked in 1968, not under the authority of title 22, but of title 1, section 227, dealing with firearms, projectiles, explosives, or weapons of any kind.

The U.S. Court of Appeals in 1971 ruled that the Council had the power to adopt firearms regulations under title 1, and the Congress had not preempted the field by adoption of title 22.

A section-by-section comparison of Act 1–142 and existing city firearms regulations, article 51–55, shows that Act 1–142 uses much of the same language of the existing regulations and rearranges and changes different parts.

Act 1–142 avoids any change in the title, and the Council frequently passes changes and regulations of this nature.

All regulations adopted by the Council must be by act and be submitted to the Congress for a 30-day layover, and it does not permit the Council to bypass congressional review in adopting regulations.

It is upon this basis, Mr. Speaker, that I make a point of order against the motion offered by the gentleman from Texas (Mr. PAUL).

The SPEAKER. Does the gentleman from Texas (Mr. PAUL) desire to be heard on the point of order?

Mr. PAUL. I do, Mr. Speaker.

The SPEAKER. The Chair will be glad to hear the gentleman.

Mr. PAUL. Mr. Speaker, we have just heard the arguments presented by the Members of the District of Columbia Committee who are doing their utmost to prevent this House from voting on the resolution of disapproval of the District of Columbia Firearms Control Act. For the past 7 weeks that committee has had before it and has not reported House Concurrent Resolution 694, which it now claims to be the only proper way to disapprove an act of the City Council. It is very convenient for a committee which has blocked House action on House Concurrent Resolution 694 for 7 weeks to now try to block House action on House Resolution 1481, claiming that the proper resolution for the House to act on is House Concurrent Resolution 694.

The committee has raised the issue of its repeated failures to attract quorums to committee meetings. That failure did not stop the committee from taking action on and reporting out a bill on September 2. When the committee wishes to act, it acts irrespective of whether there is a quorum present or not.

Another issue that the members of the committee have raised is the legality of the District of Columbia Firearms Act. They are maintaining that the act is completely legal, that it is not with respect to title 22 of the District of Columbia Code. As everyone should know, the American Law Division of the Library of Congress and the Senate Legislative Counsel have both argued conclusively that the Firearms Act is, in fact, an act with respect to title 22 of the District of Columbia Code and therefore illegal. Perhaps more importantly, the District of Columbia Corporation Counsel himself in a letter to Chairman DIGGS on June 29 implicitly acknowledged this to be the case.

Now the members of the committee are asking you to make a decision in essence on the legality of the District of Colum-

bia Firearms Act. By what authority can the Chair or the Parliamentarian make such a decision? I know of no House rule which grants the Speaker such authority—authority properly exercised only by the entire House. Yet the opponents of my resolution of disapproval are seeking such a decision from the Chair, in an obvious effort to avoid such a decision being made by the full House. I believe that by placing you on the spot, Mr. Speaker, the opponents of the resolution of disapproval are not only embarrassing you, but twisting the rules of the House.

Another argument offered against my motion and for the point of order is that high privilege does not apply to a motion discharging a simple House resolution until January 1979 when the prohibition or the District of Columbia City Council tampering with the criminal laws is terminated.

I would first point out that there is no language in the Home Rule Act itself making such a delay necessary. It simply says, and I quote:

> In the case of any such act transmitted by the Chairman with respect to any Act codified in Titles 22, 23, or 24 of the District of Columbia Code, such act shall take effect at the end of the 30-day period beginning on the day such act is transmitted by the Chairman to the Speaker of the House of Representatives and the President of the Senate only if during such 30-day period one House of Congress does not adopt a resolution disapproving such act. (Section 602(c)(2))

The effective date of section 602(c)(2) is not January 1979, but according to part G, section 771, subsection (c) and (d) of the Home Rule Act itself, January 2, 1975. There is no legislative history indicating that there was to be a 2-year delay on congressional authority to disapprove an act of the City Council. Such a reading of the act leads to the absurd conclusion that Congress will have more control over the actions of the City Council when the 2-year prohibition on certain actions by the City Council expires.

The legislative history that the Members have constructed revolves around one phrase in the conference report on the Home Rule Act, page 75. There the conferees noted that—

> The Conference Committee also agreed to transfer authority to the Council to make changes in Titles 22, 23, and 24 of the District of Columbia Code, effective January 2, 1977. After that date, changes in Titles 22, 23, and 24 by the Council shall be subject to a Congressional veto by either House of Congress within 30 legislative days.

The conferees did not deny, however, that the simple House resolution could be used before that date. They were acting on the presumption that the District of Columbia City Council would stay within the bounds of its authority and act legally. They have been proved to be wrong in that presumption, for the Council has now acted illegally. The question now before us is whether or not the District of Columbia Committee will be able to prevent this House from officially nullifying an illegal act of the City Council. Since there is no explicit procedure specified in the Home Rule Act for nullifying an illegal act of the City Council, and since the plain language of the act—as I have pointed out—indicates that a simple House resolution is the proper way to disapprove the Firearms Control Regulations Act of 1975, and since there is competent and sufficient legal opinion maintaining that the act is in fact with respect to title 22 of the District of Columbia Code, I urge the Chair to overrule the point of order that has been raised against my motion and allow the entire House to register its approval or disapproval of the District of Columbia Firearms Control Act. In so making its ruling, I would hope that the Chair would make it clear to this body that it is not within its authority to decide the question of the legality of the Firearms Control Act and therefore it will let the full House decide.

The SPEAKER. The Chair is ready to rule.

The gentleman from Texas (Mr. PAUL) has moved to discharge the Committee on the District of Columbia from further consideration of House Resolution 1481, disapproving the Firearms Control Regulations Act of 1975 passed by the Council of the District of Columbia. The gentleman from Michigan (Mr. DIGGS) makes the point of order that the motion is not in order and is not privileged under Public Law 93–198, the District of Columbia Self-Government and Governmental Reorganization Act.

The decision whether the Firearms Control Act passed by the District of Columbia Council is valid as a matter of law or violates the provisions of the Home Rule Act is not a decision within the Chair's duty or prerogative to make.

The only question before the Chair is whether the motion to discharge a simple resolution of disapproval is in order at this time under section 602(c)(2) and section 604 of the Home Rule Act.

Public laws which contain mechanisms allowing the Congress to disapprove actions by the executive branch, or in this case by the District of Columbia Council, serve the purpose of reserving to Congress the power to review and disapprove the exercise of authority which it has delegated.

But the Congress may effect such disapproval only within the strict confines of congressional procedures set out in such public laws.

The privileged disapproval for simple resolutions in the Home Rule Act was intended only to apply after January 2, 1977, to acts which the Council was not granted the power to enact until after January 2, 1977.

Under a recent enactment, the prohibition against criminal code enactments by the Council was clarified and extended for another 2 years. To apply the motion to discharge the simple resolution at this time would be premature under the statute and would assume that the Council action is in violation of the Home Rule Act and is null and void as a matter of law. Thus the passage of such a simple resolution would be a meaningless and ineffective action, since the simple resolution can neither add to nor detract from the legal validity of the Council action. If the Council enactment is without authority that matter will be determined by the courts or may be resolved by the Congress through the enactment of another law, or the Congress may properly proceed under the Home Rule Act with a concurrent resolution of disapproval.

For the reasons stated, the Chair sustains the point of order and the motion to discharge may not be entered.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. BAUMAN. The Chair seems to have laid great importance in his ruling on the resolution of following the strict procedures provided in the statute. Is the Speaker then saying that if the gentleman from Texas (Mr. PAUL) moved to discharge the committee from further consideration of the concurrent resolution that that would be in order?

The SPEAKER. The Chair will state that the statute does not provide for a privileged motion to discharge a concurrent resolution of disapproval.

Mr. BAUMAN. I thank the Speaker.

The SPEAKER. The point of order is sustained.

GENERAL LEAVE

Mr. DIGGS. Mr. Speaker, I ask unanimous consent that all Members may be permitted to revise and extend their remarks with respect to the motion of the gentleman from Texas (Mr. PAUL) and with respect to the point of order.

The SPEAKER. That may not be done on the point of order. Is the gentleman from Michigan wishing to extend his remarks on the point of order?

Mr. DIGGS. Yes, Mr. Speaker.

The SPEAKER. The Chair will state that the gentlemen from Texas and Michigan may extend their remarks on the subject matter of the motion but not on the point of order.

Mr. DIGGS. I thank the Speaker.

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

There was no objection.

Mr. McKINNEY. Mr. Speaker, I would like to comment in opposition to the effort to discharge the District Committee from consideration of House Resolution 1447.

Under section 602(c)(2) of the District of Columbia Self-Government and Governmental Reorganization Act, the House may only discharge the District Committee of a resolution disapproving a Council act "with respect to any Act codified in titles 22, 23, or 24 of the District of Columbia Code." The District's Firearms Control Regulations Act of 1975, Council Act No. 1–142, however, is not such an act. Recitation of a few facts clearly demonstrates that this is the case.

First, the U.S. Court of Appeals for the District of Columbia has held that the provisions of chapter 32 of title 22 of the District of Columbia Code regulating firearms and other weapons do not preempt the field with respect to the regulations of firearms. *Maryland and District of Columbia Rifle and Pistol Association* v. *Washington*, 442 F.2d 123 (C.A.D.C. 1971). Therefore, the Council may enact regulations of firearms which

would not change title 22 of the District of Columbia Code.

Second, the conference report accompanying the Home Rule Act clearly indicates that the criminal law restriction on the Council's power is limited to enactment of "changes in titles 22, 23, and 24 of the District of Columbia Code." Conference report on S. 1435, House Report No. 93-703, 93d Congress, 1st sess. 75 (1973). The Council Act is not a change in title 22 of the District of Columbia Code nor does it purport to be. Section 709 of the Council Act specifically states that—

> This act . . . shall not supersede but shall supplement all statutes of the District and the United States in which similar conduct is prohibited or regulated.

As stated in the report of the Council's Committee on the Judiciary and Criminal Law accompanying the bill:

> This bill does not amend or conflict with the provisions of Chapter 32 of Title 22 of the D.C. Code [regulating firearms and other weapons].

Report of the Committee on the Judiciary and Criminal Law, to accompany bill No. 1-164, Council of the District of Columbia at page 6 (1976). Thus, the Council Act does not change title 22 of the District of Columbia Code and therefore is not an act "with respect to" such title.

Third, the mere fact that the Council Act contains criminal penalties does not make it an act "with respect to title 22 of the District of Columbia Code." Many provisions contained in the District of Columbia Code involving criminal penalties are codified outside of titles 22, 23, or 24 of the District of Columbia Code. See; for example, the tax laws codified in title 47, the Uniform Narcotic Drug Act codified in title 33, the alcoholic beverage laws codified in title 25. If Congress wanted to treat these criminal provisions in the same manner as those codified in titles 22, 23, or 24 it could have done so, but it did not. Therefore, the mere presence of criminal penalties does not make the Council Act an act "with respect to" title 22. Indeed, the Council has passed other acts containing criminal penalties, such as Council Act No. 1-26 regulating conduct on Metro buses and trains, whose legality has never been questioned by anyone in Congress.

Fourth, if the Council Act was an act with respect to title 22 of the District of Columbia Code it would be in violation of section 602(a)(9) of the Home Rule Act. If that were the case, it would not have been necessary for the Congress to adopt the Dent amendment to H.R. 12261 which extends the prohibiton of section 602(a)(9) for another 2 years. In addition to continuing the prohibition on the Council enacting any act with respect to title 22, 23, or 24, the Dent amendment extends that prohibition to any act—

> With respect to any criminal offense pertaining to articles [firearms and other weapons] subject to regulation under Chapter 32 of title 22 of the District of Columbia Code.—Public Law 94-402.

The Council must have have previously had the authority to enact such acts, or there would have been no necessity to retract it.

Finally, the procedure for a single House resolution of disapproval cannot be used prior to the end of the period during which the Council is prohibited from enacting any act with respect to title 22, 23, or 24 of the District of Columbia Code. This procedure was designed to be used only after the Council obtained jurisdiction over title 22, 23, and 24. The conference report on the Home Rule Act clearly states that—

> The Conference Committee also agreed to transfer authority to the Council to make changes in titles 22, 23, and 24 of the District of Columbia Code, effective January 2, 1977. *After that date,* changes in Titles 22, 23, and 24 by the Council shall be subject to a Congressional veto by either House of Congress within 30 legislative days.—H. Rept. No. 93-703, 93rd Cong., 1st Sess. 75 (1973) (emphasis added).

Mr. Speaker, I urge the point of order be sustained.

CALL OF THE HOUSE

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

The SPEAKER. Evidently a quorum is not present.

Without objection, a call of the House is ordered.

There was no objection.

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

[Roll No. 791]

Abzug	Harsha	Pritchard
Andrews, N.C.	Hébert	Rangel
Archer	Heinz	Rees
Ashley	Helstoski	Reuss
Badillo	Henderson	Riegle
Beard, Tenn.	Hinshaw	Runnels
Boggs	Jarman	Ruppe
Burke, Calif.	Jeffords	Santini
Butler	Jenrette	Sarbanes
Byron	Jones, Ala.	Scheuer
Chisholm	Kemp	Shuster
Conlan	Kindness	St Germain
Conyers	Landrum	Stark
Dellums	Lehman	Steelman
Devine	Lujan	Steiger, Ariz.
Drinan	McCollister	Stephens
Eckhardt	Mathis	Stuckey
Esch	Matsunaga	Symington
Eshleman	Meeds	Udall
Evins, Tenn.	Metcalfe	Vander Jagt
Fraser	Mink	Vanik
Giaimo	Mitchell, Md.	Wiggins
Gradison	Murphy, Ill.	Wolff
Green	Neal	Young, Alaska
Gude	Nix	Young, Tex.
Guyer	O'Hara	
Hanley	Paul	

The SPEAKER. On this rollcall 351 Members have recorded their presence by electronic device, a quorum.

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

REQUEST TO DISCHARGE COMMITTEE ON THE JUDICIARY FROM FURTHER CONSIDERATION OF HOUSE RESOLUTION 1559, CONDEMNING MURDERS OF ORLANDO LETELIER AND RONNI KARPEN MOFFITT

Mr. MOFFETT. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from the further consideration of House Resolution 1559, expressing the sense of the House of Representatives condemning the murders of Orlando Letelier and Ronni Karpen Moffitt, and ask for its immediate consideration.

The Clerk read the title of the resolution.

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

Mr. McDONALD. Mr. Speaker, reserving the right to object, this resolution was stimulated by an event that took place yesterday, and about which we have little information. The resolution is offered in haste and perhaps should be considered in a more deliberate manner in regular order.

The tragic explosion might have been prevented had law-enforcement agencies been permitted to do their jobs and plant informants in violence oriented groups. The Institute for Policy Studies has been in the forefront of the attack on intelligence gathering; and have used both the courts and their influence in Congress to destroy local and national intelligence programs.

Some of our colleagues who are the most vehemently outspoken in condemning the murder of Letelier and Mrs. Moffitt are the same ones who have helped to emasculate the Nation's intelligence-gathering programs. In the many previous incidents of terrorist atrocities where the victim was not a leftist, we heard no such outcries.

Is there anyone here who remembers Dr. Marcus Foster? Marcus Foster was the black school superintendent shot and killed with cyanide bullets by the Symbionese Liberation Army. The only congressional voice on this matter was that of the House Committee on Internal Security which issued a timely and valuable report on the SLA.

A number of car bombings have taken place in the Miami area recently against anti-Castro Cubans. There is excellent reason to believe these murders were committed by Castro's secret police, the DGI. Again no national outcry has been raised.

POINT OF ORDER

Mr. EDWARDS of California.. Mr. Speaker, a point of order.

Mr. Speaker, I make the point of order that the gentleman is not addressing the objection.

The SPEAKER. The gentleman will proceed in order.

Mr. McDONALD. Mr. Speaker, further reserving the right to object, the victim, Letelier, has been a leader of IPS's Transnational Institute which includes persons involved in terrorist violence throughout the world. The domestic IPS has close links with the terrorist Weather Underground and other violence-prone groups.

Tariq Ali, a Pakistani Trotskyite, is a fellow of the Transnational Institute. He has publicly advocated terrorism and is a member of the International Executive Committee of the terrorist Fourth International. He serves as a leader of the British section of the Fourth International, the International Marxist Group which provides manpower and support to Saor Eire, a terrorist organization which is conducting kidnapings and murders in England and Ireland.

Robert "Bo" Burlingham, a prominent functionary of IPS's Cambridge subsidiary, was indicted in a bombing conspiracy in 1972, but charges were dropped when his Weatherman codefendants could not be apprehended. Burlingham said in 1974:

I don't think an equitable, fair, free democratic world order is going to happen any other way than through violence.

Basker Vashee, a TNI fellow in Amsterdam, is a member of the national executive of the Marxist terrorist Zimbabwe African People's Union—ZAPU—which is supported by the Soviet bloc and which is waging a terror campaign against the civilian population of Rhodesia.

Terrorist bombings have been prevented by the Federal Bureau of Investigation and local police by the effective use of undercover agents and informants. In 1964, a New York City police undercover officer prevented a terrorist group from blowing up the Statue of Liberty. A few years later undercover officers of the same department prevented another group of terrorists from assassinating American Negro leaders Roy Wilkins and Whitney Young. An FBI informant broke up a bomb ring within a few days after penetrating a group which had bombed banks and businesses in New York.

Terrorism must be prevented whether the victims are rightwing, leftwing, or nonpolitical.

If this incident teaches us anything, it is that we must strengthen the internal security forces of our country. I favor a thorough congressional investigation of this tragic incident and all other terrorist activities that are taking place in this country and throughout the world.

Another bomb exploded yesterday in New York. It was directed against the Governor of Puerto Rico. Luckily there were no casualties. The South African Consulate in San Francisco was the target of a terrorist bombing by the leftist New World Liberation Front this past weekend.

We need a House Committee on Internal Security to thoroughly investigate terrorism and to propose legislation necessary to cope with this problem.

I know that my colleague from Connecticut, Mr. MOFFETT, is truly concerned about the problem of terrorism. Unfortunately, he is often gravely misinformed as when on October 7, 1975, he told the House that Chilean Christian Democrat Bernardo Leighton had been murdered in Rome by agents of the Chilean secret police. In fact, Leighton is still alive and in good health; and after a year of investigation the Italian police have developed no evidence linking the Chilean Government to the assault on Leighton.

All of us would be better informed about the activities of international and domestic terrorists if we had our own congressional committee investigating this area.

Congressman JOHN ASHBROOK introduced H.R. 1577 on January 17, 1975. This bill would have made a major contribution to the fight against international terrorism. It was assigned to the Judiciary Committee which never held hearings on it. The Justice Department under Edward Levi never responded to a request to comment on the bill. Those who are so eloquent condemning terrorism today should join with Mr. ASHBROOK and this Member in asking the Judiciary Committee to report out H.R. 1577. They should also join us in working for the reestablishment of the House Committee on Internal Security which would have the jurisdiction to investigate in this area.

Mr. Speaker, I withdraw my objection.

Mr. EDWARDS of California. Regular order.

The SPEAKER. Regular order is requested.

Mr. ASHBROOK. Mr. Speaker, regular order is to object, and I will object.

The SPEAKER. Objection is heard.

Mr. McDONALD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Objection is heard.

PERMISSION FOR COMMITTEE ON RULES TO FILE PRIVILEGED REPORTS

Mr. MOAKLEY. 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 Massachusetts?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, may I know what reports are involved?

Mr. MOAKLEY. Two bills are being heard by the Rules Committee this morning. One concerns privileges of the House for ex-Members. The other deals with a bill out of the Merchant Marine and Fisheries Committee.

Mr. BAUMAN. I thank the gentleman, and I withdraw my reservation of objection.

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

There was no objection.

STATEMENT OF THE HONORABLE WALTER E. FAUNTROY IN SUPPORT OF HOUSE JOINT RESOLUTION 1101, MAKING AN EMERGENCY SUPPLEMENTAL APPROPRIATION FOR THE DISTRICT OF COLUMBIA FIRE DEPARTMENT

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

Mr. FAUNTROY. Mr. Speaker, I would like to take this moment to ask my colleagues to support me in seeking to provide the District of Columbia Fire Department with adequate funds to keep all of its facilities available for service on a 24-hour basis. As you know, I have introduced a joint resolution—at this very late hour in a seemingly hopeless effort to secure additional funds through an increase in the Federal payment. I do not know if we have time enough to do this, but I want us to try.

As everyone here knows, much of our housing in this city is dilapidated, filled with ancient construction and ancient electrical wiring that would flame into a most spectacular fire if it were not for the heretofore excellent work of our Fire Department. Before we have some additional terrible and perhaps absolutely catastrophic tragedy. I want us to do something.

Our Fire Department does not have any fat in its budget. Indeed, there has been no growth in the numbers of companies since 1958. Our fire boat—which protects the water area of National Airport—is ancient, unmanned, not merely undermanned, and there are proposals afloat to lessen services even more.

In this, our Federal City, I want us to recognize our responsibility both to ourselves, our visitors, and our residents. If you will join with me in cosponsoring this resolution, it will mean a lot to me personally and to the people of this city. Perhaps we can find a way to get this matter considered before we leave. This is too important a matter not to act upon now.

PREFERENTIAL MOTION OFFERED BY MR. WAGGONNER

Mr. WAGGONNER. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Pursuant to the provisions of rule XXVIII, clause 1(b), Mr. WAGGONNER moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill H.R. 12572, to amend the U.S. Grain Standards Act to improve the grain inspection and weighing system, and for other purposes, be instructed to disagree to the Senate amendment and to insist on the language of the House bill.

Mr. WAGGONNER. Mr. Speaker, my preferential motion is offered as a motion of the highest privilege pursuant to rule XXVIII, clause 1(b), which states:

After House conferees on any bill or resolution in conference between the House and Senate shall have been appointed for twenty calendar days and shall have failed to make a report, it is hereby declared to be a motion of the highest privilege to move to discharge said House conferees and to appoint new conferees, or to instruct said House conferees; and further, during the last six days of any session of Congress it shall be a privileged motion to move to discharge, appoint, or instruct, House conferees after House conferees shall have been appointed thirty-six hours without having made a report.

My motion applies to the House conferees on H.R. 12572, the so-called grain inspection bill.

This bill passed the House on April 2, 1976, by a record vote of 246 to 33. Conferees were appointed by the Senate on April 26, 1976, and by the House on May 6, 1976.

Mr. Speaker, this so-called grain inspection bill was at that time, and is now, an overreaction on the part of the Congress to some publicity given to some alleged wrong-doing, which is still under investigation, by those involved in grain inspection at ports of embarkation for export of grain from the United States to overseas markets.

That investigation still continues. But this Congress, doing what it is always prone to do when there is an allegation of something wrong being done, over-

reacted, as we always react, and the answer always is: Let the Federal Government take over this aspect of our lives.

The assumption is that everything is wrong with grain inspection. Everything is not wrong with grain inspection. Wherein there has been wrong, it has been pursued. This investigation is continuing. But the Congress, in its lack of wisdom, felt—at least some Members did—that the Federal Government should remove State and local authorities completely from grain inspection. I consider this to be not in the best interest of anybody. It tars with the same brush those who have done a decent, good, honest job, as those who have done wrong. This should not be the case.

Mr. Speaker, it is inconsistent on the part of this Congress to talk about revenue sharing, letting the local people do what they can, on the one hand, and in the instance of grain inspection, say, "You people cannot have any authority whatever any more over trade and the inspection of grain within your political jurisdiction."

Mr. Speaker, this does not just affect my State of Louisiana and its port cities. This affects the grain market in the United States. This affects boards of trade wherever they are in the United States. This is a concern, Mr. Speaker, which is shared by our Governor, by our State legislature, by people involved, who have been involved with grain inspection over the years, some for 100 years or more, like the board of trade in Memphis, Tenn., for example.

I have here a letter dated July 16, 1976, which I think puts in perspective what is at stake, the issue in this particular instance. This letter is addressed to Senator TALMADGE, the chairman of the Committee on Agriculture, by my Governor, a former member of this body.

Mr. Speaker, he had this to say in writing to Senator TALMADGE:

DEAR SENATOR TALMADGE: I am deeply concerned with the conference committee on H.R. 12572, Federal Grain Inspection, which might reach a compromise which would preclude the possibility that the Louisiana Department of Agriculture at some time might be designated a grain inspection agency. I do not think it is equitable to preclude the possible future designation of the State Department of Agriculture simply because it is not now so designated.

I respectfully request that you consider delegating the U.S. Secretary of Agriculture the discretionary authority to designate a State agency when such designation might serve the public interest.

I am enclosing a copy of a resolution passed this month by the Louisiana Legislature which speaks to this matter.

Thank you in advance for your consideration.

Sincerely

And it is signed, "Edwin Edwards," who is Governor of the State of Louisiana.

Originals of this went to all of those involved, to Members of the Senate and Members of the House. An original went to the chairman of the House Committee on Agriculture, the very distinguished gentleman from Washington (Mr. FOLEY). Copies went to members of the Louisiana delegation and to a member of others who are concerned.

The State Legislature assumes exactly the same posture in their presentation, and they are asking the Louisiana delegation to agree to retaining the House language which would allow the designation of State agencies if the Department of Agriculture chose to do this grain inspection.

This is all that we are asking for. The best interests of the Government will be served if this is done.

Mr. Speaker, this legislation has been in conference for 4 months now. House conferees were appointed on May 6, 1976. The conferees go into session again this afternoon at 1:30.

This is a critical issue. It is an important issue. It means something to trade; it means something to the preservation of local units of government. It is wrong to assume that the Department of Agriculture is going to designate a State agency wherein there is no reason to believe that that State agency can do the job or will do the job or will root out wrongdoing where it is suspected.

There is every reason to believe that the Department of Agriculture and the Secretary will take this authority and utilize it in a reasonable manner, and that the Secretary will, if indeed he ever does designate a State agency, only designate a State agency or State agencies, if there is more than one—because there are multiple States involved—who will comply with the law.

This, I believe, serves the best interests of government at every level.

Mr. Speaker, I do believe that this preferential motion should be agreed to, and that our House conferees ought to bring a bill back to us that adheres to the House language.

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

Mr. WAGGONNER. I yield to the gentleman from Maryland for purposes of debate only.

Mr. BAUMAN. Mr. Speaker, I rise in support of the gentleman's motion. It could not be more timely, because as we stand here today and debate this issue, the Port of Baltimore has been completely closed down for the last 3 days by Federal grain inspectors. Federal grain inspector trainees have been sent in to the port and are imposing strict standards that have never before been applied to grain exportation. There are more than 500 railcars full of grain that have not been unloaded. There are numerous ships sitting in Baltimore Harbor, and the local and State inspectors who have handled this job competently in the past are now being hamstrung in everything they do by Federal inspectors who themselves are not well trained.

The result has been that the farmers in many Midwestern States—and I think the Members ought to know this—are suffering. Corn and wheat shipments in Maryland, Pennsylvania, Virginia, and as far away as Indiana, are being held up. Local farmers cannot sell their harvest and are being turned away. If this continues, there are going to be many economic losses. Grain is rotting in some instances. I do not think there is any question but that this situation stems from an overzealous enforcement of Federal standards. Perhaps this grows out of the admitted cases of corruption that have been discovered in some ports. But so far no such accusations have been lodged against the Port of Baltimore where the chamber of commerce supplies grain inspectors. I therefore seriously question the action of the USDA agents which are causing great hardship to Maryland and other farmers. This points up the need to allow competent State agencies to conduct grain inspection, such as the Maryland Department of Agriculture.

Nobody, including the gentleman from Maryland is calling for grain standards that would harm the public or foreign buyers who might consume the grain; but we do ask for a reasonable application of these rules.

Mr. Speaker, unless the gentleman's motion is carried and this bill comes back in reasonable form, all of the ports of this country may be tied up by Federal inspection to the detriment of the people.

Mr. WAGGONNER. Mr. Speaker, the gentleman from Maryland (Mr. BAUMAN) has cited an instance in the State of Maryland involving the port in Baltimore which illustrates the emotion surrounding circumstances such as this. Let us keep in mind that the only thing that the House language does is allow the Secretary of Agriculture to designate State agencies to do the inspection. Why should not the State be allowed to do this, if the Secretary makes a determination that, first, the States can do it, based upon maybe the need for them to do it; in part, based upon the fact that he does not have the personnel or the capability of doing it; but even on an interim basis if he wants to allow them to conduct this investigation? Why should that not be permitted, Mr. Speaker?

Not to allow this would, in my opinon, be a demonstration on the part of the Congress of no confidence not in this Secretary of Agriculture, but in any Secretary of Agriculture now or in the years which lie ahead.

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

Mr. WAGGONNER. I yield to the gentleman from Louisiana (Mr. MOORE), my esteemed friend, for purposes of debate only.

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

Mr. Speaker and Members of the House, this whole bill is good except for this one section that we are talking about.

We are talking about a section that deals with the honesty of people. We have had some dishonest people who have made some mistakes in inspecting grain. They should be punished; they will be punished; they are, in fact, being punished at the present time.

The House bill says in its section which I think, is objectionable, that we are going to rule out all private people who inspect grain and have just State and Federal.

Mr. Speaker, I point out that it makes no difference whether you are Federal people or State people or private people; you can be dishonest. Therefore, it is not

the system that is at fault. It is the people in it.

Mr. Speaker, the House bill seeks to rectify that by tightening up conflict-of-interest sections and by increasing penalties for those who are found guilty, and this is good.

The Senate bill provision which is also objectionable is far, far worse. It simply says, you are not going to have any State people or any private people. You are only going to have Federal people.

Mr. Speaker, we have a Federal meat-inspection program. The papers are full of stories of graft, corruption, and dishonesty in Federal meat inspections. The Federal people are no more honest than the State people, and the State people are no more honest than the private people. People are people.

Mr. Speaker, what is happening is that we are deciding to legislate morality through the particular branch of Government one works in; and that does not make sense. The actual people who are guilty in these cases were supervised by Federal supervisors. For every single person who was found guilty there was a Federal supervisor supposedly watching over that work he was doing. Therefore, Federal people are on the job right now and evidently were not doing their job properly as mistakes were made. Simply having all Federal people on the job will not solve the problem.

Mr. Speaker, let us now look to the solution which the conferees are considering to break the logjam between this House version, which is bad, and the Senate version, which is horrible.

They are now saying, Let us do this. Let the State agencies who are inspecting grain now continue to do it, but do not let any other State do it.

That is not bad, Mr. Speaker; that is not horrible; that is unconstitutional.

Section 9 of article I of the U.S. Constitution clearly provides, "No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another."

Mr. Speaker, this compromise proposal is saying, "Louisiana, you cannot; Texas, you can; Mississippi, you cannot; Washington, you can." This is a preference by regulation of commerce and revenue of the ports of one State over another.

Mr. Speaker, that is unconstitutional and far worse than either the Senate or House versions.

Therefore, Mr. Speaker, I strongly support the preferential motion of the gentleman from Louisiana (Mr. WAGGONNER) that we instruct the House conferees to stick to the lesser of these three evils and support the House version which at least is constitutional and treats all States equally. We should totally reject the Senate version and totally reject this unconstitutional, discriminatory, and insulting compromise provision with regard to the respective States.

Mr. Speaker, I thank the gentleman for yielding.

Mr. WAGGONNER. Mr. Speaker, the gentleman from Louisiana (Mr. MOORE) is a member of the House Committee on Agriculture and is very knowledgeable on this particular subject. Keep in mind that he has pointed out that the House version outlaws and prohibits the use of private individuals in grain inspections. The Senate version goes further. It prohibits the use of private individuals, but the Senate provision as well, in going further, prohibits the use of certain State agencies.

There is no reason that we should not make provision in this legislation for discretionary designation of State agencies if the need be, or if wisdom dictates the necessity of, or the value of, to conduct grain inspection. Therefore it is important that we do not run roughshod over this Secretary of Agriculture or some future Secretary of Agriculture or on State agencies who might be utilized in such grain inspection.

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

Mr. WAGGONNER. I yield to my friend, the gentleman from Texas (Mr. BROOKS), for the purpose of debate only.

Mr. BROOKS. Mr. Speaker, let me say to my friend the gentleman from Louisiana (Mr. WAGGONNER) that it is his understanding, is it not, that the Federal Government does not examine all the oil, gas, and hydrocarbons we ship out of the gulf coast before it is shipped? They do not inspect every barrel of oil and every piece of exported material that is shipped. That is not really the job of the Federal Government. The States do not do it either, in most instances.

Is there some real reason why the Federal Government should be involved in determining what the quality of wheat is? I admit that some of the big grain dealers, and most of them are not U.S. owned, have been indicted and found guilty on various charges, but that is just a good warning to people to be careful when they buy from them, to check what they buy and what they pay and what the grain content is.

I just wonder what the real necessity is that requires the Federal Government, or the States, to examine everything that our manufacturers sell?

Mr. WAGGONNER. Mr. Speaker, in response to the gentleman from Texas (Mr. BROOKS) I am not sure I can completely answer his question. Let me say that the Federal Government, of course, wants its business community, as is the case with Government actions, to not misrepresent that which it does. So that the Federal Government would like those who buy whatever it is we have to sell, and in this instance it is grain, to receive what we portray it to be.

The gentleman from Texas is completely correct that it is more of a concern of those who buy to be sure to get what they pay for. So maybe inspection is more important to those who buy than it is on our part to oversee every aspect of the sale.

The gentleman from Texas used the example of oil and gas and the truth is we do not export much of that, we are importers. But we do not inspect every item that we do export. And, of course, we export more wheat and other agricultural commodities than we do anything else. We do not inspect every tire that goes overseas. We do not inspect every can of tomatoes that goes overseas. We do not inspect everything that we do. And there is no reason to believe that we ought to completely federalize grain inspection.

We are not asking anything except that we allow the law to give discretionary authority to the Department of Agriculture through its Secretary, to designate, if they so desire, State agencies and other public bodies, the right to do the job of grain inspection. To do for us, who? We are in the Federal Government and we are the Federal Government in the eyes of the people. I see nothing wrong with allowing the Secretary of Agriculture to designate a State agency if he concludes that it is in the public interest for that State agency to do grain inspection for the Federal Government.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. WAGGONNER. I yield to the gentleman from Iowa for purposes of debate only.

Mr. SMITH of Iowa. I thank the gentleman for yielding.

I would like to say to the gentleman from Texas this is unlike meat inspection or an ordinary inspection service for this reason: The buyer and the seller pay for this service, and all they are asking for is a service where the referee is not a party to the contract. So why should not the Federal Government furnish somebody who is independent. That is what we are really talking about. We cannot really compare this to other kinds of inspection services which are for the benefit of U.S. consumers.

Mr. WAGGONNER. Mr. Speaker, to elaborate further on what the gentleman from Iowa (Mr. SMITH) has had to say, who here is to say today that in the future under the provisions of this act, if the House language prevails as I hope it will—and my instruction is intended to see to it that it does prevail—there are none in State agencies anywhere in this country who can be utilized without total federalization? All we are asking is that State agencies, if the Secretary concludes and wants to designate them to do inspections, be allowed to do those inspections. We are not talking about private individuals; we are talking about units of Government to do what the gentleman from Iowa suggests.

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

Mr. WAGGONNER. I yield to the gentleman from Montana for purposes of debate only.

Mr. MELCHER. I thank the gentleman for yielding.

I do not want the House to lose track of the question of the integrity of American grain sales. There has been a lot of short-weighting on American grain sales. There has been a lot of improper grading.

Because of those unfortunate occurrences that were dishonest, this Congress felt constrained to take some action. We are not forcing ourselves into this business of grain inspecting and weighing of grain because everything was going right; we are forcing ourselves into this business because there are many instances of abuse of the integrity of the foreign grain shipments from U.S. ports.

The American grain farmers dependent on foreign sales are also dependent

on having honest weights and honest grading done at export points so that the buyers of our American grain in foreign countries will have faith in us and will continue to buy from us. The American grain farmers have been hurt in the past couple of years because of the abuses and the lack of honesty at export points. For that reason, as one of the conferees on the bill, I hope that we can arrive at a bill that would delegate that authority and clean up this mess to the Secretary of Agriculture, requiring Federal inspection and weighing of American grain that is exported. Unfortunately, that, will go contrary to the wishes of the gentleman from Louisiana. But I think the situation is so critical that in order to regain lost ground and to renew the feeling of integrity of American grain as to weight and grade, we have got to take action. For that reason I support Federal inspection on export grain at export points.

Mr. WAGGONNER. Mr. Speaker, in answer to the gentleman from Montana (Mr. MELCHER) let me say that the Federal Government should not every time that somebody in the private sector does wrong federalize that aspect of our life. Wrongdoing has not, is not, and will not be limited to the grain export business. Wrongdoing has not, is not, and will not be limited to instances of private endeavor. Wrongdoing has not, is not, and will not be limited to instances wherein State agencies are involved. I would say to the gentleman as sincerely as I can that wrongdoing has not, is not, and will not end with federalization of grain inspection because it has not been the track record of Federal involvement in other instances. If this Government embarks on the course of every time there is wrong federalizing that aspect of our life, then those who advocate such a course are looking for something out of Government that I do not see.

The distinguished chairman of the House Committee on Agriculture has said that the conferees need time to resolve this issue and without instruction. I recall to the attention of the Members again that House conferees were appointed on May 6 of this year—quite some time ago. The House visualized—and this speaks to the necessity of this move—in writing its rules and in modifying in this instance its rule, that after 20 days if there was a deadlock and no agreement could be reached, the House could appropriately, if it chose, instruct its conferees to stand by a provision of the bill, a portion of the bill, or all of the bill.

Now, yes, I would agree with the gentleman that the conferees have made some progress, but I am simply saying to the Members that this aspect of the House bill needs to be retained and the conferees should stand by this provision of the bill, because I do not believe any of the Members want to go back home and say to their State agencies that we are never going to allow the State agencies in grain inspection or other aspect of the administration of the Federal legislation if wrongdoing is alleged. We will not allow them to help us administer any legislation.

We trust the State agencies to administer Federal program after Federal program. Why can we not trust the State agencies in the future if, and only if, some future Secretary of Agriculture concludes that a State agency can be better utilized in this instance for grain inspection?

Now I say to the Members of Congress that foreign governments have expressed confidence not just in the State agencies but also, it may come as a surprise to the Members, in the private sector as well.

Mr. Speaker, they have been satisfied, a great many of them have, over the years. We are simply asking that after 4 months to try to preserve the discretionary authority for the Secretary of Agriculture to utilize, if he chooses, and again only if he chooses, State agencies to conduct grain inspections.

Mr. Speaker, I yield to my friend, the gentleman from Virginia (Mr. WAMPLER) for purposes of debate only.

Mr. WAMPLER. Mr. Speaker, the distinguished chairman of the House Committee on Agriculture, I think, has properly described the situation that is facing the conferees, and we are scheduled to meet again this afternoon.

The bill that passed the House earlier this year does provide for public inspection of grain at export points. The Commonwealth of Virginia, among other parts of the Union, for many years has conducted this function of inspecting grain at export points. So far as I am aware, the States, generally speaking, have done an adequate and satisfactory job.

I might say to my distinguished friend, the gentleman from Louisiana, that the Board of Trade of New Orleans, a private inspection agency duly designated by the Secretary of Agriculture, has for many years performed that function in the ports that are under their jurisdiction in New Orleans. Unfortunately, there were other private inspection agencies that have not performed that function in keeping with law and free of fraud or irregularities.

Mr. Speaker, it seems to me that we should adopt a conference report that gives the Secretary of Agriculture the discretion either to have the grain inspected by employees of the Department of Agriculture, or in his discretion to permit a duly designated State agency to perform this very useful function.

I recognize there has been a great deal of irregularity in the inspection of grain. There are those who feel that this is not a proper function of the Federal Government, that when the Federal Government issues a certificate certifying the quality and the standard of that grain, we do not stand behind it as a matter of law. It simply is a device that tells us, or a certificate that tells us that there is a given amount of grain that meets certain grade specifications. There are field specifications over and above this; but in any event, it seems to me we should pass a bill that gives the Secretary the discretion, so we can have public inspections at export points, either by Federal inspectors or by duly designated State agencies.

Therefore, it will be my position as a member of the conference to insist on the House position in this regard.

Mr. WAGGONNER. Mr. Speaker, the gentleman from Virginia has succinctly stated the problem. The gentleman's words are wise.

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

Mr. WAGGONNER. Mr. Speaker, I yield to the gentleman from Nebraska (Mr. THONE), for purposes of debate only.

Mr. THONE. Mr. Speaker, I thank the gentleman from Louisiana for yielding.

The conferees met yesterday and I was most disappointed that the other body was not more reasonable. More reasonable in one vital area that is legislative overkill in my opinion. I am of the opinion that grain inspection at the export facilities should be strictly federalized, but that no such case has been made for federalization at interim terminals. That offensive portion of the Dole-Clark compromise was insisted on by a majority, but not all of the Senate conferees. The insisted compromise strongly tilts Federal into an area that has been, by and large, well served by State and private inspection.

These are obvious conflicts of interest that should be eliminated. These would be addressed pretty well by the compromise. This is a plus.

Official weighing is included for the first time. This is a real plus.

The upgrading of the departmental inspection "service" at USDA is in order with the present-day volume of export. I understand that the Department has strong objections, but stronger firepower here is advisable in my opinion.

In conclusion, the conferees are close to an agreement on a good and needed bill. I would hope that it would not be killed, because of overzealousness on a most critical point.

Mr. WAGGONNER. Mr. Speaker, the gentleman from Nebraska has properly stated the situation. It is legislative overkill which we will regret in time to come.

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

Mr. WAGGONNER. Mr. Speaker, I yield to the gentleman from Indiana for purposes of debate only.

Mr. HILLIS. Mr. Speaker, I thank the gentleman from Louisiana for yielding.

Mr. Speaker, I would point out to the Members of the House that approximately 25 percent of all American farm production goes abroad.

I would point out further that those of us representing inland States have absolutely no say in the quality of inspection at the export terminals, despite the fact that our States are drastically affected when those export terminal inspections are such that it tends to destroy the world market. I would ask the gentleman in the well if he has read the GAO report on this matter, for my reading

of that report would indicate that buyer after buyer, from country after country, has consistently pointed out their reluctance to trust what they are buying from this country.

The quickest way that I know of to destroy a market is to not give people what you are selling them. That is what we have been doing, and let us not kid ourselves—that is what we have been doing. The seashells that were found in the grain in the ship in the port of Louisiana were not grown with any grain in the hills of Montana, nor the valleys of Virginia, nor anywhere else. Those were pollutants added in.

We can discuss all we want to, this motion today will kill this bill. Those of us who represent States so tremendously oriented to agriculture as Indiana must have some surcease. We must have some relief from the system that is now in vogue. We must have some system whereby we can be assured that when that grain leaves the fields of Iowa, leaves the terminals of Indiana, it goes abroad in its original state without being diluted.

Mr. WAGGONNER. Let me ask the gentleman from Indiana the question: Is the gentleman prepared to say that the State of Indiana and its department of agriculture is so unworthy of trust that never should they be allowed to conduct any inspections with regard to quality and quantity of whatever it is the farmers of Indiana might produce?

Mr. FITHIAN. I am simply saying to the gentleman in the well——

Mr. WAGGONNER. Would the gentleman answer the question?

Mr. FITHIAN. Dating back to the Kennedy administration, we have had these problems.

Mr. WAGGONNER. Mr. Speaker, the gentleman is not going to answer the question. I am not going to continue to yield to him.

Mr. FITHIAN. I simply pointed out that 12 years is enough.

Mr. WAGGONNER. Mr. Speaker, I refuse to yield further. The gentleman refuses to answer the question. Does the gentleman distrust his department of agriculture in Indiana?

Mr. FITHIAN. No, I do not distrust that department of agriculture——

Mr. WAGGONNER. He has answered the question. Why does he distrust mine? Mine has not been utilized.

Mr. FITHIAN. I simply distrust the record of performance at the Gulf ports. It is that simple.

Mr. WAGGONNER. But my department of agriculture has not been party to that.

Mr. Speaker, I refuse to yield further.

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

Mr. WAGGONNER. I yield to the gentleman from Texas (Mr. POAGE) for purposes of debate only.

Mr. POAGE. Mr. Speaker, I am one of those who agree with my colleague, Mr. BROOKS, that the U.S. Government should not engage in the practice of putting a grade on any commodity that it is not willing to back up. The United States does not guarantee grades of export grain. We put a grade on through a Government inspector and say, "This is No. 2; this is No. 1; this is No. 4." Then, it turns out not to be that, and we say, "Me no Alamo; me no Goliad—we had nothing to do with that."

Now, the U.S. Government ought not, in my judgment, to be in such a situation. The U.S. Government, if it is going to hold out to the world that this grain is of a certain grade, should guarantee it is of that grade. I do not think it should hold out to the world what the grade is.

I think the U.S. Government should simply provide the facilities and let the buyers from anywhere in the world come here and look at the grain and decide for themselves what the grade is. Then, they cannot complain to anybody about the United States deceiving them.

But, that is not the matter before the House at the moment. What is before us is whether we will insist on the bill we all voted for, which most of us voted for, by an overwhelming majority. The instruction is to simply insist on the House bill rather than take the Senate bill.

It seems to me that that is perfectly logical. Why should not this body insist on its own bill? Has anything occurred since we voted the House bill? Has anything occurred to change the situation? If it has, we ought to have that brought out. But I do not know of any change that has taken place. A 4 or 5 to 1 majority—probably more than that—of this House voted for the House bill. We knew what the other body wanted at that time. Since we voted for the House bill, why should we change now unless circumstances have changed?

It seems to me that those who want to abandon the House bill should point to the change in circumstances that have occurred since they voted for that bill. It seems to me that if they cannot point out a change in circumstances that perhaps they have a right, but they are in rather poor grace, to come in here and say, "Well, I voted for it, and things are now just as they were then, but I hope you will give us something else."

I am a member of that conference. I would rather see no bill, frankly. I recognize that my point of view is in the minority. I would rather see no bill, because I think the U.S. Government should not guarantee grades. But if we are going to have a bill, and I think we are, then we should adopt the House bill. I think the House bill is fair. Nobody has criticized the House bill. Nobody has said there was an injustice in the House bill. Why do we not stand behind the bill we have presented?

Mr. WAGGONNER. Mr. Speaker, the gentleman from Texas is correct. On April 2 of this year, by a record vote of 246 to 33, this House passed this bill, which was an expression on the part of the House, 246 Members of the House, that that provision providing for discretionary authority on the part of the Secretary of Agriculture to designate State agencies to do grain inspection was good, was right, and it was acceptable. Two hundred forty-six Members of this House expressed concurrence in that provision then, and only 33 expressed disagreement with that particular provision.

So what is there now to say that we should think completely different?

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

Mr. WAGGONNER. I yield to my friend, the gentleman from Louisiana (Mr. MOORE) for purposes of debate only.

Mr. MOORE. I appreciate my colleague's yielding to me again.

Mr. Speaker, as I sit here and listen to the debate, one thing becomes clear. That is that the gentleman is entirely correct when he says that the Louisiana State Department of Agriculture, Grain Inspection Division, had nothing to do with any of the problems that exist in Louisiana, nor, to my knowledge, has any State agency in any of the export ports, whether they be on the west coast, the east coast, the Great Lakes, or in the Gulf. And since it is not a case of legislative overkill, it seems to me like a case of just legislative complete improvements to rule States out. But as I pointed out earlier, it is constitutional to leave some in, because they are doing it now, and leave some others out. If it is a valid premise that a State agency cannot export grain and inspect it, then why is it not the same premise that they cannot do it at interior ports? And if that is the case, why is it they cannot go out in the field and help the farmer?

The point I am trying to make is that if a State agency cannot be trusted at our export points, they cannot be trusted anywhere; the State agencies should be banned from the entire spectrum of agriculture. And, of course, that is a ridiculous proposition.

It likewise makes it true that the Senate provision and the compromise that is being proposed in the conference today is likewise a logically ridiculous proposition, as well as unconstitutional.

Again I urge my colleagues to support the proposition and the motion presented by the gentleman from Louisiana.

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

Mr. WAGGONNER. Mr. Speaker, I yield to the gentleman from Iowa (Mr. BEDELL) for purposes of debate only.

Mr. BEDELL. I thank the gentleman for yielding.

Mr. Speaker, I think we lose sight of the situation here, from the parliamentary standpoint. It is correct, is it not, that the committee is meeting at this time, that they are trying to work out an agreement between the House version and the Senate version? If they do, it will come back to the House, and those people who object to that version will have a chance to vote against it, if they wish to do so. Is that correct?

Mr. WAGGONNER. Mr. Speaker, it is correct to say that Senate conferees were appointed on April 26, 1976, that House conferees were appointed on May 6, 1976, and that the conferees have been meeting on an off-and-on basis since that period of time.

It is not technically correct to say they are meeting at this time, no. They are to meet, as I understand it, later today. This is a statement, I believe, that tracks the statement of the chairman of the House Committee on Agriculture, the gentleman from Washington (Mr. FOLEY), who said the House conferees are to meet next at 2:30 this afternoon in an effort to resolve this question.

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

Mr. WAGGONNER. I yield further for purposes of debate only.

Mr. BEDELL. Mr. Speaker, it would seem to depend on what they come up with this afternoon. It would seem to me to be the sensible legislative procedure that we should let them proceed and see what they come up with, and then we should decide if what they come up with is something we should approve or disapprove.

It seems to me it would be a tragic error to stop them right now so that they will have had no chance this afternoon to try to come to an agreement and bring something back to us on which we can vote.

Mr. WAGGONNER. Mr. Speaker, the conferees have been meeting for 4 months. I do not believe that we should abandon the House-passed provision which was opposed by only 33 Members when we passed this bill earlier this year.

We should provide this discretionary authority for the Secretary of Agriculture if this bill is signed into law so that any future Secretary of Agriculture may designate State agencies to conduct grain inspections for him under his guidelines and under his instructions.

Mr. Speaker, there is nothing wrong with that. This Congress should not overreact emotionally, but it is always prone, it seems, to do that.

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

MOTION TO TABLE OFFERED BY MR. BERGLAND

Mr. BERGLAND. Mr. Speaker, I move to lay the preferential motion on the table.

POINT OF ORDER

Mr. WAGGONNER. Mr. Speaker, I raise a point of order.

The SPEAKER. The gentleman from Louisiana (Mr. WAGGONNER) will state his point of order.

Mr. WAGGONNER. Mr. Speaker, under the rules of the House, in offering a preferential motion, the time belongs to the offeror. Now, for the benefit of the gentleman from Minnesota (Mr. BERGLAND), I can move the previous question, and the vote occurs on the previous question. The votes does not occur on a motion to table until the previous question is voted on and unless the previous question is not ordered.

The SPEAKER. The Chair will state the gentleman's statement is not correct. If the gentleman moves the previous question, the motion to instruct conferees is first subject to being tabled.

Mr. WAGGONNER. That is exactly what I am talking about, Mr. Speaker. We have to table my motion.

The SPEAKER. The motion to table the motion to instruct is privileged over the previous question.

Mr. WAGGONNER. But the previous question has to be tabled first, Mr. Speaker.

The SPEAKER. No, that is not correct. The motion to table is being applied to the motion to instruct conferees, and not to the previous question on that motion.

PARLIAMENTARY INQUIRY

Mr. WAGGONNER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. WAGGONNER. For my information, Mr. Speaker, will the Chair cite for me the rule which is the basis of the Chair's ruling?

The SPEAKER. The citation is clause 4 of rule XVI.

Mr. WAGGONNER. And that says what, Mr. Speaker?

The SPEAKER. The Chair will read a portion of the rule:

When a question is under debate, no motion shall be received but to adjourn, to lay on the table, for the previous question (which motions shall be decided without debate), to postpone to a day certain, to refer, or to amend, or postpone indefinitely; which several motions shall have precedence in the foregoing order; and no motion to postpone to a day certain, to refer, or to postpone indefinitely, being decided, shall be again allowed on the same day at the same stage of the question.

Mr. WAGGONNER. Mr. Speaker, what is that preferential order?

Mr. YATES. Mr. Speaker, I call for the regular order. The regular order is on the motion to table; is it not?

The SPEAKER. The gentleman is correct.

Mr. YATES. Then, Mr. Speaker, let us have a vote.

The SPEAKER. The question is on the motion to table offered by the gentleman from Minnesota (Mr. BERGLAND).

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BAUMAN. Mr. Speaker, am I correct in assuming that the gentleman from Minnesota (Mr. BEGRLAND) has moved to table the previous question?

The SPEAKER. The gentleman from Minnesota (Mr. BERGLAND) has moved to table the preferential motion to instruct conferees.

Mr. BAUMAN. And that is what we will be voting on?

The SPEAKER. Yes, and that is privileged.

Mr. BAUMAN. I thank the Speaker.

PARLIAMENTARY INQUIRY

Mr. WAGGONNER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. WAGGONNER. Mr. Speaker, under what rule of the House can the gentleman move to table the preferential motion without the previous question's being denied?

The SPEAKER. The rule which the Chair has just cited and under the precedents in support thereof.

Mr. WAGGONNER. Mr. Speaker, how can any vote be conducted without the previous question's being ordered?

The SPEAKER. It is a motion to table, which must be voted on before the motion for the previous question on the matter which the gentleman refers to.

Mr. YATES. Mr. Speaker, I demand the regular order.

The SPEAKER. The regular order is demanded.

The Chair is putting the question on the motion which is before the House.

The question is on the motion offered by the gentleman from Minnesota (Mr. BERGLAND) to table the preferential motion offered by the gentleman from Louisiana (Mr. WAGGONNER).

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

Mr. WAGGONNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 224, nays 178, not voting 28, as follows:

[Roll No. 792]

YEAS—224

Abzug	Ford, Tenn.	Ottinger
Adams	Fraser	Patten, N.J.
Addabbo	Gaydos	Patterson, Calif.
Alexander	Giaimo	Pattison, N.Y.
Allen	Gibbons	Pepper
Anderson, Calif.	Gonzalez	Perkins
Andrews, N. Dak.	Grassley	Peyser
Annunzio	Gude	Pike
Ashley	Hagedorn	Pressler
Aspin	Hall, Ill.	Preyer
Baldus	Hamilton	Price
Baucus	Hannaford	Quie
Beard, R.I.	Harkin	Railsback
Bedell	Harrington	Randall
Bennett	Harris	Rangel
Bergland	Hawkins	Rees
Biaggi	Hayes, Ind.	Reuss
Biester	Hechler, W. Va.	Richmond
Bingham	Heckler, Mass.	Riegle
Blanchard	Hicks	Rinaldo
Blouin	Holtzman	Rodino
Boland	Howard	Roe
Bolling	Howe	Rogers
Bonker	Hungate	Roncalio
Brademas	Jacobs	Rooney
Breckinridge	Johnson, Calif.	Rose
Brodhead	Jones, Tenn.	Rosenthal
Broomfield	Jordan	Rostenkowski
Brown, Calif.	Karth	Roush
Broyhill	Kastenmeier	Roybal
Burke, Calif.	Keys	Russo
Burke, Mass.	Koch	Ryan
Burlison, Mo.	Krebs	St Germain
Burton, John	Leggett	Scheuer
Burton, Phillip	Lehman	Schroeder
Carney	Lloyd, Calif.	Seiberling
Carr	Long, Md.	Sharp
Clay	Lundine	Shipley
Cleveland	McCloskey	Simon
Cohen	McCormack	Sisk
Collins, Ill.	McDade	Slack
Conte	McFall	Smith, Iowa
Conyers	McHugh	Solarz
Corman	McKay	Spellman
Cornell	Madden	Staggers
Cotter	Maguire	Stanton, James V.
D'Amours	Mazzoli	Stark
Daniels, N.J.	Meeds	Steiger, Wis.
Danielson	Melcher	Stokes
de la Garza	Meyner	Studds
Delaney	Mezvinsky	Sullivan
Dellums	Mikva	Symington
Diggs	Miller, Calif.	Taylor, N.C.
Dingell	Mineta	Thompson
Dodd	Minish	Thone
Downey, N.Y.	Mitchell, Md.	Traxler
Drinan	Moakley	Tsongas
Duncan, Oreg.	Morfett	Udall
Early	Mollohan	Ullman
Eckhardt	Moorhead, Pa.	Van Deerlin
Edgar	Morgan	Vander Veen
Edwards, Calif.	Mosher	Vanik
Eilberg	Moss	Vigorito
Evans, Colo.	Mottl	Waxman
Evans, Ind.	Murphy, Ill.	Weaver
Fary	Murphy, N.Y.	Whalen
Fascell	Murtha	Wilson, C. H.
Findley	Natcher	Wirth
Fisher	Nedzi	Wolff
Fithian	Nolan	Yates
Flood	Nowak	Yatron
Florio	Oberstar	Young, Ga.
Foley	Obey	Zablocki
Ford, Mich.	O'Hara	Zeferetti
	O'Neill	

NAYS—178

Abdnor	Beard, Tenn.	Buchanan
Ambro	Bell	Burgener
Anderson, Ill.	Bevill	Burke, Fla.
Andrews, N.C.	Boggs	Burleson, Tex.
Archer	Bowen	Butler
Armstrong	Breaux	Carter
Ashbrook	Brinkley	Cederberg
AuCoin	Brooks	Chappell
Bafalis	Brown, Mich.	Clausen, Don H.
Bauman	Brown, Ohio	

Clawson, Del	Hutchinson	Pickle
Cochran	Hyde	Poage
Collins, Tex.	Ichord	Pritchard
Conable	Jarman	Quillen
Coughlin	Jeffords	Regula
Crane	Johnson, Colo.	Rhodes
Daniel, Dan	Johnson, Pa.	Risenhoover
Daniel, R. W.	Jones, Okla.	Roberts
Davis	Kasten	Robinson
Dent	Kazen	Rousselot
Derrick	Kelly	Runnels
Derwinski	Kemp	Sarasin
Devine	Ketchum	Satterfield
Dickinson	Kindness	Schneebeli
Downing, Va.	Krueger	Schulze
Duncan, Tenn.	LaFalce	Sebelius
du Pont	Lagomarsino	Shriver
Edwards, Ala.	Landrum	Shuster
Emery	Latta	Sikes
English	Lent	Skubitz
Erlenborn	Levitas	Snyder
Eshleman	Lloyd, Tenn.	Spence
Evins, Tenn.	Long, La.	Stanton, J. William
Fenwick	Lott	Steed
Fish	Lujan	Stephens
Flowers	McClory	Stratton
Flynt	McDonald	Stuckey
Forsythe	McEwen	Symms
Fountain	McKinney	Talcott
Frenzel	Madigan	Taylor, Mo.
Frey	Mahon	Teague
Fuqua	Mann	Thornton
Gilman	Martin	Treen
Ginn	Mathis	Vander Jagt
Goldwater	Michel	Waggonner
Goodling	Milford	Walsh
Haley	Miller, Ohio	Wampler
Hall, Tex.	Mills	White
Hammer-schmidt	Mitchell, N.Y.	Whitehurst
Hansen	Montgomery	Whitten
Harsha	Moore	Wiggins
Hébert	Moorhead, Calif.	Wilson, Bob
Hefner	Myers, Ind.	Wilson, Tex.
Hightower	Myers, Pa.	Winn
Hillis	Neal	Wright
Holland	Nichols	Wydler
Holt	O'Brien	Wylie
Horton	Passman	Young, Alaska
Hubbard	Paul	Young, Fla.
Hughes	Pettis	

NOT VOTING—28

Badillo	Helstoski	Nix
Byron	Henderson	Ruppe
Chisholm	Hinshaw	Santini
Clancy	Jenrette	Sarbanes
Conlan	Jones, Ala.	Smith, Nebr.
Esch	Jones, N.C.	Steelman
Gradison	McCollister	Steiger, Ariz.
Green	Matsunaga	Young, Tex.
Guyer	Metcalfe	
Heinz	Mink	

The Clerk announced the following pairs:

On this vote:

Mr. Helstoski for, with Mr. Clancy against.

Mr. Badillo for, with Mr. Steiger of Arizona against.

Mrs. Chisholm for, with Mr. Steelman against.

Mr. Matsunaga for, with Mr. Guyer against.

Mr. Nix for, with Mr. Conlan against.

Mr. Metcalfe for, with Mr. Ruppe against.

Mrs. Mink for, with Mr. Byron against.

Until further notice:

Mr. Green with Mr. Henderson.

Mr. Jenrette with Mr. Jones of North Carolina.

Mr. Sarbanes with Mr. Santini.

Messrs. THONE, BURLISON of Missouri, and PRESSLER changed their vote from "nay" to "yea."

So the motion to table the preferential motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDING ACT OF JULY 9, 1965—RECREATIONAL AND OTHER PUBLIC USES AT DAMS AND RESERVOIRS

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 15563) to amend the act of July 9, 1965 (79 Stat. 213; 16 U.S.C. 4601–17(c)), and for other purposes.

The Clerk read the title of the bill.

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

Mr. SEBELIUS. Mr. Speaker, reserving the right to object, could the gentleman give us a brief explanation of what this bill does?

Mr. TAYLOR of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. SEBELIUS. I yield to the distinguished gentleman.

Mr. TAYLOR of North Carolina. Mr. Speaker, I would like to state that since 1965, all reservoirs constructed by the Corps of Engineers or the Bureau of Reclamation have listed recreational uses as one of the project purposes. As a matter of fact, they have emphasized recreation as a justification for expenditures. But some of the older reservoirs constructed years ago make no mention of recreation. Back in the thirties few people owned boats and little consideration was given to water-oriented recreation; today recreation on the lakes has become a very important aspect of our lives.

Let me emphasize this. The bill does not require any Federal agency to do anything. It does not alter any existing financial commitments. It merely says that in operating Federal dams and reservoirs, the agency involved may recognize and provide for recreational uses in a manner consistent with the promotion of navigation, flood control and electric energy production, and other uses as provided by law.

Mr. Speaker, this bill passed the committee unanimously. I know of no objection to it.

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

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

Mr. KETCHUM. Mr. Speaker, I ask, through the gentleman from Kansas to the chairman of the committee, I think this is a good bill; but does the adding of the term "recreation" then make these water recreation areas eligible for land and water conservation funds?

Mr. TAYLOR of North Carolina. Mr. Speaker, if the gentleman will yield, these subjects are already eligible for land and water conservation fund matching grants through the States. This would not make them eligible for any of the Federal funds, unless additional legislation is passed.

Mr. KETCHUM. Mr. Speaker, I thank the gentleman for that explanation.

Mr. SEBELIUS. Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the bill, as follows:

H.R. 15563

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6(d) of the Act of July 9, 1965 (79 Stat. 213; 16 U.S.C. 4601–17(c)) is amended by changing the period to a comma and inserting the following: "but all such projects are authorized to recognize and provide for recreational and other public uses at any dams and reservoirs heretofore or hereafter constructed in a manner consistent with the promotion of navigation, flood control, and the generation of electric energy, as otherwise required by law.".

Mr. MILLER of Ohio. Mr. Speaker, I would like to address an inquiry to the distinguished gentleman from North Carolina. My inquiry is this: What is the meaning of language contained in this bill "and other public uses"? For the further information of the Members I understand the gentleman from North Carolina has said that the term "other public uses" as appearing on line 7 of H.R. 15563 must be interpreted in relation to recreation. It might authorize fish and wildlife protection and management or stocking of lakes with fish, but it is not intended to authorize functions unrelated to water-oriented recreation. For instance, it would not authorize the withdrawal of water from a lake for municipal or other uses.

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

A motion to reconsider was laid on the table.

AUTHORIZING CERTAIN STUDIES BY THE SECRETARIES OF AGRICULTURE AND THE INTERIOR

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 15558) to authorize the study of certain areas by the Secretaries of Agriculture and the Interior.

The clerk read the title of the bill.

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

Mr. SEBELIUS. Mr. Speaker, reserving the right to object, I would like to ask the chairman of the subcommittee to explain the bill.

Mr. TAYLOR of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. SEBELIUS. I yield to the distinguished gentleman.

Mr. TAYLOR of North Carolina. Mr. Speaker, I would say the bill is wholly noncontroversial. It authorizes seven studies of certain specific projects in various parts of the country. Once the studies are completed and the recommendations are formulated with respect to the recreational and other values involved, they will be sent to a future Congress for review and possible action. It is simply a study bill.

I might point out that we have held hearings on a great many bills referred to our subcommittee. Some of these bills called for immediate action, but the Secretary of the Interior said, "We need more information. We need more study before we are in a position to act."

So, in line with these recommendations, we have changed some of the proposals to "study bills," hoping that the studies will result in proper consideration by a future Congress.

Mr. SEBELIUS. Mr. Speaker, does the bill authorize any appropriations?

Mr. TAYLOR of North Carolina. Mr. Speaker, if the gentleman will yield further, the dollar cost for the studies is

anticipated to be $390,000 and that appropriation is authorized.

I say again that these studies should be valuable in guiding a future Congress as to what action should be taken on these proposals.

Mr. SEBELIUS. It does not authorize anything for next year, but for the year after that?

Mr. TAYLOR of North Carolina. The gentleman is correct. No funds authorized by this legislation are to be available before fiscal year 1978.

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

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

Mr. BROWN of Ohio. Mr. Speaker, I rise in strong support of H.R. 15558, a bill which would authorize the Secretary of Agriculture and the Secretary of the Interior to conduct certain area studies. Under title III of this omnibus study bill are provisions for the Secretary of the Interior to conduct a 2-year feasibility/suitability study for a National Museum of Afro-American History and Culture at or near Wilberforce, Ohio. A bill similar to title III of H.R. 15558 passed the Senate by a voice vote on August 25, 1976.

I have introduced on several previous occasions, starting in 1968, legislation to establish and operate an Afro-American museum in Wilberforce and I am pleased to report that when I introduced this measure again last April, I had 14 cosponsors, including many members of the Black Caucus. This worthy measure deserves the immediate support of the House in order that the National Museum of Afro-American History and Culture, as well as the other areas to be studied, may become a reality.

Wilberforce is a community rich in over 200 years of ethnic heritage, and Wilberforce University, established in 1856, is the first university organized by and for Americans of African heritage. Also located there are two other institutions of higher education, Central State University, whose enrollment is still predominantly black but which educates both black and white students, and Payne Theological Seminary, which prepares individuals for ministry in the AME Church. All three institutions have historically been committed to the education of the world's economically disadvantaged, especially those of African heritage. Today, the world's nations of African heritage maintain relations, both educational and cultural, with the institutions and residents of Wilberforce. A number of African leaders have been educated there and future leaders are being educated there today.

Historically, the Wilberforce area is the location of a number of registered national historical landmarks. Additionally, the area was selected as the proposed site because of its significance as an early center of abolitionist activity and as a major stop on the underground railroad, especially the Col. Charles Young residence. What better place for a collection of the many facets of contribution to the American culture by the black culture than a place where blacks and whites together took their early stand for freedom?

Wilberforce, Ohio, is a center of Afro-American History and Culture geographically located in the heartland of America. More than half of the Nation's population resides in areas that are within a day's drive of Ohio. Fifteen miles west of Wilberforce is the location of the renowned Air Force Museum at Wright Patterson Air Force Base and less than an hour's drive to the north is the home of the Neil Armstrong Air and Space Museum maintained by the Ohio Historical Society.

The State of Ohio has shown its support for this endeavor through the enactment of legislation in 1972, which would provide for the Ohio Historical Society to establish and operate a National Museum of Afro-American History and Culture near Wilberforce. That same legislation created the National Museum of Afro-American History and Culture Planning Council to advise the Ohio Historical Society. The Ohio Legislature has appropriated $80,000 for 1975–77 biennium for two purposes: First, to do the planning necessary to secure funds from a nationwide range of sources for operation and construction; and second, to identify and protect manuscripts and memorabilia. To my knowledge, this initiative has not been equaled by any other State legislature. The Ohio Historical Society would be permitted to accept donations, property, and other forms of contributions for the purpose of constructing the museum and necessary roads and facilities.

The three major educational institutions located in Wilberforce—Wilberforce University, Central State University, and Payne Theological Seminary—are all strongly supporting this proposal of a 1-year study. Also, the endorsement of the museum by the recently formed community development corporation, Wilberforce, Inc., indicates the existence of the community support necessary for the success of the project. This legal entity could also provide technical assistance and support for such a facility. The Ohio Association for the Study of Afro-American Life and History, with chapters in many major cities throughout Ohio, is also supportive of this legislation.

There are economic advantages for the establishment of the National Museum of Afro-American History and Culture in the area that was ravaged by tornadoes 2 years ago at and near Xenia, Ohio. The destruction caused by the tornadoes that hit the Xenia-Wilberforce area, and the three Wilberforce campuses, in April of 1974, was immeasurable. Federal and State assistance, coupled with national fundraising efforts by Wilberforce University and Central State University, have, with strong community support, begun to put this area back on its feet. The creation of the museum and the visitors it would attract, linked with plans for the rebuilding of the universities and the surrounding area, would indicate the national interest and support necessary for this region to fully recover.

The creation of a major collection, display, and cultural center in the form of an Afro-American Museum offers a special educational focus within a day's drive of the most concentrated part of the U.S. population which would create an increased public awareness—among both black and white—of Afro-American participation in, and contributions to, the history and culture of the United States.

The establishment of the National Museum of Afro-American History and Culture near Wilberforce will significantly enhance this Nation's ability to recognize, understand, and pay tribute to the great achievements made by Americans of African heritage. This museum would also create a worthwhile institution dedicated to the research and preservation of Afro-American genealogy, memorabilia, and artifacts, placing emphasis on contributions in the areas of arts, science, technology, religion, education, politics, sports, and entertainment.

The enactment of this legislation constitutes the first step necessary for the creation of this centralized facility appropriate to recognize the accomplishments of the Afro-American. The establishment of the National Museum of Afro-American History and Culture of all black peoples from the earliest times to the present—especially in this, our Bicentennial Year—is a project worthy of national consideration.

Mr. Speaker, I respectfully urge speedy action on this bill. It has already passed the Senate, and time is running short for completing the action necessary this year. It is important that we get this study underway as soon as possible so that we may begin to live up to our commitments to black Americans to fully recognize their many contributions to the history and culture of the United States.

Mr. SEBELIUS. Mr. Speaker, this bill is an omnibus measure which provides for studies to be undertaken by the Secretaries of Interior and Agriculture for seven different areas.

The results of these studies will be made available to the Congress so that any further action it may wish to consider in the future will have the benefit of the information and recommendations developed by the studies.

While it is my opinion that there is some degree of question on the merit of handling some of the subjects in this bill in this manner, and I cannot therefore be enthralled with this bill, I shall not object to it.

I would point out that, in the case where studies of these items may have already been initiated and carried forth to some degree, full value should be made of the work already completed so as to reduce the amount of repetitiveness and expense that might be otherwise encountered.

Mr. Speaker, we are all aware of the coming retirement of our good friend and able chairman of the Subcommittee on National Parks and Recreation (Mr. TAYLOR). Through his work in serving on this subcommittee for 16 years and chairing it for 10, he has left an indelible imprint and made a great and lasting contribution to the people of this and future generations in the preservation of

the most superlative of our natural and historical heritage.

One of the most meritorious titles of this bill deals with the study of the Mt. Mitchell area in North Carolina as a potential national park. I include an article relative to this proposal from the Asheville Citizen in the RECORD at this point:

[From the Asheville (N.C.) Citizen, Sept. 14, 1976]

A NATIONAL PARK AT MT. MITCHELL

Michael Frome, one of the nation's most outspoken conservationists, would like to see Mt. Mitchell included in the National Park System as a tribute to the retiring 11th District Congressman Roy A. Taylor of Black Mountain.

"It's a wonder to me that we haven't given Mt. Mitchell that kind of recognition before," said Frome, who spent the weekend here trying to start a movement for the establishment of Mt. Mitchell National Park. "It's the highest peak east of the Rockies, and is a tremendous area of spectacular vistas and unspoiled wilderness."

Frome, of Alexandria, Va., is the author of "Strangers in High Places," the story of the Great Smoky Mountains, and, more recently, Rand McNally's "National Park Guide," which this year is in its 10th edition.

He is former conservation editor of Field & Stream magazine. He was fired from that job a couple of years ago following his criticism of special economic interests in logging, mining, grazing, and land development, and his personal ratings of congressmen on environmental issues. Before that, he lost his job as conservation columnist for American Forests magazine because of his criticism of the U.S. Forest Service and its logging practices.

So Mike Frome has been around. He is infinitely familiar with the Great Outdoors, with our national parks and the people who run them. He is concerned that many of our precious natural wonders have few years left unless government indifference, industrial greed, and public apathy can be overcome.

SPECTACULAR RANGE

He wants to see the establishment of a Mt. Mitchell National Park encompassing 50,000 to 100,000 acres, with the Black Mountain range the focal point.

"I don't think there's anything more spectacular between Pennsylvania and Mt. Oglethorpe than the Black Mountains," he said.

The park land he has in mind would be a football-shaped area running from Craggy Pinnacle along the Blue Ridge Parkway to Crabtree Falls, northward to include Roan Mountain on the North Carolina-Tennessee state line, then westward to take in the Unaka Mountains, and southward again to Craggy Pinnacle.

"This area includes fantastic rivers like the Toe and Cane," he said, "which compare very favorably with the New River, most recently included in the Wild and Scenic Rivers Act. If we can save the New River, we can establish Mt. Mitchell National Park.

The area lies in Yancey and Mitchell counties primarily.

"This is a tremendous area of unspoiled land in private ownership, national forest tracts, and state land," he said. "Probably sixty per cent is owned by the U.S. Forest Service. The private land is in large, undeveloped blocks owned by good people. And the state land is the Mt. Mitchell State Park, which would be the core of the national park."

It was evident that he had done his homework.

"This would be a great addition to the National Parks System," Frome said. "At a time when President Ford is talking about expanding the national parks, I can't think of a better project. It could be set up as an area to protect endangered species. I believe there are panthers up there.

"I would like to see Roy Taylor introduce a bill to establish this park before he leaves Washington," Frome added. "Then I hope the Blue Ridge Parkway Association will take the lead in working for the new national park. It would be of tremendous benefit to the accommodations industry, crafts people, and the like—and Burnsville would make a wonderful gateway to the park."

TOUGH ACT TO FOLLOW

Frome said he intends to carry the idea to national conservation organizations, the Sierra Club, the Wilderness Society, political candidates, and just plain citizens. "The big push," he said, "must come from the citizens of North Carolina."

Frome called Roy Taylor "one of the few people in the House who understands our national parks." But there was a time when Frome criticized Taylor.

"Here's a guy we had some problems with," Frome said. "The initial problem came with the proposed building of that road through the Smokies from Bryson City to Deal's Gap. I remember him saying, 'After we build that road, then we're going to build a road from Deal's Gap to Clingman's Dome.'

"But he changed," Frome said. "He learned a great deal about the national parks and the National Forest Service, and he became a wiser man. He matured on the basis of his experience with the national parks all over the country. He has always been a gentleman, and always he was trying to do what he thought his constituents wanted. He was responsible to the best interests of his constituents.

"His work as chairman of the House Subcommittee on National Parks and Recreation, an arm of the Committee on Interior and Insular Affairs, has been outstanding.

"And now, as he retires, those who criticized him, as I did, really want to salute this man. He has made significant achievements to our nation's beauty, and they came from his heart.

"I don't know who's going to replace Roy on the subcommittee, but it's going to be a tough act to succeed him."

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the bill, as follows:

H.R. 15558

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

TITLE I—FREDERICK LAW OLMSTED HOME AND OFFICE, BROOKLINE, MASSACHUSETTS

SEC. 101. The Secretary of the Interior shall prepare and transmit to the Committees on Interior and Insular Affairs of the Senate and House of Representatives within two years from the date of enactment of this Act a feasibility/suitability study of the Frederick Law Olmsted Home and Office as a unit of the National Park System. The study shall include cost estimates for any necessary acquisition, development, operation, and maintenance, as well as any alternatives for the administration and protection of the area.

SEC. 102. There are authorized to be appropriated not to exceed $25,000 for the purposes of this title. No funds authorized to be appropriated pursuant to this title shall be available prior to October 1, 1977.

TITLE II—SAINT PAUL'S CHURCH, EASTCHESTER, NEW YORK

SEC. 201. The Secretary of the Interior shall prepare and transmit to the Committees on Interior and Insular Affairs of the Senate and House of Representatives within two years from the date of enactment of this Act a feasibility/suitability study of Saint Paul's Church as a unit of the National Park System. The study shall include cost estimates for any necessary acquisition, development, operation, and maintenance, as well as any alternatives for the administration and protection of the area.

SEC. 202. There are authorized to be appropriated not to exceed $25,000 for the purposes of this title. No funds authorized to be appropriated pursuant to this title shall be available prior to October 1, 1977.

TITLE III—NATIONAL MUSEUM OF AFRO-AMERICAN HISTORY AND CULTURE AT OR NEAR WILBERFORCE, OHIO

SEC. 301. The Secretary of the Interior shall prepare and transmit to the Committees on Interior and Insular Affairs of the Senate and the House of Representatives, within two years from the date of enactment of this Act a feasibility/suitabiilty study for a National Museum of Afro-American History and Culture at or near Wilberforce, Ohio. The study shall include cost estimates for any necessary acquisition, development, operation, and maintenance, as well as any alternatives for the administration of such museum.

SEC. 302. There are authorized to be appropriated not to exceed $25,000 for the purposes of this title. No funds authorized to be appropriated pursuant to this title shall be available prior to October 1, 1977.

TITLE IV—KALAUPAPA SETTLEMENT ON THE ISLAND OF MOLOKAI, HAWAII

SEC. 401. (a) The Congress finds:

(1) Since 1866 a colony for the care and treatment of the victims of leprosy, known as the Kalaupapa settlement, has existed on the island of Molokai in the State of Hawaii. On this site Father Joseph Damien de Veuster (1840–1889) worked for sixteen years among those victims until at last succumbing to their disease. This inspiring work made him a figure of such national acclaim that a statue of him rests in the Nation's Capitol. This work led to proceedings for his beatification by the Catholic Church and to worldwide veneration of this devotion and mission. This respect and admiration served to focus unprecedented attention on the disease of leprosy and stimulated charity and scientific research toward its cure.

(2) The Kalaupapa settlement constitutes a unique and nationally significant cultural, historical, educational, and scenic resource.

(b) The purposes of this title are—

(1) to preserve and interpret the Kalaupapa settlement for the education and inspiration of present and future generations, and

(2) to provide that the preservation and interpretation of that settlement be managed and performed by native Hawaiians, including patients and former patients of the Kalaupapa settlement, to the extent practical, and that training opportunities be provided such persons in management and interpretation of the settlement's cultural, historical, educational, and scenic resources.

SEC. 402. (a) The Secretary of the Interior (hereinafter referred to as the "Secretary") shall study the feasibility and desirability of establishing as a part of the National Park System an area (hereinafter referred to as the "proposed park area") comprising all, or a portion of, the lands, waters, and interest in Kalawao County on the island of Molokai.

(b) As a part of such study, the Secretary shall consult with other interested Federal agencies, with other interested State and local bodies and officials, with patients and

former patients presently in residence at the Kalaupapa settlement, and with the Commission established by section 4, and he shall coordinate the study with other applicable planning activities.

SEC. 403. (a) The Secretary shall submit to the President and the Congress within two years after the date of the enactment of this title a report of his study. The report of the Secretary shall contain, but not be limited to, findings with respect to the historic, cultural, educational, scenic, and natural values of the resources involved and recommendations for preservation and interpretation of those resources.

(b) The report of the Secretary referred to in subsection (a) shall include a detailed proposed master plan for the development of the proposed park area. Such plan shall include: (1) a schedule of acquisition of the proposed park area, (2) an assessment of planned restorations of historic sites, (3) an estimate of park development and long-term operation costs, (4) a plan for the development of programs (including training programs) for native Hawaiians, including patients and former patients of the Kalaupapa settlement, to manage and perform the preservation and interpretation of the park, (5) provision for the preservation of existing, exclusive hunting and fishing (konohiki) rights of the residents of Kalawao County, and (6) provisions to prevent the dislocation or displacement of any patient or former patient presently in residence at the Kalaupapa settlement and to maintain transportation and hospital facilities and other public services as may be necessary for any remaining patients or settlement staff.

SEC. 404. (a) There is hereby established a Kalaupapa National Historic Park Advisory Commission.

(b) The Commission shall be composed of fifteen members, at least six of whom shall be native Hawaiians, appointed by the Secretary, as follows:

(1) two members, one of whom will be appointed from recommendations made by each of the United States Senators representing the State of Hawaii, respectively;

(2) two members, one of whom will be appointed from recommendations made by each of the United States Representatives for the State of Hawaii, respectively;

(3) five public members, who shall have knowledge and experience in one or more fields as they pertain to Hawaii of history, ethnology, education, medicine, religion, culture, and folklore and including representatives of the Bishop Museum, the University of Hawaii, and organizations active in the State of Hawaii in the conservation of resources, to be appointed from recommendations made by the Governor of the State of Hawaii;

(4) two members to be appointed from recommendations made by local organizations representing the native Hawaiian people;

(5) at least two members representing the patients, organization; and

(6) two members to be appointed from recommendations made by the mayor of the county Maui.

(c) The term "native Hawaiian", as used in this title means a descendant of not less than one-half part of the blood of the races inhabiting the Hawaiian Islands previous to the year 1778.

(d) The Secretary shall designate one member to be Chairman. Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(e) A member of the Commission shall serve without compensation as such. The Secretary is authorized to pay the expenses reasonably incurred by the Commission in carying out its responsibilities under this title on vouchers signed by the Chairman.

(f) The Commission shall cease to exist at the time of submission of the Secretary's report referred to in section 3(a) to the President and the Congress.

SEC. 405. During the period commencing with the date of the enactment of this title and ending with submission of the Secretary's report to the President and the Congress and any necessary completion of congressional consideration of recommendations included in that report (1) no department or agency of the United States shall, without prior approval of the Secretary, assist by loan, grant, license, or otherwise in the implementation of any project which, in the determination of the Secretary, would unreasonably diminish the value of cultural, historical, educational, scenic, or natural resources relating to the proposed park area and (2) the Chief of Engineers, Department of the Army, shall not, without prior approval of the Secretary, undertake or assist by license or otherwise the implementation of any project which, in the determination of the Secretary, would diminish the value of natural resources located within one-quarter mile of the proposed park.

SEC. 406. There are authorized to be appropriated not to exceed $150,000 for the purposes of this title. No funds authorized to be appropriated pursuant to this title shall be available prior to October 1, 1977.

TITLE V—SHAWNEE HILLS, ILLINOIS

SEC. 501. The Congress finds that the Shawnee Hills in the State of Illinois contain unique recreational resources; that the Shawnee Hills possess historical, cultural, educational, recreational and natural qualities which offer outstanding opportunities for public enjoyment; and that such opportunities should be utilized and developed to their optimum potential for the full enjoyment of present and future generations.

SEC. 502. The Secretary of Agriculture is authorized and directed to study the Shawnee Hills in Saline, Pope, Gallatin, and Hardin Counties, Illinois, as depicted on the map entitled, "Shawnee Hills Study Area," dated June 1976, which shall be on file and available for inspection in the Office of the Chief, Forest Service, United States Department of Agriculture. Within three years from the date of enactment of this title, the Secretary shall submit a report to the Congress, including his recommendation as to the desirability and feasibility of establishing a national recreation area within the Shawnee Hills Study Area. Such report shall include the estimated costs of such establishment and proposed legislation to implement any recommendation for the establishment of such area.

SEC. 503. There are authorized to be appropriated not to exceed $90,000 for the purposes of this title. No funds authorized to be appropriated pursuant to this title shall be available prior to October 1, 1977.

The SPEAKER. The Clerk will report the committee amendments.

The Clerk read as follows:

Page 4, line 3, strike the word "statute" and insert in lieu thereof "statue".

Page 5, line 11, strike the figure "4," and insert in lieu thereof "404,".

Page 8, line 7, strike the figure "3(a)" and insert in lieu thereof "403(a)".

Page 9, line 19, strike "Agriculture," and insert in lieu thereof "Agriculture."

Page 10, following line 6, insert new Titles VI and VII reading as follows:

"TITLE VI—GEORGE W. NORRIS HOME, McCOOK, NEBRASKA

"SEC. 601. The Secretary of the Interior shall prepare and transmit to the Committees on Interior and Insular Affairs of the Senate and House of Representatives within two years from the date of enactment of this Act a feasibility/suitability study of the George W. Norris home as a unit of the National Park System. The study shall include cost estimates for any necessary acquisition, development, operation, and maintenance, as well as any alternatives for the administration and protection of the area.

"SEC. 602. There are authorized to be appropriated not to exceed $25,000 for the purposes of this title. No funds authorized to be appropriated pursuant to this title shall be available prior to October 1, 1977.

"TITLE VII—MOUNT MITCHELL, NORTH CAROLINA

"SEC. 701. The Secretary of the Interior, in consultation with the Governor of the State of North Carolina and the Secretary of Agriculture, shall prepare and transmit to the Committees on Interior and Insular Affairs of the Senate and the House of Representatives within three years from the date of enactment of this Act a feasibility/suitability study of the Black Mountain Range of North Carolina, including the Mount Mitchell State Park, and the nearby federally owned lands adjacent to the Blue Ridge Parkway, including the Craggy Mountains, as a proposed Mount Mitchell National Park. The study shall include cost estimates for any necessary acquisition, development, operation, and maintenance, as well as any alternatives for the administration and protection of the area.

"SEC. 702. There are authorized to be appropriated not to exceed $50,000 for the purposes of this title. No funds authorized to be appropriated pursuant to this title shall be available prior to October 1, 1977."

Mr. TAYLOR of North Carolina (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the committee amendments be dispensed with and that they be printed in the RECORD.

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

There was no objection.

The committee amendments were agreed to.

Mr. SEIBERLING. Mr. Speaker, I rise in support of H.R. 15558, a bill authorizing the study of certain areas by the Secretaries of Agriculture and Interior.

In particular, I strongly support the provision in title III of the bill to direct a study to be made of the suitability and feasibility of establishing a National Museum of Afro-American History and Culture in the vicinity of Wilberforce, Ohio.

Legislation establishing the museum was introduced in the House by our distinguished colleague from Ohio, Mr. BROWN, and in the Senate by Senators TAFT and GLENN. However, the Department of the Interior has never made a study of the proposal. Without such a study the Interior Committee did not believe that there was enough information on the cost and feasibility of the proposal to make a final decision on whether to establish the museum.

Mr. Speaker, this museum would be unique in the United States. It would be the first central facility in the Nation specifically to preserve and interpret the history and culture of the Afro-American people.

Wilberforce, Ohio, was selected for the site of this museum because of the historic significance of the area as a center for the abolition movement. It was on the main line of the underground railroad in the 1800's for slaves who fled north. Wilberforce also contains two

outstanding schools of higher education—Wilberforce University and Central State University. Wilberforce University was founded by black Americans, and it was the first institution of higher learning in America dedicated to the education of blacks. Central State was created by Wilberforce.

The museum, if established, would be used to preserve, collect, and display objects, relics, and records pertaining to Afro-American participation and contributions to the history and culture of the United States.

I urge my colleagues to support H.R. 15558.

Mr. OTTINGER. Mr. Speaker, I rise in support of H.R. 15558, the study of areas for inclusion in our national parks and wilderness areas systems by the Secretaries of Agriculture and Interior, which includes a 1-year study of how best to preserve the historic St. Paul's Church and site in Mount Vernon, N.Y.

St. Paul's is nationally recognized as a national shrine to the Bill of Rights. It was the place where the disputed election of 1733 took place in which the Royal Colonial Governor of New York sought to rig the outcome. The journalistic account of those events written by a young German immigrant printer by the name of John Peter Zenger led to his arrest for treasonous libel against the State. The famous Zenger trial ended in acquittal for Zenger and laid the foundation for our precious right to freedom of the press which was included in our Constitution's Bill of Rights some 50 years later.

St. Paul's is also the place where Anne Hutchinson found refuge in 1624 in her flight from religious persecution in the Massachusetts Bay Colony, and was thereby able to continue her efforts for freedom of religion, freedom of speech, and freedom of assembly.

Interestingly enough, St. Paul's Church bell acquired in 1758 was cast by the same craftsmen and in the same foundry as the famous Liberty Bell in Philadelphia.

I trust the House today will complete congressional action on this legislation by passing H.R. 15558. The Senate has already approved a similar measure. St. Paul's has already been designated as a national historic site, one of the few not already included in the national park system. I am hopeful that the 1-year study will conclude, as I and many others have already, that St. Paul's Church merits inclusion in the national park system. In the meantime, I am sure that the Congress will honor the direction in the House and Senate committee reports which calls for up to $100,000 to be appropriated for the emergency maintenance and repair of the church during this 1-year study period under the authority already granted by the National Historic Sites Act.

Many local and national organizations have expressed their support of legislation to preserve St. Paul's including the Society of the National Shrine of the Bill of Rights at St. Paul's Church, the Post Roads Girl Scouts Council of Westchester, N.Y., the Knapp Chapter of the Daughters of the American Revolution of Westchester, the Westchester County Historical Society, the city of Mount Vernon, the town of Pelham, N.Y., the town of Eastchester, N.Y., other local historical groups, as well as the Westchester Rockland newspapers and WVOX radio in New Rochelle, N.Y.

National press organizations which have announced their support include Editor & Publisher magazine, the National Newspaper Association, the Sigma Delta Chi journalists' fraternity, the National Association of Broadcasters, CBS Television News and CBS anchorman Walter Cronkite, the American Newspaper Publishers Association, Women in Communications, and the New York Daily News. The legislation has also received the active support of the Girl Scouts of America.

The contribution of all of these groups and individuals has been vital in our continuing efforts to have St. Paul's maintained and preserved as a part of the national park system.

Mrs. MINK. Mr. Speaker, I rise in support of H.R. 15558 which authorizes the study of certain areas including the Kalaupapa leprosy settlement area on the island of Molokai in the State of Hawaii for possible inclusion as a unit in the national park system. This bill was recently unanimously approved by the House Committee on Interior and Insular Affairs.

Kalaupapa, established more than a century ago for the care and treatment of victims of leprosy, may be known to the Members of this body through the long and dedicated service to the colony by the Belgian priest, Father Damien, whose statue is one of Hawaii's two commissioned by the State for display in the Halls of the U.S. Capitol. Father Damien is highly revered for his total dedication to the task of ministering to the needs of those who were stricken by leprosy and who were banished to Kalaupapa to live out their lives. Father Damien's sacrifice made him a venerated figure worldwide and led to proceedings for his beatification by the Catholic Church. All of this focused unprecedented attention on the disease of leprosy and stimulated charity and significant scientific research toward its cure.

So much progress has been made in the treatment of this disease that now the Hawaii Department of Health is trying to get all the patients to leave the settlement. But the patients do not wish to and this bill preserves their right to remain. Today leprosy is considered fully curable and confinement is no longer required. In time, therefore, there will be no patients left.

The promontory on which Kalaupapa is located is among the most remote and spectacular in the entire State. It is the scene of much dedicated service in the tradition of Father Damien but as these newer methods of treatment of leprosy have been developed, the patient population has dwindled to about 150. In the near foreseeable future, the settlement will have no one left. No new patients are being admitted.

There is growing concern about the future of the area and two options, preservation or development, present themselves.

The people of Hawaii want to see Kalaupapa saved. My bill H.R. 11180 is now title IV of this bill. The Secretary of Interior is authorized to order a study of the feasibility and desirability of establishing a national historic park for the preservation and restoration of the original site of the leprosy settlement as built by Father Damien and to develop a master plan of such proposed preservation effort. The historic preservation of Kalaupapa to memorialize the work of Father Damien is one of my most important proposals this year. I want Kalaupapa saved and restored. I know of no better, nor a more fitting way to remember and learn from the devotion and sacrifice of Father Damien than by preserving Kalaupapa as he created it. I urge the adoption of this bill.

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

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent for the immediate consideration of a similar Senate bill (S. 400) to direct the Secretary of the Interior to conduct a 1-year feasibility/suitability study of the Frederick Law Olmsted Home and Office as a national historic site.

The Clerk read the title of the Senate bill.

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

There was no objection.

The Clerk read the Senate bill, as follows:

S. 400

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior shall prepare and transmit to the Committees on Interior and Insular Affairs of the Senate and House of Representatives within one year from the date of enactment of this Act a feasibility/suitability study of the Federick Law Olmsted Home and Office as a national historic site. The study shall include cost estimates for any necessary acquisition, operations and maintenance, and development as well as any alternatives.

MOTION OFFERED BY MR. TAYLOR OF NORTH CAROLINA

Mr. TAYLOR of North Carolina. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TAYLOR of North Carolina moves to strike out all after the enacting clause of the Senate bill S. 400, and to insert in lieu thereof the text of H.R. 15558, as passed by the House as follows:

TITLE I—FREDERICK LAW OLMSTED HOME AND OFFICE, BROOKLINE, MASSACHUSETTS

SEC. 101. The Secretary of the Interior shall prepare and transmit to the Committees on Interior and Insular Affairs of the Senate and House of Representatives within two years from the date of enactment of this Act a feasibility/suitability study of the Frederick Law Olmsted Home and Office as a unit of the National Park System. The study shall include cost estimates for any necessary acquisition, development, operation, and maintenance, as well as any al-

ternatives for the administration and protection of the area.

SEC. 102. There are authorized to be appropriated not to exceed $25,000 for the purposes of this title. No funds authorized to be appropriated pursuant to this title shall be available prior to October 1, 1977.

TITLE II—SAINT PAUL'S CHURCH, EASTCHESTER, NEW YORK

SEC. 201. The Secretary of the Interior shall prepare and transmit to the Committees on Interior and Insular Affairs of the Senate and House of Representatives within two years from the date of enactment of this Act a feasibility/suitability study of Saint Paul's Church as a unit of the National Park System. The study shall include cost estimates for any necessary acquisition, development, operation, and maintenance, as well as any alternatives for the administration and protection of the area.

SEC. 202. There are authorized to be appropriated not to exceed $25,000 for the purposes of this title. No funds authorized to be appropriated pursuant to this title shall be available prior to October 1, 1977.

TITLE III—NATIONAL MUSEUM OF AFRO-AMERICAN HISTORY AND CULTURE AT OR NEAR WILBERFORCE, OHIO

SEC. 301. The Secretary of the Interior shall prepare and transmit to the Committees on Interior and Insular Affairs of the Senate and the House of Representatives within two years from the date of enactment of this Act a feasibility/suitability study for a National Museum of Afro-American History and Culture at or near Wilberforce, Ohio. The study shall include cost estimates for any necessary acquisition, development, operation, and maintenance, as well as any alternatives for the administration of such museum.

SEC. 302. There are authorized to be appropriated not to exceed $25,000 for the purposes of this title. No funds authorized to be appropriated pursuant to this title shall be available prior to October 1, 1977.

TITLE IV—KALAUPAPA SETTLEMENT ON THE ISLAND OF MOLOKAI, HAWAII

SEC. 401. (a) The Congress finds:

(1) Since 1866 a colony for the care and treatment of the victims of leprosy, known as the Kalaupapa settlement, has existed on the island of Molokai in the State of Hawaii. On this site Father Joseph Damien de Veuster (1840–1889) worked for sixteen years among those victims until at last succumbing to their disease. This inspiring work made him a figure of such national acclaim that a statue of him rests in the Nation's Capitol. This work led to proceedings for his beatification by the Catholic Church and to worldwide veneration of this devotion and mission. This respect and admiration served to focus unprecedented attention on the disease of leprosy and stimulated charity and scientific research toward its cure.

(2) The Kalaupapa settlement constitutes a unique and nationally significant cultural, historical, educational, and scenic resource.

(b) The proposes of this title are—

(1) to preserve and interpret the Kalaupapa settlement for the education and inspiration of present and future generations, and

(2) to provide that the preservation and interpretation of that settlement be managed and performed by native Hawaiians, including patients and former patients of the Kalaupapa settlement, to the extent practical, and that training opportunities be provided such persons in management and interpretation of the settlement's cultural, historical, educational, and scenic resources.

SEC. 402. (a) The Secretary of the Interior (hereinafter referred to as the "Secretary") shall study the feasibility and desirability of establishing as a part of the National Park System an area (hereinafter referred to as the "proposed park area") comprising all, or a portion of, the lands, waters, and interest in Kalawao County on the island of Molokai.

(b) As a part of such study, the Secretary shall consult with other interested Federal agencies, with other interested State and local bodies and officials, with patients and former patients presently in residence at the Kalaupapa settlement and with the Commission established by section 404, and he shall coordinate the study with other applicable planning activities.

SEC. 403. (a) The Secretary shall submit to the President and the Congress within two years after the date of the enactment of this title a report of his study. The report of the Secretary shall contain, but not be limited to, findings with respect to the historic, cultural, educational, scenic, and natural values of the resources involved and recommendations for preservation and interpretation of those resources.

(b) The report of the Secretary referred to in subsection (a) shall include a detailed proposed master plan for the development of the proposed park area. Such plan shall include: (1) a schedule of acquisition of the proposed park area, (2) an assessment of planned restorations of historic sites, (3) an estimate of park development and long-term operation costs, (4) a plan for the development of programs (including training programs) for native Hawaiians, including patients and former patients of the Kalaupapa settlement, to manage and perform the preservation and interpretation of the park, (5) provision for the preservation of existing, exclusive hunting and fishing (konohiki) rights of the residents of Kalawao County, and (6) provision to prevent the dislocation or displacement of any patient or former patient presently in residence at the Kalaupapa settlement and to maintain transportation and hospital facilities and other public services as may be necessary for any remaining patients or settlement staff.

SEC. 404. (a) There is hereby established a Kalaupapa National Historical Park Advisory Commission.

(b) The Commission shall be composed of fifteen members, at least six of whom shall be native Hawaiians, appointed by the Secretary, as follows:

(1) two members, one of whom will be appointed from recommendations made by each of the United States Senators representing the State of Hawaii, respectively;

(2) two members, one of whom will be appointed from recommendations made by each of the United States Representatives for the State of Hawaii, respectively;

(3) five public members, who shall have knowledge and experience in one or more fields as they pertain to Hawaii of history, ethnology, education, medicine, religion, culture, and folklore and including representatives of the Bishop Museum, the University of Hawaii, and organizations active in the State of Hawaii in the conservation of resources, to be appointed from recommendations made by the Governor of the State of Hawaii;

(4) two members to be appointed from recommendations made by local organizations representing the native Hawaiian people;

(5) at least two members representing the patient's organization; and

(6) two members to be appointed from recommendations made by the mayor of the county of Maui.

(c) The term "native Hawaiian", as used in this title means a descendant of not less than one-half part of the blood of the races inhabiting the Hawaiian Islands previous to the year 1778.

(d) The Secretary shall designate one member to be Chairman. Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(e) A member of the Commission shall serve without compensation as such. The Secretary is authorized to pay the expenses reasonably incurred by the Commission in carrying out its responsibilities under this title on vouchers signed by the Chairman.

(f) The Commission shall cease to exist at the time of submission of the Secretary's report referred to in section 403(a) to the President and the Congress.

SEC. 405. During the period commencing with the date of the enactment of this title and ending with submission of the Secretary's report to the President and the Congress and any necessary completion of congressional consideration of recommendations included in that report (1) no department or agency of the United States shall, without prior approval of the Secretary, assist by loan, grant, license, or otherwise in the implementation of any project which, in the determination of the Secretary, would unreasonably diminish the value of cultural, historical, educational, scenic, or natural resources relating to the proposed park area and (2) the Chief of Engineers, Department of the Army, shall not, without prior approval of the Secretary, undertake or assist by license or otherwise the implementation of any project which, in the determination of the Secretary, would diminish the value of the natural resources located within one-quarter mile of the proposed park.

SEC. 406. There are authorized to be appropriated not to exceed $150,000 for the purposes of this title. No funds authorized to be appropriated pursuant to this title shall be available prior to October 1, 1977.

TITLE V—SHAWNEE HILLS, ILLINOIS

SEC. 501. The Congress finds that the Shawnee Hills in the State of Illinois contain unique recreational resources; that the Shawnee Hills possess historical, cultural, educational, recreational and natural qualities which offer outstanding opportunities for public enjoyment; and that such opportunities should be utilized and developed to their optimum potential for the full enjoyment of present and future generations.

SEC. 502. The Secretary of Agriculture is authorized and directed to study the Shawnee Hills in Saline, Pope, Gallatin, and Hardin Counties, Illinois, as depicted on the map entitled, "Shawnee Hills Study Area," dated June 1976, which shall be on file and available for inspection in the Office of the Chief, Forest Service, United States Department of Agriculture. Within three years from the date of enactment of this title, the Secretary shall submit a report to the Congress, including his recommendation as to the desirability and feasibility of establishing a national recreation area within the Shawnee Hills Study Area. Such report shall include the estimated costs of such establishment and proposed legislation to implement any recommendation for the establishment of such area.

SEC. 503. There are authorized to be appropriated not to exceed $90,000 for the purposes of this title. No funds authorized to be appropriated pursuant to this title shall be available prior to October 1, 1977.

TITLE VI—GEORGE W. NORRIS HOME, McCOOK, NEBRASKA

SEC. 601. The Secretary of the Interior shall prepare and transmit to the Committees on Interior and Insular Affairs of the Senate and House of Representatives within two years from the date of enactment of this Act a feasibility/suitability study of the George W. Norris home as a unit of the National Park System. The study shall include cost estimates for any necessary acquisition, development, operation, and maintenance, as well as any alternatives for the

administration and protection of the area.

SEC. 602. There are authorized to be appropriated not to exceed $25,000 for the purposes of this title. No funds authorized to be appropriated pursuant to this title shall be available prior to October 1, 1977.

TITLE VII—MOUNT MITCHELL, NORTH CAROLINA

SEC. 701. The Secretary of the Interior, in consultation with the Governor of the State of North Carolina and the Secretary of Agriculture, shall prepare and transmit to the Committees on Interior and Insular Affairs of the Senate and the House of Representatives within three years from the date of enactment of this Act a feasibility/suitability study of the Black Mountain Range of North Carolina, including the Mount Mitchell State Park, and the nearby federally owned lands adjacent to the Blue Ridge Parkway, including the Craggy Mountains, as a proposed Mount Mitchell National Park. The study shall include cost estimates for any necessary acquisition, development, operation, and maintenance, as well as any alternatives for the administration and protection of the area.

SEC. 702. There are authorized to be appropriated not to exceed $50,000 for the purposes of this tile. No funds authorized to be appropriated pursuant to this title shall be available prior to October 1, 1977.

The motion was agreed to.

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

The title was amended so as to read: "To authorize the study of certain areas by the Secretaries of Agriculture and the Interior."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 15558) was laid on the table.

DESIGNATING CERTAIN LANDS WITHIN UNITS OF THE NATIONAL PARK SYSTEM AS WILDERNESS; REVISING THE BOUNDARIES OF CERTAIN OF THOSE UNITS; AND FOR OTHER PURPOSES

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 13160) to designate certain lands within units of the national park system as wilderness; to revise the boundaries of certain of those units; and for other purposes.

The Clerk read the title of the bill.

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

Mr. SEBELIUS. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from North Carolina if he will tell us how much money is authorized to be appropriated in this bill.

Mr. TAYLOR of North Carolina. Will the gentleman yield?

Mr. SEBELIUS. I do.

Mr. TAYLOR of North Carolina. Mr. Speaker, in the main, the bill designates lands as wilderness in 10 national parks and monuments. Of course, there is no cost whatsoever as a result of the designations. There is a small addition of land in the Pinnacles National Monument in the district of the gentleman from California (Mr. TALCOTT). The anticipated cost of that addition is $955,000, so except for this addition there is no cost.

Mr. SEBELIUS. One more question: Does this bill have the support of every Member of the districts in which the proposed wildernesses are located?

Mr. TAYLOR of North Carolina. The answer is yes. Let me state that we started out with many bills before us which were introduced by different Members of Congress providing for wilderness areas in the national parks located in their districts. We held hearings on each one of them. Some were very controversial, but these 10 were relatively noncontroversial.

We were able to get the Department and the Members of Congress to generally agree with regard to the need to designate wilderness in these areas, and each one of these has the support of the Congressman in the district where it is located. It also has the suport of the administration, and even though the environmental organizations did not get all they wanted, nevertheless they strongly support this bill.

Mr. SEBELIUS. I thank the gentleman.

Mr. Speaker, the bill now under consideration is an omnibus measure which designates as wilderness, specified land acreage in 10 units of the national park system.

I know of no remaining controversy in this measure, and there never had been much of real significance to begin with.

Mr. Speaker, wilderness designation is probably more compatible with the general management objectives of the National Park Service than it is with any other Federal agency. The principal purpose of the natural areas of national park system units is to preserve unique resources in their natural state, with visitor use and enjoyment to occur in such manner as to not impair that resource. This is nearly the identical purpose of wilderness, with the exception that the hand of man, in the form of mechanization and development, is to be kept absent, and human numbers may need to be curtailed so as to retain the element of solitude.

Mr. Speaker, only four units of the national park system to date have had wilderness designation bestowed on parts of their lands. This bill will bring the total to 14, and constitute the semblance of some type of a developing system of wilderness within lands of the national park system. I hope that the National Park Service will recognize the importance of the challenge it has emerging before it, to administer these lands in the finest and best tradition of commitment to the retention of wilderness purity.

I become somewhat disturbed through time, in listening to the various proposals for and proponents of wilderness designation, where various interests advocate exceptions to the rules and intent of what wilderness was designed to mean. They want special exceptions and exemptions recognized within wilderness for activities and uses which are outright contrary to wilderness. They want wilderness and their contrary activities too. This approach tends to degrade the meaning of wilderness and reduce its value, and I think it is wrong.

I would expect that the National Park Service will fully commit itself to the management of these wilderness designated lands in as pure a manner, free from the imprint of man and his civilized ways and technology, as is possible.

I would like to make one final point specific to this bill, and that is in regard to section 7, which is designated to dovetail this bill into the provisions of the 1964 Wilderness Act. It would be my understanding that the terms "applicable provisions" and "where appropriate" are intended to bring into application to National Park Service wilderness, any provisions of the 1964 act and national forest system provisions which would provide increased protection of the land's wilderness purity, but not decreased protection of it.

For example, the 1964 act permits specified non-conforming activities to occur in national forest wilderness as specifically recognized provisions and exceptions, and provides certain constraints on land acquisition procedure, among other items. Any provision of the 1964 act which could be construed as a lessening of authority for the protection and promotion of purity in wilderness within the national park system would not be considered "appropriate" or "applicable" under terms of section 7 of this bill.

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

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the bill as follows:

H.R. 13160

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in accordance with section 3(c) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132(c)), the following lands are hereby designated as wilderness, and shall be administered by the Secretary of the Interior in accordance with acres, depicted on a map entitled "Wilderness Act:

(a) Bandelier National Monument, New Mexico, wilderness comprising twenty-two thousand seven hundred and twenty-seven acres, depicted on a map entitled 'Wilderness Plan, Bandelier National Monument, New Mexico", numbered 315–20,014–A and dated February 1976, to be known as the Bandelier wilderness.

(b) Black Canyon of the Gunnison National Monument, Colorado, wilderness comprising eleven thousand one hundred and eighty acres, depicted on a map entitled "Wilderness Plan, Black Canyon of the Gunnison National Monument, Colorado", numbered 144–20,017 and dated May 1973, to be known as the Black Canyon of the Gunnison Wilderness.

(c) Chiricahua National Monument, Arizona, wilderness comprising nine thousand four hundred and forty acres, and potential wilderness additions comprising two acres, depicted on a map entitled "Wilderness Plan, Chiricahua National Monument, Arizona", numbered 145–20,007–A and dated September 1973, to be known as the Chiricahua Wilderness.

(d) Great Sand Dunes National Monument, Colorado, wilderness comprising thirty-three thousand four hundred and fifty acres, and potential wilderness additions comprising six hundred and seventy acres, depicted on a map entitled "Wilderness Plan,

Great Sand Dunes National Monument, Colorado", numbered 140-20,006-C and dated February 1976, to be known as Great Sand Dunes Wilderness.

(e) Haleakala National Park, Hawaii, wilderness comprising nineteen thousand two hundred and seventy acres, and potential wilderness additions comprising five thousand five hundred acres, depicted on a map entitled "Wilderness Plan, Haleakala National Park, Hawaii", numbered 162-20,006-A and dated October 1975, to be known as the Haleakala Wilderness.

(f) Isle Royale National Park, Michigan, wilderness comprising one hundred and thirty-one thousand eight hundred and eighty acres, and potential wilderness additions comprising two hundred and thirty-one acres, depicted on a map entitled "Wilderness Plan, Isle Royale National Park, Michigan", numbered 139-20,004 and dated December 1974, to be known as the Isle Royale Wilderness.

(g) Joshua Tree National Monument, California, wilderness comprising four hundred and seventeen thousand six hundred acres, and potential wilderness additions comprising thirty-seven thousand five hundred and fifty acres, depicted on a map entitled "Wilderness Plan, Joshua Tree National Monument, California", numbered 156-20,003-C and dated February 1976, to be known as the Joshua Tree Wilderness.

(h) Mesa Verde National Park, Colorado, wilderness comprising eight thousand one hundred acres, depicted on a map entitled "Wilderness Plan, Mesa Verde National Park, Colorado", numbered 307-20,007-A and dated September 1972, to be known as the Mesa Verde Wilderness.

(i) Pinnacles National Monument, California, wilderness comprising twelve thousand nine hundred and fifty-two acres, and potential wilderness additions comprising nine hundred and ninety acres, depicted on a map entitled "Wilderness Plan, Pinnacles National Monument, California", numbered 114-20,010-D and dated September 1975, to be known as the Pinnacles Wilderness.

(j) Saguaro National Monument, Arizona, wilderness comprising seventy-one thousand acres, and potential wilderness additions comprising ten acres, depicted on a map entitled "Wilderness Plan, Saguaro National Monument, Arizona", numbered 151-20,003-C and dated February 1976, to be known as the Saguaro Wilderness.

SEC. 2. A map and description of the boundaries of the areas designated in this Act shall be on file and available for public inspection in the office of the Director of the National Park Service, Department of the Interior, and in the office of the Superintendent of each area designated in this Act. As soon as practicable after this Act takes effect, maps of the wilderness areas and descriptions of their boundaries shall be filed with the Interior and Insular Affairs Committees of the United States Senate and House of Representatives, and such maps and descriptions shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in such maps and descriptions may be made.

SEC. 3. All lands which represent potential wilderness additions, upon publication in the Federal Register of a notice by the Secretary of the Interior that all uses thereon prohibited by the Wilderness Act have ceased, shall thereby be designated wilderness.

SEC. 4. The boundaries of the following areas are hereby revised, and those lands depicted on the respective maps as wilderness or as potential wilderness addition are hereby so designated at such time and in such manner as provided for by this Act:

(a) Isle Royale National Park, Michigan:

The Act of March 6, 1942 (56 Stat. 138; 16 U.S.C. 408e-408h), as amended, is further amended as follows:

(1) Insert the letter "(a)" before the second paragraph of the first section, redesignate subparagraphs (a), (b), and (c) of that paragraph as "(1)", "(2)", "(3)", respectively, and add to that section the following new paragraph:

"(b) Gull Islands, containing approximately six acres, located in section 19, township 68 north, range 31 west, in Keeweenaw County, Michigan.".

(2) Amend section 3 to read as follows:

"SEC. 3. The boundaries of the Isle Royale National Park are hereby extended to include any submerged lands within the territorial jurisdiction of the United States within four and one-half miles of the shoreline of Isle Royale and the surrounding islands, including Passage Island and the Gull Islands, and the Secretary of the Interior is hereby authorized, in his discretion, to acquire title by donation to any such lands not now owned by the United States, the title to be satisfactory to him.".

(b) Pinnacles National Monument, California:

(1) The boundary is hereby revised by adding the following described lands, totaling approximately one thousand seven hundred and seventeen and nine-tenths acres:

(a) Mount Diablo meridian, township 17 south, range 7 east: Section 1, east half east half, southwest quarter northeast quarter, and northwest quarter southeast quarter; section 12, east half northwest quarter, and northeast quarter southeast quarter; section 13, east half northeast quarter and northeast quarter southeast quarter.

(b) Township 16 south, range 7 east: Section 32, east half.

(c) Township 17 south, range 7 east: Section 4, west half; section 5, east half.

(d) Township 17 south, range 7 east: Section 6, southwest quarter southwest quarter; section 7, northwest quarter north half west quarter.

(2) The Secretary of the Interior may make minor revisions in the monument boundary from time to time by publication in the Federal Register of a map or other boundary description, but the total area within the monument may not exceed sixteen thousand acres: *Provided, however*, That lands designated as wilderness pursuant to this Act may not be excluded from the monument. The monument shall hereafter be administered in accordance with the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), as amended and supplemented.

(3) In order to effectuate the purposes of this subsection, the Secretary of the Interior is authorized to acquire by donation, purchase, transfer from any other Federal agency or exchange, lands and interests therein within the area hereafter encompassed by the monument boundary, except that property owned by the State of California or any political subdivision thereof may be acquired only by donation.

(4) There are authorized to be appropriated, in addition to such sums as may heretofore have been appropriated, not to exceed $955,000 for the acquisition of lands or interests in lands authorized by this subsection.

SEC. 5. (a) Within the wilderness area designated by section 1(a) and section 1(h) of this Act, the Secretary of the Interior may undertake minimum activity necessary in order to investigate and stabilize sites of archeological interest.

(b) Within the wilderness area designated by section 1(d) of this Act, the Secretary of the Interior may, as he deems necessary, utilize motorized vehicles to maintain fencing for the protection of the area from incursion of domestic livestock.

(c) Within the wilderness area designated by section 1(f) of this Act, the Secretary of the Interior may, as he deems necessary—

(1) construct and maintain boat docks for the safety of visitors and the protection of the wilderness resource;

(2) maintain an existing power transmission line in the vicinity of Rock Harbor and Mount Ojibway; and

(3) pursue a program of prescribed burning in order to preserve the area in its natural condition.

(d) Within the wilderness areas designated by section 1(g) of this Act, the Secretary may, as he deems necessary—

(1) construct and maintain wildlife watering devices; and

(2) provide for the use of necessary manipulative techniques in order to maintain natural ecological conditions.

SEC. 6. (a) The Secretary of Agriculture shall, within two years after the date of enactment of this Act, review, as to its suitability or nonsuitability for preservation as wilderness, the area located in the Coronado National Forest adjacent to Saguaro National Monument, Arizona, and identified on the map referred to in section 1(j) of this Act as the "Rincon Wilderness Study Area," and shall report his findings to the President. The Secretary of Agriculture shall conduct his review in accordance with the provisions of subsections 3(b) and 3(d) of the Wilderness Act, except that any reference in such subsections to areas in the national forests classified as "primitive" on the effective date of that Act shall be deemed to be a reference to the wilderness study area designated by this Act and except that the President shall advise the Congress of his recommendations with respect to this area within two years, after the date of enactment of this Act.

(b) The Secretary of Agriculture shall give at least sixty days' advance public notice of any hearing or other public meeting relating to the review provided for by this section.

SEC. 7. The areas designated by this Act as wilderness shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of this Act, and, where appropriate, any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

With the following committee amendments:

Page 2, lines 1 and 2, strike out "twenty-two thousand seven hundred and twenty-seven" and insert "twenty-three thousand two hundred and sixty-seven".

Page 2, line 4, strike out "315-20,014-A and dated February 1976," and insert "315-20,014-B and dated May 1976,".

Page 2, line 5, strike out "wilderness." and and insert "Wilderness."

Page 2, line 19, strike out "Wilderness." and insert "National Monument Wilderness."

Page 3, line 2, after "as" insert "the".

Page 3, line 3, after "Haleakala" strike the first "National".

Page 3, lines 18 and 19, strike out "four hundred and seventeen thousand six hundred" and insert "four hundred and twenty-nine thousand six hundred and ninety".

Page 3, lines 22 and 23, strike out "156-20,003-C and dated February 1976," and insert "156-20,003-D and dated May 1976,".

Page 4, lines 15 and 16, strike out "acres, and potential wilderness additions comprising ten acres," and insert "four hundred acres,".

Page 4, line 18, strike out "151-20,003-C and dated February" and insert "151-20,003-D and dated May".

Page 5, line 22, strike out "suparagraphs" and insert "subparagraphs".

Page 6, line 2, strike out "Keeweenaw" and insert "Keweenaw".

Page 8, at the end of line 3, add a new sentence reading as follows: "No funds author-

ized to be appropriated pursuant to this Act shall be available prior to October 1, 1977."

Page 10, following line 7, insert "effective date of the Wilderness Act shall be deemed to be a reference to the".

Mr. TAYLOR of North Carolina (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendments be considered as read and printed in the RECORD.

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

There was no objection.

The committee amendments were agreed to.

Mrs. PETTIS. Mr. Speaker, I am certainly pleased the House is considering the omnibus wilderness bill, H.R. 13160, which contains provisions to establish the Joshua Tree Wilderness within the Joshua Tree National Monument, Calif. The bill provides that 429,690 acres will go immediately into "wilderness" with another 37,550 acres to become "potential wilderness."

The Joshua Tree National Monument, located in my congressional district, encompasses over 500,000 acres of the California desert and contains two large, unique ecosystems: the Mojave, or high desert, and the Colorado, or low desert. Few areas of the country have such a diverse and spectacular geology complemented by an assembly of desert plants and animals. Archeological and historical sites supplement the desert environment. The monument exhibits some of the most outstanding geology in southern California, the results of repeated uplifts, successive lava flows, and the relentless erosion. The westward part of the monument embraces several mountain masses, with a number of peaks over 5,000 feet high, interlaced with medium-elevation plateaus and valleys. To the east, the nearly flat intermountain plateaus drop off to the low, bowl-shaped Pinto basin.

Mr. Speaker, the need for the establishment of wilderness areas within the Joshua Tree National Monument has been documented in a variety of reports. I would draw your attention to the "environmental assessment" of the natural resources management plan which the National Park Service issued on October 22, 1974. In the report it is stated:

> The future of the Joshua Tree National Monument environment without the proposed action [establishing wilderness areas] will be an ecosystem continuing to trend further from a natural condition . . . Without the proposed action, it will not be possible to preserve the natural ecosystems for the enjoyment of present and future generations.

The reason the Joshua Tree National Monument was created in 1936 by Presidential proclamation was the uniqueness of the two desert ecosystems which meet within it. These ecosystems will continue to deteriorate due to the influence of man unless we take action. I believe it is essential we enact legislation in 1976 to create the Joshua Tree Wilderness.

I would like to take this opportunity to commend the chairman of the National Parks Subcommittee, Mr. TAYLOR, for the leadership he has shown in bringing this bill to the House. I regret that I have served with him on the Interior Committee for such a short time. With the gentleman's retirement at the end of this session, the House will lose one of its great leaders in the cause of development and expansion of the Nation's park system for future generations of Americans to enjoy. I am pleased to be a cosponsor with him of this important wilderness legislation.

Mr. RUPPE. Mr. Speaker, I rise in support of H.R. 13160.

This legislation was reported out of the House Interior Committee after extensive review and consideration by the Subcommittee on National Parks. As a member of the subcommittee, I have had the opportunity to participate in the markup of this legislation from the very beginning and I am pleased with the bill before the House this afternoon.

I am particularly pleased that this legislation designates Isle Royale National Park to be included in the Nation's wilderness system. Isle Royale, the largest island in the Great Lakes, has been a national park since 1931. Over the years, the prime attraction of the island to the visitor revolves around its natural north woods character. It is this particular character of Isle Royale, perhaps more so than any other island in the Nation, which demonstrates the island's suitability for inclusion in this wilderness system.

The preservation of Isle Royale is important to the people of northern Michigan. The measure before the House this afternoon guarantees that this beautiful island will be maintained for the pleasure and enjoyment of future generations.

At the same time, by including special management provisions in the proposal, the people of northern Michigan are assured that the National Park Service will continue to manage the island in a manner that allows for easy access and use of island facilities.

Mr. Speaker, I urge swift enactment of H.R. 13160.

Mr. TALCOTT. Mr. Speaker, I rise to give my enthusiastic support for H.R. 13160, particularly section (i) which will establish a wilderness area within the boundaries of Pinnacles National Monument. I commend the committee for its wise decision to recommend the measure which is of special interest to the residents of the 16th District of California, and is also of vital concern to all Americans who visit our area now or in the future.

The Pinnacles National Monument is 14,497 acres of rock formation, caves, chapparal, and spectacular vistas; it is a well-known landmark in California, located in San Benito and Monterey Counties, and is only 40 miles inland from the Pacific Ocean. It is adjacent to U.S. Route 101, which is the main coastal highway in central California between San Francisco and Los Angeles, and is within 2 hours' driving time of the heavily populated San Francisco-Oakland-San Jose metropolitan region.

Pinnacles is a unique area. The geography of Pinnacles is significant both for its scientific and geological value, and for its natural beauty which pleases the eye and excites the imagination.

The Pinnacles were formed approximately 23 million years ago during a period of intense volcanic activity along the western edge of the North American continent. Later, volcanic rock that had erupted developed a great rift, called the San Andreas Fault, and the land on the seaward side began sliding gradually northwestward—a movement which still continues at a rate of four centimeters per year. The result of this is that part of the Pinnacles rocks are far to the south, near Gorman, buried under rounded hills, while those on the ocean side of the fault huge rocks have slid downward to cover canyons, extensive caves and underground passageways have been formed. The Pinnacles themselves are remains of a Miocine volcano, and are in an advanced stage of decomposition. A few thousand feet of volcanic debris have already eroded away, and earthquakes have broken what remains into jointed fragments—referred to as "Pinnacles."

The Pinnacles themselves comprise only a small portion of the monument acreage. Much of the remaining land can be classified as a "coastal broadleaf chapparal" ecosystem. There are many opportunities for the study of different types of rare plant and animal life in this area. Of course, there is also the opportunity for the ordinary citizen of central California and elsewhere to enjoy a day's excursion into another world—a world untouched by human hands.

The Pinnacles National Monument was established by Presidential proclamation on January 16, 1908. The area of the monument was gradually increased by later proclamations until the total current acreage of 14,497 acres was reached.

The Park Service in 1968 recommended the establishment of a wilderness area within the boundaries of Pinnacles National Monument. At that time, the Park Service recommended a total acreage of approximately 7,500 acres for inclusion in the wilderness area.

I welcomed the Park Service recommendation only as a starting point for further discussion, and since then I have continuously worked with knowledgeable citizens and organizations in our area, and elsewhere, who were interested in the establishment of a Pinnacles Wilderness area in an attempt to achieve a concensus that would include as much of the monument acreage as possible in the wilderness area.

Many competing special interests had to be resolved. Some groups wanted a road built across the monument which, if constructed, would have restricted the possibility of a wilderness area; others wanted to enlarge the area for concessions and camping facilities within the monument. All of these conflicts and others have been surmounted by my proposal.

Early in 1975 I held a series of meetings and consultations with individuals and officials in the hope of redrawing the

wilderness map to include additional land. I came to the conclusion that more land within the monument could be included in the wilderness category, and I introduced a revised bill, H.R. 7209, in March of last year.

On February 6, 1976 the Subcommittee on Parks and Recreation of the House Committee on Interior and Insular Affairs incorporated the exact provisions of my bill in their omnibus wilderness bill.

H.R. 7209 has two major purposes. The first was to revise and expand the present boundaries of the Pinnacles National Monument. The second purpose was to place most of the current Pinnacles Monument, and some of the land in the expanded boundary area, within a "Pinnacles Wilderness" area.

The land immediately adjacent to the monument is suitable for inclusion in a wilderness area, and should be included in the wilderness someday. The most efficacious time is now.

The scenery in the eastern area is spectacular. Further, the eastern area protects the drainage of Chalone Creek. The western land is also quite pretty, and, more importantly, it can be seen from the visitor's observation points in the western entrance area. Thus, it should be protected from developments that would degrade the view.

In order that the land can be acquired, it must first be placed within the monument boundaries. Then, whenever the land is acquired, it will automatically become part of the wilderness area, assuming it continues to meet the requirements of the Wilderness Act.

It is also clear that when a Pinnacles Wilderness is established, there will be a need for expanded Park Service support facilities outside, but close to, the wilderness area. Much of the additional land authorized for inclusion in an expanded Pinnacles Monument would be utilized by the Park Service for visitor support facilities. My understanding is that the Park Service Master Plan for Pinnacles confirms the need for such expanded support facilities.

I have been quite impressed with one possibility for support facilities which would involve a joint venture by a private group and the Park Service. The private group would work with the Park Service to provide overnight visitor's facilities outside of the east entrance to the wilderness. I am favorably impressed with this unique approach would could set a precedent for future joint activities combining the creativeness of private enterprise with the dedication and skill of the Park Service throughout our Nation.

H.R. 7209 included more total wilderness acreage than any of the other Pinnacles proposals of which I am aware, and all of this land will add to the beauty of the Pinnacles Wilderness and increase the enjoyment of it by Americans from all across the Nation.

Some private land is designated in H.R. 7209 for inclusion in the expanded monument boundaries. As far as I can determine, there are no manmade structures of any significance on this land. Much of it is natural and open and used for cattle grazing. Certain portions of the land, upon acquisition, would become wilderness. Other portions, upon acquisition, would be used for visitor support facilities.

All of the affected landowners are aware of the provisions of my bill. There have been discussions concerning the possible sale of their land to the Government. None of the owners have refused to discuss selling their land, and most appear interested. The Park Service has advised me that their estimate of the cost of acquisition of all of the private land within the boundaries of H.R. 7209 is about $955,000. I believe this may be too high. I might point out that the sooner the Congress acts, the less the land acquisition will actually cost.

Mr. Speaker, since introducing H.R. 7209, I have received comments from interested parties, and have suggested one major change in acreage. I have added a 267-acre tract of land suitable for wilderness classification which is located southeast of the eastern entrance to the monument.

Finally, I want to state for the record, even though the law is clear on this point, that private owners of land within the wilderness boundaries are free to utilize their land as they wish, for as long as they continue to own the land. I stress that my major concern is the approval of a Pinnacles Wilderness. I know of no opposition to its establishment or to this bill.

While the administration has not yet expressed a position on my proposed wilderness and external boundary adjustments, and has deferred comment for purposes of further scrutiny, the National Park Service's environmental impact statement for the monument's master plan was approved on December 1, 1975. The approved master plan's environmental impact statement includes all of the boundaries proposed in my bill except for the additional 267-acre tract adjacent to the east side of Chalone Creek, which was included in the House omnibus bill at my recommendation.

The master plan's environmental impact statement proposed this acreage as alternative acquisition and recognizes that inclusion of the tract would more "adequately protect parklands along Chalone Creek." To my knowledge no objections have been raised to this small addition; all parties with previous interest in this legislation favor inclusion.

I urge the adoption of this bill.

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

GENERAL LEAVE

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

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

There was no objection.

REQUEST FOR CONSIDERATION OF H.R. 3078, AUTHORIZING ESTABLISHMENT OF THE CHATTAHOOCHEE RIVER NATIONAL RECREATION AREA IN THE STATE OF GEORGIA

Mr. TAYLOR of North Carolina. Mr. Speaker, I call up the bill (H.R. 3078) to authorize the establishment of the Chattahoochee River National Recreation Area in the State of Georgia, and for other purposes, and ask unanimous consent that the bill be considered in the House.

The Clerk read the title of the bill.

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

Mr. McDONALD. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

CONFERENCE REPORT ON H.R. 14238, LEGISLATIVE BRANCH APPROPRIATION ACT, 1977

Mr. SHIPLEY. Mr. Speaker, I call up the conference report on the bill (H.R. 14238) making appropriations for the Legislative Branch for the fiscal year ending September 30, 1977, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

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

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 15, 1976.)

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

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

There was no objection.

The SPEAKER. The gentleman from Illinois (Mr. SHIPLEY) is recognized.

Mr. SHIPLEY. Mr. Speaker, the conference agreement provides appropriations totaling $943,400,485 for fiscal year 1977. However, this figure is $48,890,280 below the budget estimates. The Senate added $163,089,535 above the amount in the bill as it passed the House, and this amount includes $147,993,375 for Senate items that we did not consider in the House. Excluding the Senate items, the conference agreement is $15,096,160 above the House allowance and $27,740,800 below the Senate bill.

Mr. Speaker, upon conclusion of our consideration of this conference action, I will ask permission to include a comparative summary of the conference action at this point in the RECORD.

The tabulation referred to follows:

LEGISLATIVE BRANCH APPROPRIATION BILL, 1977 (H.R. 14238)—CONFERENCE SUMMARY

Agency and item	New budget (obligational) authority fiscal year 1976	Budget estimates of new (obligational) authority, fiscal year 1977	New budget (obligational) authority House bill	New budget (obligational) authority Senate bill	New budget (obligational) authority conference	Conference action compared with— Fiscal year 1976	Budget estimates	House bill	Senate bill
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Senate	$126,074,645	$135,988,905		$137,279,875	$137,279,875	+$11,205,230	+$1,290,970	+$137,279,875	
House of Representatives	228,981,485	242,076,800	$241,773,550	241,773,550	241,773,550	+12,792,065	−303,250		
Joint items	72,635,633	55,560,260	55,268,800	55,488,860	55,488,860	−17,146,773	−71,400	+220,060	
Office of Technology Assessment	6,578,000	8,500,000	6,624,000	8,000,000	6,624,000	+46,000	−1,876,000		−$1,376,000
Congressional Budget Office	4,868,440	10,159,000	9,319,200	9,319,200	9,319,200	+4,450,760	−839,800		
Architect of the Capitol	76,487,600	101,624,700	37,638,000	85,479,500	60,479,500	−16,008,100	−41,145,200	+22,841,500	−25,000,000
Botanic Garden	1,252,500	1,164,900	1,164,900	1,164,900	1,164,900	−87,600			
Library of Congress	119,125,400	142,983,200	135,415,100	139,260,000	137,895,200	+18,769,800	−5,088,000	+2,480,100	−1,364,800
Copyright Royalty Commission		[1] (268,000)		268,000	268,000	+268,000	+268,000	+268,000	
Government Printing Office	153,868,700	141,115,000	140,827,400	140,827,400	140,827,400	−13,041,300	−287,600		
General Accounting Office	141,541,000	151,418,000	150,580,000	150,580,000	150,580,000	+9,039,000	−838,000		
Cost-Accounting Standards Board	1,635,000	1,700,000	1,700,000	1,700,000	1,700,000	+65,000			
Grand total, new budget (obligational) authority	933,048,403	992,290,765	780,310,950	971,141,285	943,400,485	+10,352,082	−48,890,280	+163,089,535	−27,740,800
Consisting of—									
1. Appropriations	(931,241,903)	(991,796,765)	(779,982,950)	(970,647,285)	(942,906,485)	(+11,664,582)	(−48,890,280)	(+162,923,535)	(−27,740,800)
2. Reappropriations	(1,806,500)	(494,000)	(328,000)	(494,000)	(494,000)	(−1,312,500)		(+166,000)	

[1] Included in estimates under Library of Congress, Copyright Office.

Mr. Speaker, before the conference began, I was approached by scores of Members providing advice and counsel on how to resolve the pay matter. The conferees agreed on a pay increase package which was in accordance with their counsel. Very briefly, Mr. Speaker, the conferees agreed to: First, language that makes it clear that Members of the House would not have their salary reduced; second, that no October cost-of-living increases would be made to judges, Members of Congress, and certain executive positions; and third, that those proscribed from getting the October cost-of-living pay increase are not precluded from receiving any increase next March resulting from proposals by the President pursuant to recommendations of the Commission on Executive, Legislative, and Judicial Salaries.

Mr. Speaker, the conferees also agreed to retain the provisions added by the Senate which pertain to adjustments to the pension computation for Federal retirees. These provisions eliminated the 1-percent kicker and added a new method of computing increases for retirees to adjust for cost-of-living increases.

This action will result in savings of over $3 billion over the next 5 years.

Mr. Speaker, under existing law, when the cost of living increased by 3 percent for 3 months, a pension recomputation was made, and the retirees got that increase plus 1 percent. The 1 percent was to make up to the retirees what had not been paid to the retirees before the recomputation occurred.

Since the 1-percent provision has been adopted, the cost of living has increased 56 percent while the pension payment increase has been 72 percent. This growth in pension increase in excess of the cost-of-living increase is a function of compounding the 1-percent kicker. The elimination of the kicker has been endorsed by the chairman and ranking minority member of the Committee on Post Office and Civil Service and by the Civil Service Commission.

To replace the kicker provision, the conferees agreed to provide for a semi-annual recomputation based on the actual cost-of-living increase in the preceding 6-month period. The provisions agreed to by the conferees provide that the first increase effective on March 1, 1977, will be based on the change that occurred between the last base month, December 1975, and December 1976—a 12-month period.

Mr. Speaker, with regard to the West Front of the Capitol, the conferees did not reach agreement on the Senate amendment providing $25 million for restoration of the West Central Front of the Capitol.

Mr. Speaker, I will offer a motion that the House insist on its position that no funds be included in this bill for the restoration. There is no disagreement as to the need to repair this section of the Capitol. There is, however, disagreement as to the method of repairing it. The Senate proposal involves a process of pressure grouting that would require boring hundreds of holes in the wall—about 5,700 2-inch holes. The House members of the Commission on the Extension of the U.S. Capitol oppose this method and support a modified extension plan recommended by the Architect of the Capitol.

The Committee on Appropriations has not had an opportunity to study this new plan, and it is my recommendation that we not proceed until we have an opportunity to look it over.

Mr. Speaker, the conference agreement includes a technical language change for the American Indian Policy Review Commission, as well as additional funds required for reimbursement to the District of Columbia government for the services of Metropolitan Police and Page School teachers detailed to the Hill due to pay increases granted earlier to those two categories of employees.

The conferees agreed to the Senate amendment reducing the number of operators on automatic elevators in the Capitol Building and in the Senate and House office buildings, with the proviso that the provision would not apply to present incumbents.

The additional funds proposed by the Senate for copyright revision activities, including the establishment of an independent Copyright Royalty Commission, were agreed to, with the proviso that they shall be available only upon the enactment of enabling legislation into law. The increase proposed by the Senate for the library of congress program for the blind and physically handicapped was agreed to.

The conference action also provides for the establishment of a new rank of private first class and certain salary increases for the members of the Capitol Police Force, including both the House and Senate details.

Mr. Speaker, this is a good conference agreement, and I urge its adoption.

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

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

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

Mr. Speaker, it will be my intention, when we get to the point of moving on the various amendments, to ask the House to vote down the motion to recede and support my motion to insist on its disagreement to Senate Amendment No. 91, relative to the 1 percent kicker. I will not take the time of the House to discuss this matter now because it will be discussed further when my motion is offered.

I also take this time to ask my colleagues to look at pages, 8, 9, 10, and 11 of the conference report brought back by the committee. There is legislation included which this House will be asked this afternoon to accept without having studied or debated. An amendment we do not know the end result of or the cost.

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

Mr. Speaker, as my colleagues know, when the legislative appropriations bill was before the House, I introduced a package of amendments particularly supported by my minority colleagues on this side of the aisle, Messrs. CEDERBERG, ARMSTRONG, and REGULA, but with broad bipartisan support which would have performed some real reforms in our House procedures.

Among other things, Mr. Speaker, these amendments would have opened committees and Members' expenditure accounts to public scrutiny. They would have required committees and Members to certify that expenditures were made for official business, under penalties of perjury; and they would have eliminated some of the goodies in the goody bag that has grown by almost 300 percent in the past few years.

Mr. Speaker, it is certainly a source of deep disappointment to me that these amendments are not part of this bill. It is a source of deep disappointment that the bill was brought before this House under a gag rule that prohibited the offering of amendments by individual Members. It is a source of disappointment that the package of amendments was defeated by a vote of 199 to 195; and for that reason, of course, they could not be considered in the conference.

With respect to the conference itself, Mr. Speaker, I believe that the conferees did an admirable job of upholding the House position on the bill, and I congratulate the gentleman from Illinois (Mr. SHIPLEY), our chairman, in that respect. He held, for example, to our position; and I am proud of what occurred.

Mr. Speaker, the Senate, for example, had increased the funding for the Office of Technology Assessment by $1.3 million, adding 38 new employees. We sustained the House position totally and kept the Office of Technology Assessment at its present level of 93 employees.

The Senate had increased the Congressional Research Service by 31 employees and by $606,000. Again we held firm to the House position, and the only really substantive increases that were put in the bill were for Senate items for which they themselves are responsible.

We did concur in a Senate amendment reducing the number of elevator operators from 152 down to 90 or to 62 positions, as recommended by the Architect of the Capitol.

Mr. Speaker, the bill itself and the conference itself really represented a good conference and, I think, a very substantial contribution. From that standpoint, I think we have a good bill.

With respect to salaries, we clarified the SHIPLEY amendment to insure that the cost-of-living pay freeze, would be prospective rather than retroactive. In my judgment, despite a recent letter from the General Accounting Office to the contrary effect, it was the intent of the committee that the automatic cost-of-living increase should be eliminated as a matter of permanent law. However, the GAO seems to interpret the provision differently.

We did retain, though, House language making other top grades subject to the same pay freeze; and we did not preclude consideration of the Quadrennial Commission's proposed increase, should that be approved by the House.

Mr. Speaker, with respect to the 1 percent kicker, that amendment will be brought before us later in technical disagreement. The Senate amendment would substitute for the so-called 1 percent kicker, a semiannual cost-of-living adjustment.

With respect to the west front of the Capitol, the Senate added an amendment which will be before us later in disagreement. The amendment provides $25 million for restoration of the west front, but under a cost-plus contract that would actually be open-ended.

In my judgment, at least, the legislative appropriations bill is not the place in which to solve the west front problem; and certainly an open-ended restoration contract is not the way to solve the west front problem.

I would urge my colleagues to reject the Senate amendment at the appropriate time.

Mr. YATES. Mr. Speaker, will the gentleman yield on that point?

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

Mr. YATES. Mr. Speaker, I would inquire of the gentleman from Pennsylvania if the legislative bill is not the place, where is the place? We have gone through this same fight for 10 years. I believe that some day we ought to come to some conclusion on what to do with the West Front of the Capitol. It's condition is a disgrace.

The interior of the Capitol has been retouched up, it has been beautified. The beams, the crossbars, the struts, the supporting trusses supporting the West Front wall destroys the beauty of that West Front. The Congress must take action to correct this situation one of these days. We must do something to bring the West Front into proper condition.

As the gentleman from Pennsylvania will recall, in conference I said I favored the position of the Senate. I favor the restoration rather than the position taken by the other conferees which I understand to be in support of the extension of the West Front.

Mr. COUGHLIN. I certainly agree with the gentleman from Illinois that a decision should be made on what to do, but I do not think the place for that decision is in this particular appropriation bill.

There has been a recommendation by the Extension Commission, there have been recommendations by the Architect of the Capitol, and it seems to me that we should not be attempting to solve that here.

In addition to that, Mr. Speaker, I have strong opposition to the fact that the Senate amendment includes a cost plus a fixed fee contract which would be essentially open ended. The problem there is that once you start drilling holes and pouring in grout that there is no telling how much it will cost if we are under that kind of a contract.

Mr. YATES. Mr. Speaker, if the gentleman will yield further, I have the impression that the Rayburn Building was constructed under a contract that was supposed to be limited to $60 million and which ultimately cost $100 million.

Mr. COUGHLIN. That is just what I would object to on a contract of that sort.

Mr. YATES. Mr. Speaker, let me say to the gentleman from Pennsylvania, if the gentleman will yield still further, in the event an extension of the West Front is approved at a fixed price, if the additional extension is voted, it will follow the same course as the Rayburn Building.

Mr. COUGHLIN. Mr. Speaker, I would certainly hope that we could avoid what happened in the Rayburn Building which, in my recollection, was a complete disaster because the contract involved a totally open-ended authorization and appropriation.

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

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

Mr. BAUMAN. Mr. Speaker, I want to commend the gentleman from Pennsylvania upon his vigilance in trying to hold down the expenses of the legislative branch of the Government in this legislation. But, once again, we see before us a bloated bill containing nearly a billion dollars that increases once again in many areas the spending of the House and Senate. In 10 years congressional spending has tripled and personnel and buildings have continued to multiply. We should be cutting back our spending instead of always increasing. As an illustration of this empire building I include at this point an editorial from the Washington Star:

THE COST OF KEEPING CONGRESS

Anyone wondering why Congress keeps gobbling up Capitol Hill real estate might take a look at a study just released by the Tax Foundation, Inc.

According to the foundation, a non-profit research organization, Congress spent nearly $1 billion on itself during the last fiscal year, $925 million to be more precise. That is triple what it spent in 1970 and five times more than in 1960.

Growth of Congress' spending on itself has outpaced the increase in the overall federal budget (up 305 per cent since 1960) and the cost-of-living (up 93 per cent since 1960).

The biggest part of the increase has been for personnel. The congressional staff has grown 44 per cent in the past six years, which accounts for the legislative sprawl over Capitol Hill. The help doesn't work for peanuts, either. Congressional staff salaries "are high by any standards," according to the foundation, which estimated the average income of Senate employes at $15,000 a year and House employes at $14,000.

The foundation calculated that it cost each man, woman and child in the United States about $4.30 last year to maintain Congress in the fashion to which it has become accustomed. At the rate things are going, it'll take another half-dollar in a year or so.

Based on the foundation's figures, we calculate it cost $1.7 million last year to keep each of the 535 members of Congress in business.

There's no real check on congressional spending. Congress controls the purse strings for all other federal agencies, but the only control on what Congress spends on itself is its own self-control. The House and Senate decide what their budgets should be and, said the Tax Foundation, "seldom, if ever, does either body challenge the operations of the other."

Perhaps the budget for congressional operations ought to be determined at auction. Put each member of the House and Senate on the block and let the people of the districts and states bid on what they think each one is worth. Would any one go for $1.7 million?

Mr. Speaker, I also want to inform the gentleman from Pennsylvania and the

other Members of the House, that the so-called Commission on Administrative Review on which I serve met last Friday for 3 hours. It was the first meeting since its creation 2 months ago. At that time the Commission laid out plans for its future actions which probably will not be concluded for 2 years. I read that as an indication that there is absolutely no impetus for immediate reform on the part of that Commission.

The Commission created two task forces, one to study the problem of legislative scheduling, and that will be acted upon before December. For that, there is a great urgency, I was told. The other task force will study "the role of a Congressman," an interesting concept which will take some time to explore, no doubt.

When I made a motion in the commission to establish a task force to recommend immediately fundamental changes and reforms in our procedures, in view of the Wayne Hayes affair and other scandals, with the suggestion that the task force report back by next January so that the next Congress could consider these recommendations, my motion was voted down on a straight party line vote. So much for congressional reform.

I might add further that the press was so interested in the Commission's deliberations that there was one reporter present. I must conclude that absent the presence of Elizabeth Ray, the press has a greatly diminished concern about reform on Capitol Hill.

Mr. Speaker, the bill before us is the legislative vehicle which the gentleman from Pennsylvania tried to employ to bring about real reform, and others have joined with him because of the scandals that have occurred in the past. For that I commend him and I regret that the House rejected his proposals.

Mr. COUGHLIN. Mr. Speaker, I commend the gentleman from Maryland (Mr. BAUMAN) upon his vigilance and his leadership in the field of reform, yet, as the gentleman and I both pointed out during the discussion of this House bill, about the amendment, that there were things that could be done and that could have been done now and that we could have reform right now, but, unfortunately, that was not done.

Mr. SHIPLEY. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Speaker, we have back with us here now, as Members who were here before the 94th Congress will be aware, the old question of the battle over the extension of the West Front of the Capitol. But for those Members—and we have a number of distinguished Members—who came in in the 94th Congress, they will not be entirely familiar with this battle; so I should like to try to spend these few minutes to apprise them of what the issue really is and what has been involved.

For many years there has been a massive argument going on here about what to do about the West Front of the Capitol. The gentleman from Illinois (Mr. YATES) pointed out that it is not a very attractive sight. There are all kinds of wooden pinnings, braces, buttresses; the paint is peeling off; the birds are dripping all over it; and as the Washington Star pointed out some time ago, this is and has been really one of the great disgraces of the Nation's Bicentennial.

Those of us who were concerned about the West Front of the Capitol have been told since 1966, when the battle began, that it was impossible to restore the West Front of the Capitol, that for very obtuse engineering reasons it could not be done, and that the Capitol was in imminent danger of collapsing, if a plane just flew over it, or a helicopter, it would tumble down. Later on, of course, a bomb exploded almost directly under the dome and the Capitol remained intact.

We were told that the only way that we could save the Capitol was with a rather elaborate extension which would have gone almost halfway down the Mall, put in a couple of restaurants, and so on, at a cost of around $60 or $80 million. Many of the Members objected to that expenditure, and we were able to block it. Many of us were not convinced that the Capitol really could not be restored. They are restoring Canterbury Cathedral; why can they not restore the West Front of the Capitol?

In 1969 the House finally agreed to call upon the most competent, prestigious engineering firm in the country, the Praeger firm, and at a cost of $200,000 asked them to determine whether the Capitol could in fact be restored and how much it would cost.

They reported back, one, that the Capitol was in sound condition; that it was not going to collapse; two, that it could be restored; and, three—and this was in 1970 at 1970 prices—it could be restored for $15 million. Unfortunately, those who were in command here did not pay much attention to the report. The whole thing—Praeger report was shelved—because it did not bear out the earlier arguments.

Finally, there was a general agreement to leave the West Front alone until after the Bicentennial. So we have had to put up with this disagrace throughout the Bicentennial. Now the question comes up again, and the basic question is simply this: Are we going to spend great sums of money on an extension of the Capitol? The latest extension plan is not quite as vast. This is a mini-extension now, but it is still an extension. It is still a change of the Capitol. Should we change it, or should we simply restore it to good condition and spend as little money as possible? I think that is what we ought to be doing. It is time something was done about the West Front of the Capitol. And that is what the Senate now agrees with.

They went back to the Praeger firm and said, "All right, it would have cost $15 million in 1970; how much will it cost in 1976?" Mr. Praeger gave them the figure of $25 million—and this from one of the most prestigious professional engineering firms in the country—not from amateurs.

The Architect of the Capitol disagrees, but that he has never wanted to restore it ever. He wants to build another big monument to himself, and he wants to build it regardless of what it is going to do to the taxpayers. But I say we ought to restore the Capitol now. I do not think this is the time to be building any monuments to ourselves here in the Congress, and I do not think we ought to be spending any money on anything we do not need to spend money on.

So I intend to move at the appropriate time that we recede and concur in the Senate amendment. Let us get this thing settled once and for all. This bill is the only place we can settle it. I hope my amendment at the proper time will be supported.

Mr. COUGHLIN. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, I think this is the time and the proper forum for a bit of legislative history. In July 1975, the House and the other body approved legislation amending the 1970 Federal Pay Comparability Act dealing with the annual pay comparability adjustment for Federal employees. The legislation made Members of Congress, the Federal judiciary, and executive schedule employees eligible for the annual comparability adjustment based on private sector salary levels.

In the interim that has elapsed, certain self-styled experts on Government operations have succeeded in muddling the motivation behind the enactment of the 1975 legislation. In the process, Members of Congress have become convenient targets of opportunity and have been much maligned.

As I pointed out on the floor last year, the impetus for the 1975 legislation did not come from Members of Congress. It came as a result of double-barrel pressure from the Judicial and Executive branches to relieve Federal judges and top-level executives from the salary crunch they had experienced in the previous 6 years.

Our committee files contained ample evidence the executive branch was having difficulty filling top level positions because of unrealistic salary levels. At the Federal judiciary level, Chief Justice Warren Burger kept up a constant drumfire on the need for a pay adjustment for judges.

Furthermore, the congressional tie-in to the annual cost-of-living adjustment clearly was the reason President Ford's alternate 5-percent pay proposal was left undisturbed last year. If Congress had not been an issue a pay increase of 8.66 percent would have been approved. That would have added $3.5 billion to Federal expenditures. The 5-percent limitation reduced that total by about $1.6 billion, a real saving for the taxpayer.

Historically and logically, we are on firm ground in keeping the salaries of Congress and the judiciary together in fixed ratios. I can see no justification for preferential treatment for judges. Our conferees are to be commended for their action.

Likewise, I urge your support for the amendment pertaining to the 1-percent kicker for Federal retirees. Under the

repealed language agreed to in conference, the Office of Management and Budget says savings in fiscal year 1977 alone will total $288 million, and a cumulative 5-year saving will be $3.094 billion.

While the 1-percent add-on will be eliminated, there is provision made for semiannual cost-of-living increases. It guarantees fair and reasonable treatment for annuitants. The semiannual adjustment procedure will provide equitable cost-of-living adjustments for retirees and will guarantee that there will be no unwarranted delay in making the adjustment. This vote protects present and future annuitants, it protects the solvency of the fund, and it protects the taxpayer.

Mr. Speaker, again I call the special attention of the Members to the provisions in this measure affecting the so-called 1-percent kicker. Members will recall we debated this extensively on numerous occasions. We had a very clear majority in the House for the elimination of this 1-percent kicker. The Senate adopted the Chiles amendment which eliminates the 1-percent kicker and provides for a semiannual cost-of-living increase.

The Congressional Budget Office estimates in the first 5 years of the application of this amendment there will be a savings in excess of $3 billion and savings in fiscal year 1977 will be $228 million.

The important thing, Mr. Speaker, is that we should take this step, remembering that the Federal Government at the moment has 2.7 million active employees participating in the system. There are slightly over 1 million annuitants and approximately 450,000 survivors. That means a total of 4.2 million people. They need the protection. They need the coverage now but they also need the protection in the future. We must add both the budgetary implications and the savings that could be involved.

There is one other figure I must call to the attention of the Members which is the fact that the unfunded liability of the civil service retirement fund has increased $28 billion since 1969, of which $4.9 billion is attributable to the 1-percent kicker. I urge Members this afternoon to support the committee, to support the Senate amendment.

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

Mr. BROOKS. Mr. Speaker, I would say to my distinguished friend, the gentleman from New York, that we do not see him objecting to the East Front and that magnificient extension and restoration that was carried on there. It has served very well this Congress and the people of this Nation. It looks attractive. It is useful. It is desirable. It is serving the people. It is practical. It is a highly desirable improvement.

I want to say that Mr. Praeger—and may his soul rest well, he has gone to his reward—who wrote that big analysis of what can be done to the West Front, when he estimated that it could be done some years ago at $25 million, was asked if he would take on and accept that job for $25 million, and he said: "Oh, no; I would not think of that," because the truth of the matter is there is no guarantee that it could be done for $25 million.

Mr. Speaker, the Senate amendment should be opposed on so many grounds, anyone of which ought to be decisive, as to make the proposal virtually undebatable.

First, the $25 million is short of what will be required by almost 100 percent. The current actual estimate is $45 million.

Second, the House has not had an opportunity to explore the proposal, its cost and implications and alternatives, and we have had too much experience with ex post facto grief after hasty decisions.

Third, there is no assurance—there is only the hope—that the proposed project will actually strengthen and preserve the West Front of the Capitol. This building is too important to trifle with.

The proposal would have us drill 5,700 holes 2 inches in diameter and 3 feet apart over the Front. It might weaken the Capitol. Who knows? It might strengthen the Capitol or weaken the Capitol.

Fourth, even if the drilling of 5,700 holes in the walls of the West Front and squirting them with grouting should prove effective, there would be no net gain to the country or to the Congress or to the people of this country in the expenditure of this large amount of money.

There would be no improvement in design, no better balance to support the Capitol dome, no additional space for Members of Congress or their committees, no improved facilities for the millions of visitors who visit the Capitol each year.

Fifth, and possibly the most important factor of all, approval of the Senate amendment would preclude the consideration of an alternative plan developed by the Architect of the Capitol. This Architect of the Capitol, let me comment on this, is not a Democrat; he is not an old friend of mine. He is a Republican appointee, but he is an architect and he has been an excellent architect for this Capitol and we in the Congress should appreciate him and not spend our time depreciating his consistent efforts to serve this body and the American people. Now, he has a plan which meets virtually every objection made to the Senate amendment and which promises every additional benefit which would be lost by the Senate amendment.

Let me emphasize that the Architect's plan is not—and I repeat—not the plan advanced by the previous holder of that office. It bears almost no resemblance to it. In my judgment, in fact, the new plan has so many virtues that to refuse to even consider it would be gross irresponsibility.

Now, among the many merits of the Architect's plan are the following:

First, new, more solid and more substantial walls would be erected approximately 20 feet from the existing walls, so as to support the present walls without change and provide an architecturally more sound foundation for that dome.

Second, the existing walls would be preserved unchanged, with complete integrity and with their decorative features fully visible.

Third, the facade of the west front would appear unchanged with its beautiful and historic angles and indentations preserved and fortified. The impressions would be exactly the same.

Fourth, the dramatic Olmstead terraces which give the west front its most distinctive appearance would be completely unchanged.

Fifth, the plan if it could be executed overnight, would have no apparent change in the features the design, or the overall appearance of the west front.

Sixth, approximately 170,000 additional square feet of new usable space would be provided, and provided where space is most needed, in the immediate vicinity of the floors of the House and the Senate, where it can be used by Members and the committees.

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

Mr. SHIPLEY. Mr. Speaker, I yield 2 additional minutes to the gentleman.

Mr. BROOKS. Mr. Speaker, seventh, the net additional cost of this plan would be a modest $10 million, certainly one of the best investments on a cost-benefit basis that the Congress has ever made.

This is a living building, Mr. Speaker. It is a working building, as well as a historic treasure. Its entire history has been a series of changes and modifications and adaptations. Like all living things, the Capitol has grown with the years, and that growth has preserved it as a functioning and useful seat of our National Government.

Mr. Speaker, preservation is not synonymous with atrophy. Like many of our colleagues, I have followed closely, and supported, the growth of the historic preservation movement in the United States. The basic principle of historic preservation, the essence of this movement, has been to give new life to old buildings, to restore them and bring them to useful life.

The recent and widely acclaimed restoration of Faneuil Hall in Boston, very near the district office of our esteemed majority leader, has brought renewed energy and activity to one of the oldest centers of commerce in the United States.

Mr. Speaker, that is historic preservation at its best. It is also precisely what the Architect of our Capitol proposes to do here, that is preserve the beauty and the integrity of the old, at the same time increasing its usefulness and serviceability and enable it to carry out the purposes and fulfill the grand design of its early builders.

Mr. Speaker, we are not now seeking a decision on the Architect's plan. We are only asking for a few months time in which to give it the consideration it deserves. Therefore, I would urge my colleagues to disagree to the Senate amendment and support the amendment of our distinguished colleague, the gentleman from Illinois (Mr. SHIPLEY).

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

Mr. SHIPLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. Mr. Speaker, I concur with what I have just heard from my friend from Texas regarding the honesty and integrity of the Capitol Architect, Mr. George White. I respect him very much. I simply take issue with him regarding the West Front of the Capitol.

Mr. Speaker, I think that so long as this Congress insists on a proliferation of its committees and subcommittees, we will bring dishonor to the Congress of the United States. So long as we insist on creating new committees and subcommittees, we bring disgrace to the lawmaking process, we add to the pressures for more buildings in, more staff, around, and more bureaucracy imbedded on Capitol Hill. It is a beast, and the only way to stop this beast is to abolish committees, merge subcommittees, and do away with the insatiable appetites for fiefdoms for all. But, that is not the purpose of my taking this time today.

My reason for being in the well today is to compliment the Managers on the part of the House for at least saving us $1.5 million on amendment No. 51, dealing with the funds for the Office of Technology Assessment. I am highly critical also of their activities in the past several years. The Office of Technology Assessment was asked about 3 times in this Congress, Mr. Speaker, to do an objective, impartial, candid, scientific study for the House Committee on Interior and Insular Affairs regarding the recharge capacities of the Madison limestone formations in Wyoming to see whether or not they could stand the draw of 20,000 acre feet of water per year to slurry coal out of that State into other areas.

Three times they were asked and 3 times they refused to accept the chore, and it is now obvious the reason why was the pressure from the lobbyists which was made to reflect upon the very work of that office. In my opinion, that office has proved that it is not fit to be a part of the House and Senate, and ought to be abolished. So should any other office or bureau that refuses a job for which it was created.

No doubt some Members of the Congress would differ from these views. But I can only base them on my experience with the OTA.

Mr. RIEGLE. Mr. Speaker, the conference report on H.R. 14238, Legislative Appropriations, which we are considering today, contains two very important provisions which I believe deserve the careful attention of all House Members. One is the elimination of the cost-of-living raise for Members of Congress and the other is the elimination of the supplement to the cost-of-living increase for Federal retirees.

I feel very strongly that the pay raise for Representatives and Senators should not have been speedily and quietly tacked on to an unrelated postal bill in July 1975 and I voted against this amendment at that time. Passage of this provision, by a one vote margin, 214 to 213, prevented Congress from dealing with the pay raise question fairly and objectively. I believe this sly maneuver to include Members of Congress in the cost-of-living issue resulted in the later vote to limit pay increases for the 1.4 million Federal employees, 2.1 million members of the uniformed armed services, and 355,893 black lung beneficiaries to 5 percent rather than the 8.6 percent increase recommended by the Office of Management and Budget, the Civil Service Commission, and the Advisory Committee on Federal Pay. Both the House and Senate voted eariler this year to eliminate this cost-of-living increase for Members of Congress and this provision is included in this bill. I strongly support this action.

Another matter involving the cost-of-living increase—the elimination of the so-called 1-percent kicker—could not be resolved by the House and Senate conferees and a separate vote will be taken today on Senate amendment No. 91. This amendment eliminates the 1-percent add-on to the cost-of-living adjustments for annuities of Federal and military retirees. I oppose this amendment for several reasons.

First, this nongermane amendment has been hastily and arbitrarily added by the Senate to this bill without full hearings by the appropriate legislative committee and, therefore, without proper consideration of the impact this proposed change would have on the financial well-being of millions of retirees.

The Senate amendment we are considering today establishes a new method of computing adjustments on a semiannual basis. Unfortunately we have no way of knowing the effect this would have on the millions of retirees. I believe we should hold hearings on the adequacy of the whole retirement system, rather than attack the problem piecemeal by adopting this amendment today. I urge my colleagues to vote against accepting Senate amendment No. 91.

Mr. PATTEN. Mr. Speaker, rarely do I speak against a portion of an appropriations measure, but today, we are considering what I feel is a pretentious and cowardly section of the legislative appropriations measure. I am referring to that section which continues the unfair freeze on salaries for judges and other top-level administration officials.

Until 1969, the Federal Government offered intelligent and dedicated public officials adequate compensation for their efforts and initiatives. Since then, salaries for these individuals have remained stagnant while inflation has pushed up the cost-of-living by over 50 percent. Many of our supergrades have moved from Government service to private employment because they could not afford to stay. This freeze has also been cited as a deterrent to attracting qualified and capable people to these jobs. The House, in its "wisdom" has forced this stagnation for another year. I am disgusted and saddened that the Senate has concurred in this "wisdom" by accepting the House language and allowing the freeze on judges' and top officials' salaries to be tied to our own. Mr. UDALL'S amendment to the House-passed measure simply clouded the issue by binding the two together. Chairman SHIPLEY'S amendment which I would have supported had a vote been taken, would have allowed these justifiable cost-of-living increases to take effect, while postponing consideration of similar increases for Members until a full evaluation could be made.

Mr. FRENZEL. Mr. Speaker, I shall vote against this legislative appropriations conference report, H.R. 14238, just as I have voted against similar appropriations in the past.

Even though it is up from last year by a relatively small amount, it is still too much money. We are directly responsible for the creation of a $1 billion, Frankenstein monster called the Capitol Hill bureaucracy.

This monster embraces the personal congressional staffs, the committee staffs, the restaurant personnel, the Capitol Police, the Library of Congress, the House Information System, the staffs of the offices of the House, and so forth, and on and on.

It covers about 40,000 employees, and expends nearly $1 billion per year. It has no unified control and few rational personnel systems.

It has been created to handle the worst cases. Subcommittees which meet occasionally are fully and exclusively staffed. Police staffing is based on the riots of the Vietnam era. Restaurants are staffed for peak loads. The House Information System is capable of providing a good deal of information, more than any of us want, or can use.

In short, we have treated our own bureaucracy the way—but worse—we have treated the executive bureaucracy. It is uncontrolled, bloated, and desperately needs some direction.

In the past, before the monster growth ran wild, it was of such a size that excessive spending was not a major problem. At the $1 billion level, it is more than a problem. It is a disgrace.

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

The previous question was ordered.

The SPEAKER. The question is on the conference report.

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

Mr. BAUMAN. 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 299, nays 94, not voting 37, as follows:

[Roll No. 793]

YEAS—299

Abzug	Anderson, Calif.	Annunzio
Adams	Anderson, Ill.	Ashley
Addabbo	Andrews, N.C.	Aspin
Alexander	Andrews, N. Dak.	Badillo
Allen		Baldus
Ambro		Baucus

Beard, R.I.
Bedell
Bell
Bevill
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Carney
Carr
Carter
Cederberg
Chisholm
Clausen, Don H.
Clay
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniels, N.J.
Danielson
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
du Pont
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
English
Erlenborn
Eshleman
Evans, Colo.
Evins, Tenn.
Fary
Fascell
Findley
Fish
Fisher
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fraser
Frey
Fuqua
Gaydos
Gibbons
Ginn
Gonzalez
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hanley
Hannaford
Harkin
Harrington
Hayes, Ind.
Hébert
Heckler, Mass.
Hefner
Hightower
Hillis
Holland
Holtzman
Horton
Howard
Howe
Hubbard
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jordan
Kastenmeier
Kazen
Kelly
Ketchum
Keys
Koch
Krebs
Krueger
LaFalce
Leggett
Lehman
Lent
Lloyd, Calif.
Long, La.
Long, Md.
Lundine
McClory
McCloskey
McCormack
McDade
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Milford
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Nedzi
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Preyer
Price
Quie
Quillen
Railsback
Randall
Regula
Reuss
Rhodes
Richmond
Riegle
Rinaldo
Risenhoover
Roberts
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Russo
Ryan
St Germain
Santini
Sarasin
Scheuer
Sebelius
Seiberling
Sharp
Shipley
Shriver
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Taylor, N.C.
Teague
Thompson
Thornton
Traxler
Tsongas
Udall
Van Deerlin
Vander Veen
Vanik
Vigorito
Waggonner
Wampler
Waxman
Weaver
Whalen
White
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Yates
Yatron
Young, Ga.
Zablocki
Zeferetti

NAYS—94

Abdnor
Archer
Armstrong
Ashbrook
AuCoin
Bafalis
Bauman
Beard, Tenn.
Bennett
Biaggi
Brinkley
Brown, Mich.
Broyhill
Butler
Clawson, Del
Cleveland
Cochran
Collins, Tex.
Conable
Conlan
Crane
Daniel, Dan
Daniel, R. W.
Davis
Devine
Dickinson
Duncan, Tenn.
Emery
Evans, Ind.
Fenwick
Fithian
Forsythe
Frenzel
Gilman
Goldwater
Goodling
Grassley
Gude
Hagedorn
Hammer-schmidt
Hansen
Harsha
Hechler, W. Va.
Hicks
Holt
Hughes
Jeffords
Jones, Tenn.
Kasten
Kemp
Kindness
Lagomarsino
Latta
Levitas
Lloyd, Tenn.
Lott
Lujan
McDonald
McEwen
Martin
Michel
Miller, Ohio
Montgomery
Moorhead, Calif.
Mottl
Myers, Ind.
Nichols
Paul
Pressler
Pritchard
Rees
Robinson
Rousselot
Satterfield
Schneebeli
Schroeder
Schulze
Shuster
Snyder
Spence
Steiger, Wis.
Symms
Talcott
Taylor, Mo.
Thone
Treen
Vander Jagt
Walsh
Whitehurst
Wiggins
Wydler
Wylie
Young, Alaska
Young, Fla.

NOT VOTING—37

Bergland
Byron
Chappell
Clancy
Edwards, Ala.
Esch
Giaimo
Gradison
Green
Guyer
Harris
Hawkins
Heinz
Helstoski
Henderson
Hinshaw
Jones, Ala.
Karth
Landrum
McCollister
Matsunaga
Mills
Mink
Neal
Nix
O'Hara
Peyser
Rangel
Ruppe
Sarbanes
Sikes
Smith, Nebr.
Steelman
Steiger, Ariz.
Stephens
Ullman
Young, Tex.

The Clerk announced the following pairs:

Mr. Matsunaga with Mr. Clancy.
Mr. Chappell with Mr. Esch.
Mr. Giaimo with Mr. Harris.
Mr. Helstoski with Mr. Gradison.
Mr. Nix with Mr. Jones of Alabama.
Mr. Hawkins with Mr. Edwards of Alabama.
Mrs. Mink with Mr. Karth.
Mr. Byron with Mr. McCollister.
Mr. Green with Mr. Mills.
Mr. Henderson with Mr. Guyer.
Mr. Neal with Mr. Peyser.
Mr. Rangel with Mr. Heinz.
Mr. Sikes with Mr. Ruppe.
Mr. Ullman with Mr. Steiger of Arizona.
Mr. O'Hara with Mr. Stephens.
Mr. Bergland with Mr. Landrum.
Mr. Sarbanes with Mr. Steelman.

Messrs. ABDNOR, BAFALIS, HAGEDORN, MONTGOMERY, WALSH, THONE, LEVITAS, and GUDE, and Mrs. FENWICK changed their votes from "yea" to "nay."

Mr. SEIBERLING changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER. The Clerk will report the first amendment in disagreement.

Mr. SHIPLEY. Mr. Speaker, inasmuch as amendments Nos. 1 through 39 relate solely to housekeeping operations of the other body and in which, by practice, the House concurs without intervention, I ask unanimous consent that Senate amendments Nos. 1 through 39 be considered as read, printed in the RECORD, and that they be considered en bloc.

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

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I wonder if the gentleman from Illinois could tell the Members of the House whether or not there were any extraordinary expenses or increases in the money added by the other body? I believe that about $170 million was added by the other body. I know that according to the so-called rule of comity we are not supposed to question the amounts of money put in by the other body but I believe the time may well have come that each House of the Congress will want to look with scrutiny at the way the other body spends the taxpayers' money.

Mr. SHIPLEY. Mr. Speaker, if the gentleman will yield, let me say that my experience since I have been a Member indicates that, as usual with regard to the other body, there were some large increases, not in any gross amount, but there was a general increase in many of the appropriations in the bill.

Mr. BAUMAN. Would the gentleman characterize those as excessive as compared with past years?

Mr. SHIPLEY. I would not say that they were excessive, no. I would say it was in tune with past actions of the Senate upon the appropriation bill for the legislative branch.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman from Illinois. I would again suggest that at some point in time we must reduce all expenditures in both bodies and we ought to start now.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Senate amendments 1 through 39 are as follows:

(1) TITLE I

(2) SENATE

(3) COMPENSATION AND MILEAGE OF THE VICE PRESIDENT AND SENATORS AND EXPENSE ALLOWANCES OF THE VICE PRESIDENT AND LEADERS OF THE SENATE

(4) COMPENSATION AND MILEAGE OF THE VICE PRESIDENT AND SENATORS

For compensation and mileage of the Vice President and Senators of the United States, $5,052,630.

(5) EXPENSE ALLOWANCE OF THE VICE PRESIDENT AND MAJORITY AND MINORITY LEADERS

For expense allowance of the Vice President, $10,000; Majority Leader of the Senate, $3,000; and Minority Leader of the Senate; $3,000; in all, $16,000.

(6) SALARIES, OFFICERS AND EMPLOYEES

For compensation of officers, employees, clerks to Senators, and others as authorized by law, including agency contributions and longevity compensation as authorized, which shall be paid from this appropriation without regard to the below limitations, as follows:

(7) OFFICE OF THE VICE PRESIDENT

For clerical assistance to the Vice President, $615,015.

(8) OFFICES OF THE MAJORITY AND MINORITY LEADERS

For offices of the Majority and Minority Leaders, $251,540.

(9) OFFICE OF THE MAJORITY AND MINORITY WHIPS

For offices of the Majority and Minority Whips, $195,260.

(10) OFFICE OF THE CHAPLAIN

For office of the Chaplain, $31,800.

(11) OFFICE OF THE SECRETARY

For office of the Secretary, $3,323,290, including $151,370 required for the purpose specified and authorized by section 74b of Title 2, United States Code: *Provided*, That,

effective October 1, 1976, the Secretary may appoint and fix the compensation of a Bill Clerk at not to exceed $25,440 per annum in lieu of not to exceed $19,080 per annum; an Assistant Bill Clerk at not to exceed $19,080 per annum in lieu of not to exceed $12,720 per annum; a Secretary at not to exceed $17,172 per annum in lieu of a Receptionist at not to exceed $17,172 per annum; a Registrar at not to exceed $16,218 per annum in lieu of a Secretary to the Curator at not to exceed $16,218 per annum; a Clerk at not to exceed $10,812 per annum in lieu of an Assistant Messenger at not to exceed $10,812 per annum; an Historian at not to exceed $29,574 per annum; an Associate Historian at not to exceed $18,126 per annum; a Photo Historian at not to exceed $25,281 per annum; a Research Assistant to Historian at not to exceed $10,335 per annum; a Secretary to Historian at not to exceed $11,130 per annum; an Information Clerk, Digest, at not to exceed $10,017 per annum; and a Secretary, Stationery Room, at not to exceed $13,356 per annum: *Provided further*, That, effective October 1, 1976, the allowance for clerical assistance and readjustment of salaries in the Disbursing Office is increased by $37,842.

(12) COMMITTEE EMPLOYEES

For professional and clerical assistance to standing committees and the Select Committee on Small Business, $9,660,685.

(13) CONFERENCE COMMITTEES

For clerical assistance to the Conference of the Majority and the Conference of the Minority, at rates of compensation to be fixed by the Chairman of each such committee, $227,255 for each such committee; in all, $454,510.

(14) ADMINISTRATIVE AND CLERICAL ASSISTANTS TO SENATORS

For administrative and clerical assistants to Senators, $48,190,355.

(15) LEGISLATIVE ASSISTANCE TO SENATORS

For legislative assistance to Senators, $5,500,000.

(16) OFFICE OF SERGEANT AT ARMS AND DOORKEEPER

For office of the Sergeant at Arms and Doorkeeper, $15,579,010: *Provided*, That effective October 1, 1976, the Sergeant at Arms and Doorkeeper may appoint and fix the compensation of an Administrative Assistant to the Sergeant at Arms and Doorkeeper at not to exceed $36,729 per annum in lieu of not to exceed $35,298 per annum; a Superintendent, Service Department at not to exceed $35,457 per annum in lieu of not to exceed $31,482 per annum; a Director, Computer Center at not to exceed $35,457 per annum in lieu of not to exceed $34,344 per annum; Director, Recording Studio at not to exceed $35,457 per annum in lieu of not to exceed $34,662 per annum; a Telecommunications Adviser at not to exceed $29,574 per annum in lieu of not to exceed $27,348 per annum; a Chief Cabinetmaker at not to exceed $22,737 per annum in lieu of not to exceed $20,670 per annum; a Chief Janitor at not to exceed $19,557 per annum in lieu of not to exceed $17,808 per annum; an Asssistant Superintendent, Service Department at not to exceed $22,578 per annum in lieu of not to exceed $20,988 per annum; a Night Supervisor, Service Department at not to exceed $19,875 per annum in lieu of not to exceed $15,264 per annum: a Supervisor, Printing Section at not to exceed $18,921 per annum in lieu of a Foreman of Duplicating Department at not to exceed $17,808 per annum; a Supervisor, Folding Section at not to exceed $18,921 per annum in lieu of a Chief Machine Operator at not to exceed $15,582 per annum; a Supervisor, Addressograph Section at not to exceed $18,921 per annum in lieu of not to exceed $14,628 per annum; two Audio Engineers at not to exced $13,356 per annum each in lieu of an Audio Engineer at not to exceed $13,356 per annum; a Micrographics Supervisor at not to exceed $21,147 per annum; an Assistant Micrographics Supervisor at not to exceed $16,536 per annum; a Secretary-Receptionist at not to exceed $10,812 per annum; a Senior Folding Machine Operator at not to exceed $12,243 per annum; a Senior Addressograph Operator at not to exceed $12,243 per annum; twenty Laborers, Service Department at not to exceed $9,222 per annum each in lieu of seventeen Laborers, Service Department at not to exceed $9,222 per annum each; ten Office Systems Specialists at not to exceed $15,582 per annum each in lieu of seven Office Systems Specialists at not to exceed $15,582 per annum each; ten Senior Programmer Analysts at not to exceed $25,122 per annum each in lieu of eight Senior Programmer Analysts at not to exceed $25,122 per annum each; three Network Technicians at not to exceed $20,352 per annum each in lieu of a Network Technician at not to exceed $20,352 per annum; two Secretary-Typists at not to exceed $12,402 per annum each; three Systems Supervisors at not to exceed $29,892 per annum each in lieu of a Systems Supervisor at not to exceed $29,892 per annum; an Operations Supervisor at not to exceed $20,988 per annum; eight Lead Operators at not to exceed $14,628 per annum each in lieu of six Lead Operators at not to exceed $14,628 per annum each; two Data Conversion Operators at not to exceed $10,017 per annum each in lieu of a Data Conversion Operator at not to exceed $10,017 per annum; a Training Specialist at not to exceed $20,034 per annum; five Printing Operators at not to exceed $14,946 per annum each; three Quality Controllers at not to exceed $14,946 per annum each; three Assistant Chief Telephone Operators at not to exceed $13,356 per annum each and an Auditor at not to exceed $13,356 per annum in lieu of four Assistant Chief Telephone Operators at not to exceed $13,356 per annum each; twenty-one Telephone Operators at not to exceed $10,494 per annum each, a Secretary at not to exceed $10,494 per annum, four Clerks at not to exceed $10,494 per annum each, and an Auditor at not to exceed $10,494 per annum in lieu of twenty-seven Telephone Operators at not to exceed $10,494 per annum each; a Chief Barber at not to exceed $12,084 per annum in lieu of a Foreman of Skilled Laborers at not to exceed $12,084 per annum; a Chief Barber at not to exceed $10,971 per annum; two Barbers at not to exceed $11,130 per annum each in lieu of two Skilled Laborers at not to exceed $11,130 per annum each; three Barbers at not to exceed $9,381 per annum each; forty-eight Laborers at not to exceed $9,222 per annum each and a Barber Shop Attendant at not to exceed $9,222 per annum in lieu of forty-nine Laborers at not to exceed $9,222 per annum each; a Barber Shop Attendant at not to exceed $4,134 per annum; seven Detectives, Police Force at not to exceed $14,946 per annum each in lieu of not to exceed $13,992 per annum each; sixteen Technicians, Police Force at not to exceed $13,992 per annum each in lieu of not to exceed $13,038 per annum each; eight Plainclothesmen, Police Force at not to exceed $13,992 per annum each in lieu of not to exceed $13,038 per annum each; and six K-9 Officers, Police Force at not to exceed $13,992 per annum each in lieu of not to exceed $13,038 per annum each: *Provided further* That not to exceed $45,000 of this appropriation may be used to employ special deputies.

(17) OFFICES OF THE SECRETARIES FOR THE MAJORITY AND MINORITY

For offices of the Secretary for the Majority and the Secretary for the Minority, $311,645.

(18) AGENCY CONTRIBUTIONS AND LONGEVITY COMPENSATION

For agency contributions for employee benefits and longevity compensation, as authorized by law, $5,500,000.

(19) OFFICE OF THE LEGISLATIVE COUNSEL OF THE SENATE

For salaries and expenses of the office of the Legislative Counsel of the Senate, $629,700.

(20) CONTINGENT EXPENSES OF THE SENATE

(21) SENATE POLICY COMMITTEES

For salaries and expenses of the Majority Policy Committee and the Minority Policy Committee, $422,855 for each such committee; in all, $845,710.

(22) AUTOMOBILES AND MAINTENANCE

For purchase, lease, exchange, maintenance, and operation of vehicles, one for the Vice President, one for the President pro tempore, one for the Majority Leader, one for the Minority Leader, one for the Majority Whip, one for the Minority Whip, for carrying the mails, and for official use of the offices of the Secretary and the Sergeant at Arms and Doorkeeper, $45,000.

(23) INQUIRIES AND INVESTIGATIONS

For expenses of inquiries and investigations ordered by the Senate, or conducted pursuant to section 134(a) of Public Law 601, Seventy-ninth Congress, as amended, including $600,385 for the Committee on Appropriations, to be available also for the purposes mentioned in Senate Resolution Numbered 193, agreed to October 14, 1943, and Senate Resolution Numbered 140, agreed to May 14, 1975, $21,854,485.

(24) FOLDING DOCUMENTS

For the employment of personnel for folding speeches and pamphlets at a gross rate of not exceeding $4.07 per hour per person, $90,905.

(25) MISCELLANEOUS ITEMS

For miscellaneous items, $19,098,000: *Provided*, That not to exceed $736,000 shall be available for the lease and alteration of space for the Senate Computer Center if the Committee on Rules and Administration determines that such facility cannot be located in existing space available to the Senate or House of Representatives.

(26) POSTAGE STAMPS

For postage stamps for the offices of the Secretaries for the Majority and Minority, $420; Chaplain, $200; and for air mail and special delivery stamps for the office of the Secretary, $610; office of the Sergeant at Arms and Doorkeeper, $240; and the President of the Senate, as authorized by law, $1,215; in all, $2,685.

(27) STATIONERY (REVOLVING FUND)

For stationery for the President of the Senate, $4,500, and for committees and officers of the Senate, $27,150; in all, $31,650.

(28) ADMINISTRATIVE PROVISIONS

(29) SEC. 101. (a) Effective October 1, 1976, section 105(d)(1) of the Legislative Branch Appropriation Act, 1968, as amended and modified is amended by striking out "calendar year" each place it appears and inserting in lieu thereof "fiscal year".

(b) Subject to the provisions of section 105(d)(2) of the Legislative Branch Appropriation Act, 1968, as amended and modified, the amount of accrued surplus available to any Senator under section 105(d)(1) of such Act at the close of September 30, 1976, shall be available to that Senator during the period beginning on October 1, 1976, and ending on December 31, 1976, for the purposes of fixing the number and rates of compensation of employees in his office.

(30) SEC. 102. Section 108(c) of the Legislative Branch Appropriation Act, 1976, is amended by inserting "(1)" after "(c)" and by adding at the end thereof the following new paragraph:

"(2) If (A) a Senator's service on a committee terminates (other than by reason of his ceasing to be a Member of the Senate) or a Senator's status on a committee as the chairman or ranking minority member of

such committee or a subcommittee thereof changes, and (B) the appointment of an employee appointed under this section and designated to such committee by such Senator would (but for this paragraph) thereby terminate, such employee shall, subject to the provisions of subsection (e), be continued as an employee appointed by such Senator under this section until whichever of the following first occurs: (1) the close of the tenth day following the day on which such Senator's service on such committee terminates or his status on such committee changes or (2) the effective date on which such Senator notifies the Secretary of the Senate, in writing, that such employee is no longer to be continued as an employee appointed under this section. An employee whose appointment is continued under this paragraph shall perform such duties as the Senator who appointed him may assign.".

(31) SEC. 103. Section 5533(c)(1) of title 5, United States Code, is amended by inserting before the period at the end thereof "($10,540, in the case of pay disbursed by the Secretary of the Senate)".

(32) SEC. 104. (a) The Secretary of the Senate is authorized to reimburse any bank which clears items for the United States Senate for the costs incurred therein. Such reimbursements shall be made from the contingent fund of the Senate.

(b) The Secretary of the Senate is authorized to prescribe such regulations as he deems necessary to govern the cashing of personal checks by the Disbursing Office of the Senate.

(c) Whenever an employee whose compensation is disbursed by the Secretary of the Senate becomes indebted to the Senate and such employee fails to pay such indebtedness, the Secretary of the Senate is authorized to withhold the amount of the indebtedness from any amount which is disbursed by him and which is due to, or on behalf of, such employee. Whenever an amount is withheld under this section, the appropriate account shall be credited in an amount equal to the amount so withheld.

(33) SEC. 105. (a) Effective October 1, 1976, except as provided in subsections (b) and (c), the maximum annual compensation of a mail carrier in the Senate post office shall not exceed $8,109.

(b) In the case of a mail carrier in the Senate post office who was serving as such a mail carrier on September 30, 1976, the maximum annual rate of compensation shall not exceed $11,130, so long as his service as such a mail carrier remains continuous.

(c) In the case of a mail carrier in the Senate post office (other than a mail carrier whose compensation is fixed under subsection (b)) whose regularly scheduled daily tour of duty begins on or before 6 a.m., the annual rate of compensation may be increased, in the discretion of the Sergeant at Arms and Doorkeeper, by not to exceed 10 percent. If such annual rate of compensation, as so increased, is not a multiple of the figures set forth in the applicable order of the President pro tempore of the Senate issued under authority of section 4 of the Federal Pay Comparability Act of 1970, such rate shall be adjusted to the next higher multiple of such figure.

(34) SEC. 106. (a) There is hereby established in the Treasury of the United States a revolving fund within the contingent fund of the Senate to be known as the Senate Employees Barber Shop Revolving Fund (hereafter in this section referred to as the "revolving fund").

(b) All moneys received by the Senate employees barber shop from fees for services or from any other source shall be deposited to the credit of the revolving fund. Moneys in the revolving fund shall be available without fiscal year limitation for disbursement by the Secretary of the Senate for additional compensation of personnel of the Senate employees barber shop, as determined by the Sergeant at Arms and Doorkeeper of the Senate, and for necessary supplies for the Senate employees barber shop.

(c) On or before December 31 of each year, the Secretary of the Senate shall withdraw from the revolving fund and deposit in the Treasury of the United States as miscellaneous receipts an amount equal to the amount in the revolving fund at the close of the preceding fiscal year, reduced by the amount of outlays from the revolving fund after the close of such year attributable to obligations incurred during such year.

(d) Disbursements from the revolving fund shall be made upon vouchers signed by the Sergeant at Arms and Doorkeeper of the Senate.

(e) The Sergeant at Arms and Doorkeeper of the Senate is authorized to prescribe such regulations as may be necessary to carry out the provisions of this section.

(f) This section shall take effect on October 1, 1976.

(35) SEC. 107. No provision of this Act or of any Act hereafter enacted which specifies a rate of compensation (including a maximum rate) for any position or employee whose compensation is disbursed by the Secretary of the Senate shall, unless otherwise specifically provided therein, be construed to affect the applicability of section 4 of the Federal Pay Comparability Act of 1970 to such rate.

(36) SEC. 108. The second paragraph under the heading "Administrative Provisions" in the Legislative Branch Appropriation Act, 1959 (72 Stat. 442; 2 U.S.C. 65b), is amended by striking out "$2,000" and inserting in lieu thereof "$4,000 during any fiscal year".

(37) SEC. 109. Section 502(b) of the Mutual Security Act of 1954 (22 U.S.C. 1754(b)) is amended—

(1) by inserting after "Joint Committee on Congressional Operations" the following: "and the Select Committee on Intelligence of the Senate"; and

(2) by adding at the end thereof the following new sentence: "In the case of the Select Committee on Intelligence of the Senate, such consolidated report may, in the discretion of the chairman of such select committee, omit such information as would identify the foreign countries in which members and employees of such select committee traveled.".

(38) SEC. 110. (a)(1) Notwithstanding any other provision of law but subject to the provisions of paragraph (2), the Committee on Government Operations is authorized, during the fiscal year ending September 30, 1977, to employ one additional professional staff member at a per annum rate not to exceed the rate provided for the four professional staff members referred to in section 105(e)(3)(A) of the Legislative Branch Appropriations Act, 1968, as amended and modified.

(2) The provisions of paragraph (1) shall cease to be effective when and if the individual who was a reemployed annuitant and was employed by such Committee at the per annum rate referred to in such paragraph on August 25, 1976, ceases to be so employed at such rate.

(b)(1) Notwithstanding any other provision of law but subject to the provisions of paragraph (2), the Committee on Commerce is authorized, during the fiscal year ending September 30, 1977, to pay one additional professional staff member at a per annum rate not to exceed the rate provided for the two professional staff members referred to in section 105(e)(3)(A) of the Legislative Branch Appropriations Act, 1968, as amended and modified.

(2) The provisions of paragraph (1) shall cease to be effective when and if any of the individuals who were paid by such Committee at the per annum rate referred to in such paragraph on August 25, 1976, cease to be paid at such rate.

(39) SEC. 111. Amounts required to be deposited in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund under section 8344 of title 5, United States Code, with respect to any officer or employee of the Senate, including an employee in the office of a Senator, shall be paid from the contingent fund of the Senate during the fiscal year ending September 30, 1977.

MOTION OFFERED BY MR. SHIPLEY

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

The Clerk read as follows:

Mr. SHIPLEY moves that the House recede from its disagreement to the amendments of the Senate numbered 1 through 39 inclusive and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 46: Page 25, line 7, insert: *Provided*, That, not to exceed $100,000 of the funds appropriated under this heading for fiscal year 1976 and for the period ending September 30, 1976, shall remain available until June 30, 1977.

MOTION OFFERED BY MR. SHIPLEY

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

The Clerk read as follows:

Mr. SHIPLEY moves that the House recede from its disagreement to the amendment of the Senate numbered 46 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 48: Page 30, line 7, insert: *Provided further*, That $109,230 of this amount is provided to cover the costs of a 6 percent salary increase, approved retroactive to October 1, 1975, for the purpose of reimbursing the District of Columbia government for the costs of that salary increase from October 1, 1975, through September 30, 1976.

MOTION OFFERED BY MR. SHIPLEY

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

The Clerk read as follows:

Mr. SHIPLEY moves that the House recede from its disagreement to the amendment of the Senate numbered 48 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 56: Page 35, line 1 insert:

RESTORATION OF WEST CENTRAL FRONT OF CAPITOL

Notwithstanding any other provision of law, the Architect of the Capitol, under the direction of the Senate and House Office Building Commissions acting jointly, is directed to restore the West Central Front of the United States Capitol (without change of location or change of the present architectural appearance thereof), $25,000,000, to remain available until expended: *Provided*, That the Architect of the Capitol, under the direction of such Commissions acting jointly, is authorized and directed to enter into such contracts including cost-plus-a-fixed-fee contracts, incur such obligations, and make such expenditures for personal and other expenses as may be necessary to carry out this paragraph: *Provided further*, That any cost-plus-a-fixed-fee general con-

struction contract entered into under authority of this paragraph shall be awarded on competitive bidding among selected responsible general contractors approved by such Commissions upon the amount of the fixed fee to accrue from the performance of such contract: *Provided further*, That with the exception of any subcontract to be made by the general contractor for underpinning, foundation, and special restoration work and work incidental and appurtenant thereto, which may be a cost-plus-a-fixed-fee contract, all other subcontracts made by the general contractor shall be fixed price contracts awarded on competitive bids received from responsible subcontractors.

MOTION OFFERED BY MR. SHIPLEY

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

The Clerk read as follows:

Mr. SHIPLEY moves that the House insist on its disagreement to the amendment of the Senate numbered 56.

PREFERENTIAL MOTION OFFERED BY MR. STRATTON

Mr. STRATTON. Mr. Speaker, I offer a preferential motion to recede and concur in the Senate amendment No. 56 to the legislative appropriation conference report.

The Clerk read as follows:

Mr. STRATTON moves that the House recede from its disagreement to the amendment of the Senate number 56 and concur therein.

Mr. STRATTON. Mr. Speaker, will the distinguished gentleman from Illinois, the chairman, yield me 5 minutes.

Mr. SHIPLEY. I yield the gentleman from New York 5 minutes.

Mr. STRATTON. Mr. Speaker, I thank the gentleman from Illinois for yielding.

Mr. Speaker, we discussed this motion of mine earlier when the conference report was under consideration but I think the audience may have changed somewhat in the meantime and for that reason I want to try to reiterate what is involved in this item and what is involved in the motion to recede and concur.

I sent out a "dear colleague" letter this morning but we get so many of those that perhaps Members have not had a chance to see it. Essentially, the question here is, what we are going to do with the West Front of the Capitol, which has been in a state of disrepair for almost 10 years and on which there have been proposals that instead of repairing it we should extend it in various degrees. So the basic question today is whether we are going to spend just the money that is needed to put the West Front back into shape, or whether we are going to set in motion the wheels of developing some new and more expensive kind of expansion or miniexpansion.

The argument has been made for many years that we cannot restore the West Front of the Capitol for various engineering reasons. Arguments were advanced by various individuals, none of whom is an engineer, that instead of just fixing up the West Front we ought to expand and extend it, at a cost of from $60 to $80 million.

In 1965, we got the House to refer this matter of whether we could or could not restore the West Front to someone who knew what he was talking about, to the most prestigious group of architectural engineers in this country, the Westbury-Praeger Co. We paid them almost a quarter million dollars to make the report. In 1970, they submitted their voluminous report, which said essentially that, yes, we can restore the Capitol, that it is not going to fall down. And they said that at current prices in 1970 we could fix it for $25 million.

But we have still not been able to get agreement between those who want to restore and those who want to expand the West Front, whether that be a full-scale expansion or a miniexpansion.

But it seems to me this is not the time we in Congress ought to be spending any money on an expansion, whether an expansion or a miniexpansion, or spend any more money on ourselves than we ought to spend.

The Senate has now put in the bill $25 million to fix the wall and restore it. They are restoring the Canterbury Cathedral, so why cannot they restore the Capitol of the United States?

In fact, I have a letter here this morning from the National Trust for Historic Preservation that says they are pleased with reports they have received that I have advocated legislative action to preserve the historic structure without modification.

Mr. Speaker, I do not think we ought to delay any longer. The Architect, of course, has a new expansion scheme. He would like to build a monument, but I think it is time for us to clean up the west front of the Capitol and do it at the minimum cost of $25 million. Let us preserve this structure and let us get on with our other jobs.

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

Mr. STRATTON. I am glad to yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, I want to commend the gentleman for the position he has taken. I agree with the gentleman. I share his views. I think we ought to restore the west front of the Capitol, rather than agreeing to an extension of it. The original plan for the extension was predicated upon the assumption there could be no restoration. The reports that were made subsequently by the persons employed by the Architect, the Praeger report, indicated that a restoration was possible, that it was possible at a cost far less than that which would be necessary for the extension.

I favor particularly in view of the fact we have already had an alteration of the exterior through the reconstruction of the east wall, I think we ought to adhere to one wall which preserves the past. I commend the gentleman.

Mr. STRATTON. Mr. Speaker, I thank the gentleman for his support.

Mr. Speaker, let me repeat that this $25 million figure was an estimate presented just recently by the Praeger Co. which gave it to the Senate this year to update those earlier 1970 figures.

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

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

Mr. REGULA. Mr. Speaker, the report that the gentleman has submitted, does it contain detailed plans for the restoration?

Mr. STRATTON. Yes. It contains detailed plans and drawings. This was submitted by the firm of Praeger, Kavanagh & Waterbury. As I say, it cost us one-quarter of a million dollars. Now, I am not an engineer, but their conclusions are very clear.

The trouble is that the Architect of the Capitol has never really made any attempt to implement this report. He never wanted restoration. He wants to build a monument.

The SPEAKER. The time of the gentleman from New York has expired.

Mr. SHIPLEY. Mr. Speaker, I yield 1 additional minute to the gentleman from New York.

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

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

Mr. REGULA. Mr. Speaker, in the gentleman's opinion, are those plans in sufficient detail that a contractor could bid against them and establish a fixed amount for the work to be done?

Mr. STRATTON. I am not an engineer, but the Praeger engineering firm says they are. We have no information that the Architect has ever really made any serious attempt to get somebody to bid on this proposal.

Mr. REGULA. Mr. Speaker, if the gentleman will yield further, if that be the case, would the gentleman agree that the language here should require a competitive bid with an absolute cost, rather than a cost plus fixed fee as a means of getting this work done?

Mr. STRATTON. I am not a contractor. I do not know which way to go about it, but I know the Senate has spent some time considering the matter and they are convinced this can be done for the figure in the Senate amendment.

I think we ought to get the job underway. I think if any contractor can believe that the Architect really wants to negotiate with them to get the job done, they would be able to come up with a bid.

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

Mr. Speaker, as I pointed out in the general debate, the Senate amendment would provide $25 million to restore the West Front of the Capitol without change of location or appearance and would authorize such contracts, including cost-plus-fixed-fee contracts, as may be necessary to carry out the restoration.

Mr. Speaker, in my judgment, the Legislative Appropriations bill is not the place to solve the west wall problem and an open-ended restoration contract is not the way to solve the west wall problem.

Mr. Speaker, first of all, the $25 million is an illusion. It is a come-on. The estimate alone is $45 million and if we enter into an open-ended contract, there is no telling how much money we may end up spending.

Second, Mr. Speaker, there is no assurance, according to our own architect, the Architect of the Capitol, that this will be successful even if we do spend the money. There is no assurance that

technically—and do not take my word for it, but listen to our own architect—that this could be done by rooting holes in the west wall, and filling them up with grout because there are two walls with rubble in between, and no one knows what they will get into.

Third, Mr. Speaker, this is proposing a cost-plus-fixed-fee contract to do the whole restoration. We all know that once that contract is entered into, the contractor will be back here once, twice, and three times, year after year, to get more money, and we will have no control over the situation at all. As the gentleman from Ohio so properly pointed out a few minutes ago, if we are going to do this, there should be some limit on the amount of the contract and some assurance of what we are going to have when we are finished. We all know of the experience with the Rayburn Building, with a similar open-ended contract. It turned out to be a disaster both in terms of the impression on the American people and the cost of the building itself.

Fourth, Mr. Speaker, our Architect, our own Architect, the Architect of the Capitol, who has had the benefit of all the studies, including the study the gentleman from New York refers to, who has had the benefit of all official proceedings and his own studies—our own Architect recommends against simple restoration of the Capitol and recommends buttressing the existing wall with a new wall. He is not recommending any monument. He is not recommending any alteration to the terraces. He is not necessarily recommending substantial additional space, although it is really up to this House to decide that question.

But, he recommends a method of restoring and preserving the West Front of the Capitol; not just simply taking the existing limestone wall and drilling holes in it and pouring grout, but erecting a new wall to buttress the present wall. He says that would be the best way to do it in the long run.

Mr. Speaker, the West Front is not a wailing wall. I have never seen people lining up to kiss the West Front.

Finally, Mr. Speaker, as I mentioned before, certainly the legislative appropriation bill is not the place to be deciding this problem. We have a commission, a Capitol Building Commission, that has studied this and made recommendations. We should debate those recommendations here on the floor, but not in this bill; not in the legislative appropriations bill. I urge my colleagues to oppose the motion offered by the gentleman from New York to recede and concur.

Mr. Speaker, I reserve the balance of my time.

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

Mr. BROOKS. Mr. Speaker, I would say just briefly to the Members who were not here earlier that we went over this pretty well during the 1 hour of debate, but I want to say that one of the best things we have done is to restore very nicely the East Front of this Capitol. It is serviceable, useful and attractive. It will last perhaps 1,500 years or 2,000 years if that marble does as well as that in Crete, and we look forward to its doing so.

Now, this $25 million we are talking about is a pipedream. The current actual estimate of this attempt to restore this West Front would cost now $45 million. For another $10 million we could implement—if we agreed to it— a new proposal to build another wall and restore the existing wall; this would increase the availability of space by 170,000 feet for the use of the Senate and House Members and committees.

There is no assurance—only hope—that this patch-up job we are being asked to approve today, would be useful. They want to plug 5,700 holes 2 inches in diameter, 3 feet apart, all over that front, and who knows, it may weaken it instead of helping it. They want to pump grout in there, and there is no guarantee that the grout will fill up the holes where there now is rubble between the walls. This is just a nice estimate, and when they asked this distinguished man who has gone to his reward if he would like to take that contract for $25 million, he said, "Oh, no, I would not take the contract for $25 million. That is just an estimate."

I would just add that true restoration is the preservation of the beauty of our existing structure and making it into useful, attractive space that will grow and be of service to the people of this country and to its elected Representatives.

If we would add that 170,000 square feet that we sorely need, for an additional $10 million we would be getting something that would be useful. Preservation is not something synonymous with atrophy. I believe that there is no question that we can preserve the beauty and the integrity of those old walls and keep them there in a visible manner where people can see them and enjoy them and at the same time spread the structural load to a new wall and protect the entire Capitol in a useful and practical way. We are not seeking an answer today on the Architect's plan. We need a few months. Congress needs to evaluate that through the appropriate committees of the House and the Senate, the Appropriation Committees, the Capitol Building Commission and the Public Works Committees of the House and Senate. We are asking for a few months time to give it the consideration it certainly deserves.

Therefore, I urge my colleagues to vote against the motion offered by the gentleman from New York, vote against any effort to spend $25 million on what is really just a pipe dream.

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

Mr. BROOKS. I yield to the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. I thank the gentleman for yielding.

Mr. Speaker, the gentleman said that this estimate of $25 million is inaccurate, and he throws around the figure of $45 million. I was not aware that the gentleman is an engineer, but I would point out to the gentleman that the figure of $25 million has been advanced by the Praeger firm, this very distinguished engineering firm that we engaged for a quarter of a million dollars, whereas the $45 million figure has been thrown out by George White, who is not an engineer. I believe the figures of the engineering firm should have more weight.

Mr. BROOKS. In reply to the gentleman's statement, the distinguished engineer to whom reference was made has gone to his reward. His estimate was $25 million. He turned down an offer to do that job for $25 million.

Mr. White, who is a registered, licensed, well qualified engineer as well as being the Architect for this Capitol, has said that the current estimates, prepared by architects and engineers both, is now about $45 million. The $25 million estimate was made about 4 or 5 years ago.

Mr. STRATTON. If the gentleman will yield further, this was the Senate committee's figure. Senator HOLLINGS got this $25 million figure this year from the Praeger firm just a couple of months ago.

Mr. BROOKS. This is what I got yesterday. I am not speaking of a couple of months ago.

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

Mr. REGULA. Mr. Speaker, this is an opportunity to have the Visitors Center revisited. If we adopt the motion offered by the gentleman from New York we will be back in here appropriating more and more money to sustain an open-end contract just as we did with the Visitors Center.

Mr. Speaker, I want to say at the outset that I am opposed to any expansion of space in the Capitol. I strongly favor restoration of the existing structure of the Capitol. However, I favor doing it with a set of plans and specifications that a contractor can take and provide the Government a firm bid for completing the work.

The document that has been introduced here earlier by the gentleman from New York is in fact a feasibility study and not one containing plans and specifications that could be used for bidding purposes.

Mr. Speaker, I wish to quote from the letter of submission that goes with the aforementioned document. It states as follows:

> Dear Mr. Campioli:
>
> Submitted herewith is our report on the feasibility of restoring the west central front of the United States Capitol.

It goes on to say in the same letter:

> Based upon a detailed investigation of the west front walls, we conclude that under conditions indicated in the report, restoration of the west central front of the Capitol is feasible.

Mr. Speaker, that is a far cry from an engineering set of specifications that one could bid against. I think the Senate in its language admits to that, because if we read the language of the proposed Senate amendment, we find it states as follows:

> Provided, That the Architect of the Capitol, under the direction of such Commissions acting jointly, is authorized and di-

rected to enter into such contracts including cost-plus-a-fixed-fee contracts, incur such obligations, and make such expenditures for personal and other services and other expenses as may be necessary to carry out this paragraph: Provided further, That any cost-plus-a-fixed-fee general construction contract entered into under authority of this paragraph shall be awarded on competitive bidding among selected responsible general contractors approved by such Commissions upon the amount of the fixed fee to accrue from the performance of such contract: Provided further, That with the exception of any subcontract to be made by the general contractor for underpinning, foundation, and special restoration work and work incidental and appurtenant thereto, which may be a cost-plus-fixed-fee contract, all other subcontracts made by the general contractor shall be fixed price contracts awarded on competitive bids received from responsible subcontractors.

Mr. Speaker, I think it ought to be made clear to the Members that the issue before us now is whether we go with an open-end contract for restoration, not having specific plans and not knowing what it is going to cost, as contrasted with the committee position, which is to get specific plans and submit those to contractors for a specified bid so that we know exactly how much it is going to cost the Government. We have had plenty of evidence in the past with any number of Federal buildings as to what happens when we fail to get a firm bid and work with a cost-plus-fixed-fee type of contract.

Again, Mr. Speaker, I think it needs to be emphasized that the issue today on this upcoming vote is not whether we restore or whether we expand; the issue is whether we open up Pandora's box and provide for a so-called restoration on an unlimited cost factor basis or whether we go back and require the Architect of the Capitol to submit detailed, specified plans that can be submitted for bid.

Therefore, I urge that the motion offered by the gentleman from New York (Mr. STRATTON) be defeated, that the committee position be sustained, and that we reject the Senate language. I urge the Members to reject this open-end contract that is proposed and that we develop a specific set of plans so we can be assured of what we are getting into in terms of cost and also in terms of a completed job, not a halfway piece of work.

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

Mr. REGULA. I yield to the gentleman from West Virginia.

Mr. SLACK. Mr. Speaker, I want to compliment the gentleman from Ohio (Mr. REGULA) because he gets to the very guts of the issue. No contractor can bid without a set of working plans and detailed specifications. And study today reveals an estimated cost—and it is only an estimated cost—and that is determined from a feasibility study, but no one can ascertain what the cost is without specific plans and specifications.

Mr. Speaker, I compliment the gentleman for the point he has made.

Mr. REGULA. Mr. Speaker, I thank the gentleman.

PARLIAMENTARY INQUIRY

Mr. STRATTON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. Will the gentleman from Illinois (Mr. SHIPLEY) yield for a parliamentary inquiry?

Mr. SHIPLEY. Yes, I yield to the gentleman for the purpose of making a parliamentary inquiry.

Mr. STRATTON. Mr. Speaker, the gentleman from Illinois (Mr. YATES) wishes to offer a substitute motion to recede and concur with an amendment striking the cost plus fixed fee contract.

Is it in order for that motion to be offered if I withdraw my motion?

The SPEAKER. The Chair will state that the gentleman may offer his motion if the gentleman from New York (Mr. STRATTON) withdraws his preferential motion. In that event, the gentleman could offer another preferential motion, or if this preferential motion would be defeated, another preferential motion can be offered.

Mr. STRATTON. I have a further parliamentary inquiry, Mr. Speaker.

Would a motion to recede and concur with an amendment be a preferential motion?

The SPEAKER. It would be preferential over a motion to insist on disagreement.

Mr. STRATTON. Mr. Speaker, I ask unanimous consent that I may be permitted to withdraw my preferential motion.

Mr. COUGHLIN. Mr. Speaker, I object.

The SPEAKER. The gentleman from New York (Mr. STRATTON) does not need unanimous consent for that purpose in the House.

Does the gentleman intend to withdraw his motion? The gentleman does not need unanimous consent to withdraw the motion that he has made.

Mr. STRATTON. Mr. Speaker, if I do not need unanimous consent, then I withdraw my motion.

The SPEAKER. The gentleman from New York (Mr. Stratton) withdraws his motion.

PREFERENTIAL MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a preferential motion.

The SPEAKER. The Clerk will report the preferential motion.

The Clerk read as follows:

Mr. YATES moves on amendment 56 to recede and concur with the Senate on amendment No. 56 with an amendment as follows: on page 35, line 11, strike out the words "including cost-plus-fixed-fee contracts".

On lines 14 and 15, strike out the words "cost-plus-a-fixed-fee".

On line 23, strike out language after "appurtenant thereto" and strike out lines 24 and on page 36 strike out lines 1 and 2.

Mr. SHIPLEY. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois (Mr. YATES).

Mr. YATES. Mr. Speaker, the purpose of my amendment is to meet the objections raised so eloquently by my friends, the gentleman from Ohio (Mr. REGULA), by the gentleman from West Virginia (Mr. SLACK), and by the gentleman from Texas (Mr. BROOKS). They objected to the provision allowing cost-plus-fixed-fee contracts.

My amendment strikes out that portion of the Senate provision which allows cost-plus-fixed-fee contracts. The provision with my amendment will read as follows:

Notwithstanding any other provision of law, the Architect of the Capitol, under the direction of the Senate and House Office Building Commissions acting jointly, is directed to restore the West Central Front of the United States Capitol (without change of location or change of the present architectural appearance thereof), $25,000,000 to remain available until expended: *Provided*, That the Architect of the Capitol, under the direction of such Commissions acting jointly, is authorized and directed—

Then I strike out the words, "including cost-plus-a-fixed-fee contracts."

Then I continue as follows: "incur such obligations, and make such expenditures for personal and other services and other expenses as may be necessary to carry out this paragraph: *Provided further*, That any," and then I strike out "cost-plus-a-fixed-fee."

Then I continue as follows: "general construction contract entered into under authority of this paragraph shall be awarded on competitive bidding among selected responsible general contractors approved by such Commissions upon the amount of the fixed fee to accrue from the performance of such contract: *Provided further*, That with the exception of any subcontract to be made by the general contractor for underpinning, foundation, and special restoration work and work incidental and appurtenant thereto . . ."

Then I strike out "which may be a cost-plus-a-fixed-fee contract, all other subcontracts made by the general contractor shall be fixed price contracts awarded on competitive bids received from responsible subcontractors."

Thus, Mr. Speaker, all reference to any cost-plus-a-fixed-fee contract or contracts is stricken out. The amount that is made available for the restoration is limited to $25 million. The open-ended feature to which many of my colleagues objected—and rightfully so—has been eliminated.

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

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

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

The language would still authorize and direct the Architect to enter into such contracts and incur such obligations as may be necessary to carry out the paragraph, that is, restoration of the West Front. Therefore, that would not limit it to $25 million, but to a contract for more than $25 million; is that not correct?

Mr. YATES. That is not correct. The language read by the gentleman does not provide for open-endedness on financial obligations at all. The provisions read by the gentleman are limitations, not expansions of the amount appropriated.

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

Mr. YATES. I yield to the gentleman from Arizona.

Mr. RHODES. I would ask my colleague what would happen if the Architect were to advertise for bids for this

job and no bid was received under $25 million?

Mr. YATES. The provision would fail.

Mr. RHODES. There would be no work done; is that correct?

Mr. YATES. There would be no work done.

Mr. RHODES. And the wall would continue in its present dangerous condition?

Mr. YATES. Mr. Speaker, I do not agree that the wall is in danger. It would continue in its present condition.

The gentleman's position would permit the wall to remain in its present condition. The committee study he seeks which would review the new proposal by the Architect would take time. The wall would continue in its present condition. The gentleman proposes delay.

What we propose is to take action promptly. Let us start in the restoration within the price of $25 million.

Mr. RHODES. If the gentleman will yield further, I am informed by the Architect, and I think the distinguished Speaker and the distinguished majority leader would agree with me, that the Architect says there is absolutely no chance of getting anybody to bid on this job. We are not seeking delay, merely a reasonable approach to the problem.

Mr. YATES. Why do we not find out by letting it out for bids?

Mr. RHODES. We do not know what is in the wall and no blueprints are drawn which would support the specifics a bid would require. It is the kind of job that no responsible contractor would bid on because he would not know all the facts. He does not have any idea what he is getting into.

Mr. YATES. May I reply to my distinguished friend by saying that the Architect's predecessor and this Architect have taken the position that under no circumstances do they want any kind of restoration.

They say it just cannot be done.

The former Architect of the Capitol came forward with an extension of the west wall that covered 4½ acres. The wall was going to be extended out 88 feet. Now the new Architect of the Capitol wants to extend the wall but not on the grand scale of the former Architect's plan, but that it be extended, nevertheless.

My suggestion will make $25 million available under the proposal of the very distinguished architectural firm which has said the restoration of the west wall of the Capitol can be accomplished. I think that we ought to try it.

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

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

Mr. BROOKS. Mr. Speaker, I would say that the $25 million figure may be a good figure or it may be not a good figure. The architectural commission and the new Capitol Architect estimated yesterday that it would cost $45 million to make the effort to do this job in addition to the fact that the inspection and studies have never provided any guarantees that putting grout in would work.

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

Mr. SHIPLEY. I yield such time as he may consume to the distinguished majority leader, the gentleman from Massachusetts (Mr. O'NEILL).

Mr. O'NEILL. Mr. Speaker, I oppose the amendment offered by the gentleman from Illinois (Mr. YATES).

Mr. Speaker, I can recall when we were building the Rayburn Building, that there was a tremendous increase in actual costs over the estimates. Here we have been told that the cost estimate is $25 million.

A closer estimate would be $45 million. But, I think there is something other than cost that we should consider. When the extension of the East Front of the Capitol was proposed, I was vigorously opposed. Now that the extension has been completed for these many years, I wonder how many of us now know where the old East Front was? How many people look up and say that the Capitol has been changed? It looks as beautiful to me today as it did when I was a kid. And when I was a kid I did not want the Capitol to be changed, because it was dear to my heart. It was a thing of beauty.

Now we have plans for the West Front.

I am on the Building Commission along with the gentleman from Arizona (Mr. RHODES) and the Speaker of the House. We have had this subject before us many times.

There is now a new plan to deal with the West Front. It has not yet been brought before the American Institute of Architects for review. It has not been before any committee. But the Commission has looked at it. In no way does it affect the appearance of the Capitol. One would never have any idea that there was any difference between the current West Front and the West Front as it would be altered by the plan. It would look exactly the same, while providing additional space.

So, what is happening at the present time? The new proposal of the Architect has not been studied by any committee. I believe that it should be studied.

The American Institute of Architects have scheduled hearings at a later time in the year.

I have great confidence in Mr. White. I think he is an excellent architect. This is his recommendation, this is his proposal. I think that we ought to let the American Institute of Architects look it over.

Why should we be locked into spending $25 million or $45 million, when no one knows actually whether it will serve any purpose?

Mr. YATES. Mr. Speaker, if the gentleman will yield, the American Institute of Architects has come out flatly in saying that it is in favor of the restoration of the west wall.

Mr. O'NEILL. That was years ago. They have not seen these new plans.

Mr. YATES. That does not make any difference, they know the plans of the previous proposed extension.

Further, may I say that the building Commission which is made up of the leadership of both bodies want the West Front extended and do not really worry about the consequences to the Capitol. They would have permitted the destruction of the Olmstead Terraces under the previous proposal. Now, under the new plan they avoid that deplorable result, but the lines of the wall would be altered. The Commission still wants an extension, even though restoration is possible. The engineers of the Praeger Co. tells us it can be done for $25 million. My amendment will limit it to $25 million without a cost plus fixed fee contract, I think it ought to be undertaken.

Mr. O'NEILL. Mr. Speaker, if we ever adopted the amendment proposed by the gentleman from Illinois (Mr. YATES), we might end up with a failure and that would be a terrible disgrace.

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

Mr. O'NEILL. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Speaker, I have a letter from the American Institute of Architects dated September 22, 1976, which says:

> First, let me say that the AIA strongly recommends immediate approval of funds to repair the West Front and urges all Members of the House to agree with the Senate amendment to the Legislative Appropriations conference report, providing $25 million for this project.

There is where the AIA stands.

Mr. O'NEILL. The interesting thing is that, architecturally, America is beautiful, and the Capitol is beautiful. The Members should be for progress, and for progress in the Capitol. There has been a new design submitted. I think that we ought to look it over before they come out with any kind of letter like that on this proposal.

Mr. BROOKS. Mr. Speaker, if the gentleman will yield, 1972 is 4 years ago by the way I count and the fact is that the American Institute of Architects is planning in December to have a committee evaluate the new proposal of the Architect of the U.S. Capitol. That is a new and current and still to be done evaluation of the current status, not a 4-year-old evaluation of the costs and procedures.

Mr. COUGHLIN. Mr. Speaker, I yield such time as he may consume to the distinguished minority leader, the gentleman from Arizona (Mr. RHODES).

Mr. STRATTON. Mr. Speaker, will the distinguished minority leader yield for a correction?

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

Mr. STRATTON. Mr. Speaker, the letter I read from is dated September 22, 1976. If I said "1972" I misspoke. This is a letter hand delivered today.

Mr. RHODES. Will the gentleman from New York identify the letter for the record?

Mr. STRATTON. This is a letter from the American Institute of Architects and signed by Louis de Moil, FAIA, president.

Mr. RHODES. Mr. Speaker, in reply, or perhaps actually in further explanation, at the time the Building Commis-

sion met on this matter I asked the Architect of the Capitol, Mr. White, if he had had a chance to discuss his new plan with the American Institute of Architects. He said at that time he had not, that he did intend to discuss it with them. This conversation, I am sure, took place after that letter was written.

I am not saying nor would I have the House believe the eloquence of the Architect of the Capitol is such that he could definitely turn around the position of the American Institute of Architects, but I happen to think and have enough confidence in the Architect of the Capitol and his standing in the profession to believe that he has a very good chance of turning them around.

The reason I do think that is that his plan is entirely different from the plan of his predecessor.

The plan of the predecessor could have been described—and was described by some—as a way of getting more room for the Members of the Congress. Actually it was supposed to bolster up the west wall, but many people thought there was another reason and there were those who did not approve for that reason.

There were those who felt those walls, those historic stones should not be covered up. Of course, the walls are not to be covered up. They will be preserved and will be still in place. They can be looked at and admired by anyone who wants to do so, but they just will not be the outside walls any more.

But nevertheless I do not regret nor bemoan the fact that the former plan was not adopted. I do feel the present plan has great merit. In the first place, it does not change the outward appearance of the West Front of the Capitol, which I believe and most people believe is one of the most beautiful sights that any building in the country can present. I would not want to change it. This does not change it.

It does provide, however, a means which everybody agrees will actually do the job which we need to do, which is to bolster the walls of the West Front. It does that by building another wall, which will take the stress off the old wall so that the old wall will stand.

Of course, it would be entirely possible to build another wall immediately adjacent with no space at all between the new wall and the old wall, but would that really make any great amount of sense? I suggest that it would not. It would be just about as expensive to build that wall there as it would be to build it out 30 feet.

Well, now, if we can bolster the wall and if we are also able to get 30 feet of space, which I do submit is badly needed in this Capitol, then why should we not do it? The cost of building a new wall is not greatly in excess of grouting the old wall; yet it can be guaranteed that this will succeed in bolstering the wall and in keeping the Capitol from falling down.

Now, they can put all the grouting in the world in that old wall and I do not think there is anybody who will guarantee that it will work, that it will actually end the danger that that wall will some day crumble.

Mr. Speaker, I have mentioned before in my colloquy with the gentleman from Illinois that the Architect of the Capitol says that it would be impossible to find somebody to bid a fixed sum on grouting that wall and guaranteeing that it would do the job. They can get persons to grout it, but they will not guarantee the result. So what good is grouting if it does not do the job? All we will have done is to invest $25 million or $30 million, or whatever, in a lot of concrete that goes into the wall and then perhaps we will have to build another wall to bolster it, anyway.

Mr. EVANS of Colorado. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. Mr. Speaker, I concur with the comments made by the gentleman from Arizona. I think there is honest disagreement on two sides and there has been disagreement for many, many years, I think, for the 12 years I have been here. There are those who feel that the Capitol is a working, growing, changing, historical, useful institution, that should meet the needs of the Members today and then tomorrow. Then there are those who honestly believe there should be no change in the West Front, because of history that the architecture represents.

I come down on the former side and concur with the gentleman in the well. This is a building that has changed many, many times to suit the needs of the House and the Senate and the Supreme Court.

I believe the same kind of building today, if we are going to strengthen the wall and it adds nothing more than we have now, I think it is a waste of funds. If we can do that and end up with more useful space for this important institution, I think we should study this proposition.

Mr. Speaker, I concur with the comments of the distinguished gentleman from Arizona.

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

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

Mr. STRATTON. Mr. Speaker, the gentleman from Colorado (Mr. EVANS) talks about meeting the needs of the House. We were told originally we had to extend this West Front to provide space; but in the years since the controversy has been underway we have expanded the staffs of the committees of this House so much that if we had to put them all in the Capitol, we would be halfway down the Mall. We cannot possibly put everybody in the Capitol. Therefore, we ought to stop expanding the Capitol, fix it up, and get it restored so it looks decent.

Mr. RHODES. Mr. Speaker, of course, the argument of the gentleman from New York might be persuasive if it were not absolutely true that the scheme which the gentleman proposes would not certainly have the effect of bolstering the wall. What we are trying to do is bolster the wall and if we are going to bolster the west front and be sure we succeed, then we will build another wall.

All that my good friend, the gentleman from New York is saying, is that we should build a wall next to the present one.

I am saying that is not rational, when we can get some 30 feet more space for almost the same price by extending the wall.

Mr. STRATTON. Mr. Speaker, if the gentleman will yield further, the gentleman from Arizona and I went to Harvard Law School at the same time; but I was not aware the gentleman also took an engineering degree.

Mr. Speaker, we spent a quarter of a million dollars to get a report from a prestigious engineering firm and all we are listening to now is amateur engineers, like the gentleman from Arizona, and the gentleman from Texas (Mr. BROOKS) and the Architect of the Capitol. Why not leave the technical engineering questions up to the experts?

Mr. RHODES. Mr. Speaker, of course, the gentleman from New York is not leaving the technical questions to the experts, either. I do not know, maybe the gentleman from New York got a degree in engineering after the gentleman left Harvard Law School.

Mr. Speaker, we hired the Architect of the Capitol for this purpose. I think the best way is to build the wall; so I say, let us get on with it and build the wall.

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

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

Mr. REGULA. Mr. Speaker, what is the status of this plan the gentleman has described at the moment?

Mr. RHODES. I am not absolutely certain. I do know that the Architect wants permission from the House and the Senate to proceed with plans to construct the new wall as we have outlined.

Mr. REGULA. Is there in fact a set of schematic drawings or anything that is put down on paper which describes this proposed plan?

Mr. RHODES. I would not say they are schematic drawings. They are drawings, and they were sufficient to describe the plan to my unschooled mind, but whether an engineer would say they are sufficient, I do not know.

Mr. REGULA. Is there a copy of this plan available to all the Members to look at?

Mr. RHODES. There is a copy in the Office of the Architect of the Capitol, yes.

Mr. REGULA. Did the Architect of the Capitol, along with the plans, submit any estimate of the cost that might be involved in construction on those plans?

Mr. RHODES. The Architect was fairly sure that the structural change which is envisioned would cost very little more than the grouting of the wall.

Mr. REGULA. I thank the gentleman.

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

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

Mr. YATES. Has the Architect ever stated that the wall could not be restored?

Mr. RHODES. No; the Architect did not state that it could not be restored. All he said was that he did not believe he could get anybody to bid on the resto-

ration of the wall and guarantee that the grouting would work.

Mr. YATES. Should he not be given that opportunity to try while the House studies that question?

Mr. RHODES. But why should we spend the money to do that job when it possibly will not work, when we have a plan we know will work and does not cost much more?

Mr. YATES. May I say that we have a whole year if we are going to study the Architect's plan. Why should we not try to restore it?

Mr. RHODES. Because we are still going to take a year to study it. We might as well get started.

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

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

Mr. BROOKS. Mr. Speaker, my understanding from the Capitol Architect who is also a registered engineer and a lawyer is that reworking this wall in this fashion for an estimated $25 million might or might not be helpful. Nobody guarantees that. He said his estimate was that it would cost about $45 million as of now. He said that it was his further estimate that for an additional $10 million he could have built a wall approximately 20 feet out, following the same contour, which would yield for this Congress and for the Senate 170,000 additional square feet, which would spread that load from the dome and which would enable them to retain and maintain the existing wall as it is now and would give them additional space, and preserve the existing wall.

Mr. RHODES. I think the gentleman from Texas would agree with me that this would mean that we could get 170,000 square feet of additional space for $10 million, which is a pretty good bargain when we are building buildings such as the Capitol of the United States.

Mr. BROOKS. Congressional and Senate committees need that space for conferences, for meetings of committees. The space that is near this Capitol, this building, this Chamber right here, is 10 times as valuable as space in the FBI Building. We cannot go to the FBI Building for a meeting and get back for a quorum, but we could go to an office within this Capitol for a conference meeting, for a committee meeting, and come back in time to vote. That is why that space is vastly more important, more useful, more vital to the real operation of the Congress of the United States.

Mr. RHODES. I thank the gentleman.

Mr. SHIPLEY. Mr. Speaker, I yield 3 minutes to the distinguished chairman of the Appropriations Committee, the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Mr. Speaker, at times, it is difficult to sense the mood of the House. I do not think it is difficult today. The American people are not sitting on the edges of their seats wondering what is going to happen here on this issue. I think they would say, "Do not spend that $25 million now, especially if we do not know for sure what is going to be done with it." They are not interested in this at this time. I do not believe the Members of the House are interested in trying to settle this problem at this time.

So, Mr. Speaker, I do not think it is necessary to spend as much time as we have with respect to this matter. We just should not go forward at this time on spending $25 million, which is of very doubtful value under the circumstances, and which may start us down the wrong road as to what we may eventually decide to do about the West Front. So, I predict that the overwhelming majority of the House is going to vote against spending $25 million.

I certainly am, and I urge my colleagues to vote against it. At a later day we can decide what we want to do about the West Front.

Mr. COUGHLIN. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. WALSH).

Mr. WALSH. I thank the gentleman for yielding.

Mr. Speaker, I would like to pose a question to the author of the amendment.

As I understand the intent of the amendment, it is to close the open-endedness of the contract?

Mr. YATES. If the gentleman will yield, yes.

Mr. WALSH. Does it effectively do that?

Mr. YATES. In my opinion, it does.

Mr. WALSH. My second question is: If this should be approved and the $25 million is appropriated, will the contract contain a performance bond by the contractor that will guarantee that the wall will stand up?

Mr. YATES. I would assume it would, yes. If I were the architect and it were my responsibility to make sure that the work was adequately done, I would require such a bond.

Mr. WALSH. I thank the gentleman.

Mr. SHIPLEY. Mr. Speaker, I rise in opposition to the preferential motion. I think it has been discussed fully. I do not believe that we could get a contractor to bid on the plan for restoration of the existing wall as proposed in the Senate amendment. The changes which are made in the amendment by the motion offered by the gentleman from Illinois (Mr. YATES), are simply language changes. The fact is that the $25 million appropriation for restoration is still in the amendment.

Mr. Speaker, I urge a "no" vote, and I move the previous question on the motion.

The previous question was ordered.

The SPEAKER. The question is on the preferential motion offered by the gentleman from Illinois (Mr. YATES).

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

Mr. STRATTON. 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. The Chair will count.

One hundred and eighty-seven Members are present, not a quorum.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 95, nays 304, not voting 31, as follows:

[Roll No. 794]

YEAS—95

Abzug	Gude	Pike
Ambro	Hagedorn	Preyer
Ashbrook	Hammer-schmidt	Pritchard
Aspin	Hannaford	Randall
AuCoin	Hansen	Rangel
Bauman	Harrington	Reuss
Bell	Hébert	Roncalio
Bennett	Hechler, W. Va.	Rose
Biester	Holland	Roybal
Bingham	Holt	Satterfield
Boggs	Holtzman	Scheuer
Brodhead	Jenrette	Schroeder
Brown, Mich.	Kelly	Sharp
Burgener	Kemp	Spellman
Cleveland	Koch	Spence
Cochran	LaFalce	Stark
Cohen	Lagomarsino	Stratton
Conable	Leggett	Studds
Conte	Lundine	Symington
Crane	McClory	Symms
Daniel, Dan	McCloskey	Thornton
Davis	McDonald	Udall
Derrick	Maguire	Van Deerlin
du Pont	Mann	Vander Jagt
Early	Melcher	Vigorito
Edwards, Calif.	Mikva	Waxman
Fenwick	Miller, Calif.	Wiggins
Fish	Moorhead, Pa.	Wilson, Tex.
Fraser	Mosher	Wirth
Fuqua	Nolan	Yates
Gilman	Ottinger	Young, Fla.
Goldwater		Young, Ga.

NAYS—304

Abdnor	Clay	Grassley
Adams	Collins, Ill.	Haley
Addabbo	Collins, Tex.	Hall, Ill.
Alexander	Conlan	Hall, Tex.
Allen	Conyers	Hamilton
Anderson, Calif.	Cornell	Hanley
Anderson, Ill.	Cotter	Harkin
Andrews, N.C.	Coughlin	Harris
Andrews, N. Dak.	D'Amours	Harsha
Annunzio	Daniel, R. W.	Hawkins
Archer	Daniels, N.J.	Hayes, Ind.
Armstrong	Danielson	Heckler, Mass.
Ashley	de la Garza	Hefner
Badillo	Delaney	Hicks
Bafalis	Dellums	Hightower
Baldus	Dent	Hillis
Baucus	Derwinski	Horton
Beard, R.I.	Devine	Howard
Beard, Tenn.	Dickinson	Howe
Bedell	Dingell	Hubbard
Bergland	Dodd	Hughes
Bevill	Downey, N.Y.	Hungate
Biaggi	Downing, Va.	Hutchinson
Blanchard	Drinan	Hyde
Blouin	Duncan, Oreg.	Ichord
Boland	Duncan, Tenn.	Jacobs
Bolling	Eckhardt	Jarman
Bonker	Edgar	Jeffords
Bowen	Edwards, Ala.	Johnson, Calif.
Brademas	Eilberg	Johnson, Colo.
Breaux	Emery	Johnson, Pa.
Breckinridge	English	Jones, Okla.
Brinkley	Erlenborn	Jones, Tenn.
Brooks	Eshleman	Jordan
Broomfield	Evans, Colo.	Kasten
Brown, Calif.	Evans, Ind.	Kastenmeier
Brown, Ohio	Evins, Tenn.	Kazen
Broyhill	Fary	Ketchum
Buchanan	Fascell	Keys
Burke, Calif.	Findley	Kindness
Burke, Fla.	Fisher	Krebs
Burke, Mass.	Fithian	Krueger
Burleson, Tex.	Flood	Landrum
Burlison, Mo.	Florio	Latta
Burton, John	Flowers	Lehman
Burton, Phillip	Flynt	Lent
Butler	Foley	Levitas
Carney	Ford, Mich.	Lloyd, Calif.
Carr	Ford, Tenn.	Lloyd, Tenn.
Carter	Forsythe	Long, La.
Cederberg	Fountain	Long, Md.
Chappell	Frenzel	Lott
Chisholm	Frey	Lujan
Clausen, Don H.	Gaydos	McCormack
Clawson, Del	Gibbons	McDade
	Ginn	McEwen
	Gonzalez	McFall
	Goodling	McHugh

McKay
McKinney
Madden
Madigan
Mahon
Martin
Mathis
Mazzoli
Meeds
Metcalfe
Meyner
Mezvinsky
Michel
Milford
Miller, Ohio
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Morgan
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Pepper
Perkins
Pettis
Pickle
Poage
Pressler
Price
Quie
Quillen
Regula
Rhodes
Richmond
Riegle
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Rooney
Rosenthal
Rostenkowski
Rousselot
Runnels
Russo
Ryan
St Germain
Santini
Sarasin
Schneebeli
Schulze
Sebelius
Seiberling
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Snyder
Solarz
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steiger, Wis.
Stokes
Stuckey
Sullivan
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Traxler
Treen
Tsongas
Ullman
Vander Veen
Vanik
Waggonner
Walsh
Wampler
Weaver
Whalen
White
Whitehurst
Whitten
Wilson, Bob
Wilson, C. H.
Winn
Wolff
Wright
Wydler
Wylie
Yatron
Young, Alaska
Zablocki
Zeferetti

NOT VOTING—31

Byron
Clancy
Corman
Diggs
Esch
Giaimo
Gradison
Green
Guyer
Heinz
Helstoski
Henderson
Hinshaw
Jones, Ala.
Jones, N.C.
Karth
McCollister
Matsunaga
Mink
Nix
Peyser
Railsback
Rees
Roush
Ruppe
Sarbanes
Smith, Nebr.
Steelman
Steiger, Ariz
Stephens
Young, Tex.

The Clerk announced the following pairs:

Mr. Byron with Mr. Karth.
Mr. Matsunaga with Mr. Clancy.
Mr. Giaimo with Mr. Guyer.
Mr. Helstoski with Mr. Steiger of Arizona.
Mr. Diggs with Mr. Heinz.
Mr. Green with Mr. Esch.
Mr. Corman with Mrs. Smith of Nebraska.
Mr. Nix with Mr. Steelman.
Ms. Mink with Mr. Gradison.
Mr. Henderson with Mr. Ruppe.
Mr. Roush with Mr. Railsback.
Mr. Sarbanes with Mr. McCollister.
Mr. Jones of North Carolina with Mr. Stephens.
Mr. Rees with Mr. Jones of Alabama.

Mr. KRUEGER and Mr. COLLINS of Texas changed their vote from "yea" to "nay."

Mr. HARRINGTON changed his vote from "nay" to "yea."

So the preferential motion was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. (Mr. McFALL). The question is on the motion offered by the gentleman from Illinois (Mr. SHIPLEY).

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 57: Page 36, line 20 insert:

SENATE OFFICE BUILDING

For maintenance, miscellaneous items and supplies, including furniture, furnishings, and equipment, and for labor and material incident thereto, and repairs thereof; for purchase of waterproof wearing apparel, and for personal and other services; for the care and operation of the Senate Office Buildings; including the subway and subway transportation systems connecting the Senate Office Buildings with the Capitol; uniforms or allowances therefor as authorized by law (5 U.S.C. 5901–5902), prevention and eradication of insect and other pests without regard to section 3709 of the Revised Statutes as amended; to be expended under the control and supervision of the Architect of the Capitol in all $10,408,000, of which $980,000 shall remain available until expended.

Not to exceed $120,000 of the unobligated balance of the appropriation under this head for the fiscal year 1975, continued available until June 30, 1976, is hereby continued available until September 30, 1977.

MOTION OFFERED BY MR. SHIPLEY

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

The Clerk read as follows:

Mr. SHIPLEY moves that the House recede from its disagreement to the amendment of the Senate numbered 57 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 58: Page 37, line 14, insert:

SENATE GARAGE

For maintenance, repairs, alterations, personal and other services, and all other necessary expenses, $139,500.

MOTION OFFERED BY MR. SHIPLEY

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

The Clerk read as follows:

Mr. SHIPLEY moves that the House recede from its disagreement to the amendment of the Senate numbered 58 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 59: Page 38, line 15, insert:

MODIFICATIONS AND ENLARGEMENT, CAPITOL POWER PLANT

For an additional amount for "Modifications and Enlargement, Capitol Power Plant", $12,000,000, to remain available until expended, and the limit of cost authorized by Public Law 93–50 (87 Stat 109–110) for such project is increased by such additional amount.

MOTION OFFERED BY MR. SHIPLEY

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

The Clerk read as follows:

Mr. SHIPLEY moves that the House recede from its disagreement to the amendment of the Senate numbered 59 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 60: Page 39, line 6, insert:

AUTOMATIC ELEVATOR OPERATORS

No part of the funds appropriated under this Act shall be used for the payment of compensation for more than forty-six elevator operator positions under the heading "Architect of the Capitol, Capitol Buildings"; sixteen elevator operator positions under the heading "Architect of the Capitol, Senate Office Buildings"; and twenty-eight elevator operator positions under the heading "Architect of the Capitol, House Office Buildings": *Provided*, That such provision shall not be applicable to present incumbents of elevator operator positions.

MOTION OFFERED BY MR. SHIPLEY

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

The Clerk read as follows:

Mr. SHIPLEY moves that the House recede from its disagreement to the amendment of the Senate numbered 60 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 79: Page 49, line 4, insert:

TITLE IX—COPYRIGHT ROYALTY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Copyright Royalty Commission, $268,000, which shall be available only upon enactment into law of S. 22 or equivalent legislation.

MOTION OFFERED BY MR. SHIPLEY

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

The Clerk read as follows:

Mr. SHIPLEY moves that the House recede from its disagreement to the amendment of the Senate numbered 79 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 89: Page 55, line 11, insert: "Effective October 1, 1976, the gross annual maximum rate of compensation of Pages of the Senate shall be $9,063, and such rate shall not be adjusted under any Order of the President pro tempore of the Senate issued under authority of section 4 of the Federal Pay Comparability Act of 1970, except the multiple specified in any such Order which is nearest to but not less than $9,060."

MOTION OFFERED BY MR. SHIPLEY

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

The Clerk read as follows:

Mr. SHIPLEY moves that the House recede from its disagreement to the amendment of the Senate numbered 89 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 90: Page 55, line 18, insert: "SEC. 1305. (a) The Sergeant at Arms and Doorkeeper of the Senate may (1) designate as a private, first class, any private of the Capitol Police whose pay is disbursed by the Secretary of the Senate and who has served satisfactorily as a member of the Capitol Police for thirty months or more, and (2) fix the compensation of any such private, first class, at not to exceed $13,038 per annum.

"(b) Subsection (a) shall take effect on October 1, 1976. Any designation of a private of the Capitol Police as a private, first class, shall be made effective on the first day of a month, and no such designation may be effective before the first day of the first month which begins after the day on which such private has served satisfactorily as a member of the Capitol Police for thirty months."

MOTION OFFERED BY MR. SHIPLEY

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

The Clerk read as follows:

Mr. SHIPLEY moves that the House recede from its disagreement to the amendment of the Senate numbered 90 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

"SEC. 1305. (a) The Sergeant at Arms and Doorkeeper of the Senate and Sergeant at Arms of the House may (1) designate as a private, first class, any private of the Capitol Police whose pay is disbursed by the Secretary of the Senate or Clerk of the House who has served satisfactorily as a member of the Capitol Police for thirty months or more, and (2) fix the compensation of any such private, first class, at not to exceed $13,038 per annum: *Provided*, That the Sergeant at Arms of the House may fix the compensation of seven Detectives, Police Force at not to exceed $14,946 per annum each in lieu of not to exceed $13,992 per annum each; nineteen Technicians, Police Force at not to exceed $13,992 per annum each in lieu of not to exceed $13,038 per annum each; eight Plainclothesmen, Police Force at not to exceed $13,992 per annum each in lieu of not to exceed $13,038 per annum each; and six K-9 Officers, Police Force at not to exceed $13,992 per annum each in lieu of not to exceed $13,038 per annum each.

"(b) Subsection (a) shall take effect on October 1, 1976. Any designation of a private of the Capitol Police as a private, first class, shall be made effective on the first day of a month, and no such designation may be effective before the first day of the first month which begins after the day on which such private has served satisfactorily as a member of the Capitol Police for thirty months."

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

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 91: Page 56, line 8, insert:

COST OF LIVING ADJUSTMENTS

SEC. 1306. (a) Section 8340(b) of title 5, United States Code, is amended by striking out "1 percent plus".

(b) The amendment made by subparagraph (a) above shall apply to any increase in annuities after the date of enactment of this Act.

(c)(1) Section 8340(b) of title 5, United States Code, as amended by subparagraph (a) above, is amended to read as follows:

"(b)(1) The Commission shall—

"(A) on January 1 of each year, or within a reasonable time thereafter, determine the percent change in the price index published for December of the preceding year over the price index published for June of the preceding year, and

"(B) on July 1 of each year, or within a reasonable time thereafter, determine the percent change in the price index published for June of such year over the price index published for December of the preceding year.

"(2) If in any year the percent change determined under either paragraph (1)(A) or (1)(B) indicates a rise in the price index, then—

"(A) effective March 1 of such year, in the case of an increase under paragraph (1)(A), each annuity payable from the Fund having a commencing date not later than such March 1 shall be increased by the percent change computed under such paragraph, adjusted to the nearest 1/10 of 1 percent, or

"(B) effective October 1 of such year, in the case of an increase under paragraph (1)(B), each annuity payable from the Fund having a commencing date not later than such October 1 shall be increased by the percent change computed under such paragraph, adjusted to the nearest 1/10 of 1 percent.".

(2) The amendment made by subsection (1) shall apply to any increase in annuities after the date of enactment of this Act, except that with respect to the first date after the date of enactment of this Act on which the Commission is to determine a percent change, such percent change shall be determined by computing the change in the price index published for the month immediately preceding such first date over the price index for the last month prior to the date of enactment of this Act for which the price index showed a percent rise forming the basis for a cost-of-living annuity increase under section 8340(b) of title 5, United States Code, as in effect immediately prior to the date of the enactment of this Act.

(d)(1) Section 1401a(b) of title 10, United States Code, as amended by section 2 of this Act, is amended to read as follows:

"(b)(1) The Secretary of Defense shall—

"(A) on January 1 of each year, or within a reasonable time thereafter, determine the percent change in the index published for December of the preceding year over the index published for June of the preceding year; and

"(B) on July 1 of each year, or within a reasonable time thereafter, determine the percent change in the index published for June of such year over the index published for December of the previous year.

"(2) If in any year the percent change determined under either paragraph (1)(A) or (1)(B) indicates a rise in the index, then—

"(A) effective March 1 of such year, in the case of an increase under paragraph (1)(A), the retired pay and retainer pay of members and former members of the armed forces who become entitled to that pay before such March 1 shall be increased by the percent change computed under such paragraph, adjusted to the nearest 1/10 of 1 percent; and

"(B) effective October 1 of such year, in the case of an increase under paragraph (1)(B), the retired pay and retainer pay of members and former members of the armed forces who become entitled to that pay before such October 1 shall be increased by the percent change computed under such paragraph, adjusted to the nearest 1/10 of 1 percent.".

(2) The amendment made by subsection (1) shall apply to any increase in retired pay or retainer pay after the date of enactment of this Act, except that with respect to the first date after the date of enactment of this Act on which the Secretary of Defense is to determine a percent change, such percent change shall be determined by computing the change in the index published for the month immediately preceding such first date over the index for the last month preceding the date of enactment of this Act used as the basis for the most recent adjustment of retired pay and retainer pay under section 1401a(b) of title 10, United States Code, as in effect immediately prior to the date of enactment of this Act.

(e)(1) Section 882(b) of the Foreign Service Act of 1946 (22 U.S.C. 1121(b)), as amended by section 3 of this Act, is amended to read as follows:

"(b)(1) The Secretary shall—

"(A) on January 1 of each year, or within a reasonable time thereafter, determine the percent change in the price index published for December of the preceding year over the price index published for June of the preceding year, and

"(B) on July 1 of each year, or within a reasonable time thereafter, determine the percent change in the price index published for June of such year over the price index published for December of the preceding year.

"(2) If in any year the percent change determined under either paragraph (1)(A) or (1)(B) indicates a rise in the price index, then—

"(A) effective March 1 of such year, in the case of an increase under paragraph (1)(A), each annuity payable from the Fund having a commencing date not later than such March 1 shall be increased by the percent change computed under such paragraph, adjusted to the nearest 1/10 of 1 percent, or

"(B) effective October 1 of such year, in the case of an increase under paragraph (1)(B), each annuity payable from the Fund having a commencing date not later than such October 1 shall be increased by the percent change computed under such paragraph adjusted to the nearest 1/10 of 1 percent.".

(2) The amendment made by subsection (1) shall apply to any increase in annuities after the date of enactment of this Act, except that with respect to the first date after the date of enactment of this Act on which the Secretary is to determine a percent change, such percent change shall be determined by computing the change in the price index published for the month immediately preceding such first date over the price index for the last month prior to the date of enactment of this Act for which the price index showed a percent rise forming the basis for a cost-of-living increase under section 882(b) of the Foreign Service Act of 1946 (22 U.S.C. 1121(b)), as in effect immediately prior to the date of enactment of this Act.

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

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

MOTION OFFERED BY MR. SHIPLEY

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

The Clerk read as follows:

Mr. SHIPLEY moves that the House recede from its disagreement to the amendment of the Senate numbered 91 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

COST-OF-LIVING ADJUSTMENTS

SEC. 1306. (a) Section 8340(b) of title 5, United States Code, is amended by striking out "1 percent plus".

(b) The amendment made by subsection (a) shall apply to any increase in annuities after the date of enactment of this Act.

(c)(1) Section 8340(b) of title 5, United States Code, as amended by subsection (a), is amended to read as follows:

"(b)(1) The Commission shall—

"(A) on January 1 of each year, or within a reasonable time thereafter, determine the percent change in the price index published for December of the preceding year over the price index published for June of the preceding year, and

"(B) on July 1 of each year, or within a reasonable time thereafter, determine the percent change in the price index published for June of such year over the price index published for December of the preceding year.

"(2) If in any year the percent change determined under either paragraph (1)(A) or (1)(B) indicates a rise in the price index, then—

"(A) effective March 1 of such year, in the case of an increase under paragraph (1)(A), each annuity payable from the Fund having a commencing date not later than such March 1 shall be increased by the per-

cent change computed under such paragraph, adjusted to the nearest 1/10 of 1 percent, or

"(B) effective September 1 of such year, in the case of an increase under paragraph (1)(B), each annuity payable from the Fund having a commencing date not later than such September 1 shall be increased by the percent change computed under such paragraph, adjusted to the nearest 1/10 of 1 percent.".

(2) The amendment made by subsection (1) shall apply to any increase in annuities after the date of enactment of this Act, except that with respect to the first date after the date of enactment of this Act on which the Commission is to determine a percent change, such percent change shall be determined by computing the change in the price index published for the month immediately preceding such first date over the price index for the last month prior to the date of enactment of this Act for which the price index showed a percent rise forming the basis for a cost-of-living annuity increase under section 8340(b) of title 5, United States Code, as in effect immediately prior to the date of the enactment of this Act.

(d)(1) Section 1401a(b) of title 10, United States Code, is amended to read as follows:

"(b)(1) The Secretary of Defense shall—

"(A) on January 1 of each year, or within a reasonable time thereafter, determine the percent change in the index published for December of the preceding year over the index published for June of the preceding year; and

"(B) on July 1 of each year, or within a reasonable time thereafter, determine the percent change in the index published for June of such year over the index published for December of the previous year.

"(2) If in any year the percent change determined under either paragraph (1)(A) or (1)(B) indicates a rise in the index, then—

"(A) effective March 1 of such year, in the case of an increase under paragraph (1)(A), the retired pay and retainer pay of members and former members of the armed forces who become entitled to that pay before such March 1 shall be increased by the percent change computed under such paragraph, adjusted to the nearest 1/10 of 1 percent; and

"(B) effective September 1 of such year, the case of an increase under paragraph (1)(B), the retired pay and retainer pay of members and former members of the armed forces who become entitled to that pay before such September 1 shall be increased by the percent change computed under such paragraph, adjusted to the nearest 1/10 of 1 percent.".

(2) The amendment made by subsection (1) shall apply to any increase in retired pay or retainer pay after the date of enactment of this Act, except that with respect to the first date after the date of enacment of this Act on which the Secretary of Defense is to determine a percent change, such percent change shall be determined by computing the change in the index published for the month immediately preceding such first date over the index for the last month preceding the date of enactment of this Act used as the basis for the most recent adjustment of retired pay and retainer pay under section 1401a(b) of title 10, United States Code, as in effect immediately prior to the date of enactment of this Act.

(e)(1) Section 882(b) of the Foreign Service Act of 1946 (22 U.S.C. 1121(b)), is amended to read as follows:

"(b)(1) The Secretary shall—

"(A) on January 1 of each year, or within a reasonable time thereafter, determine the percent change in the price index published for December of the preceding year over the price index published for June of the preceding year, and

"(B) on July 1 of each year, or within a reasonable time thereafter, determine the percent change in the price index published for June of such year over the price index published for December of the preceding year.

"(2) If in any year the percent change determined under either paragraph (1)(A) or (1)(B) indicates a rise in the price index, then—

"(A) effective March 1 of such year, in the case of an increase under paragraph (1)(A), each annuity payable from the Fund having a commencing date not later than such March 1 shall be increased by the percent change computed under such paragraph, adjusted to the nearest one-tenth of 1 percent, or

"(B) effective September 1 of such year, in the case of an increase under paragraph (1)(B), each annuity payable from the Fund having a commencing date not later than such September 1 shall be increased by the percent change computed under such paragraph adjusted to the nearest one-tenth of 1 percent.".

(2) The amendment made by subsection (1) shall apply to any increase in annuities after the date of enactment of this Act, except that with respect to the first date after the date of enactment of this Act on which the Secretary is to determine a percent change, such percent change shall be determined by computing the change in the price index published for the month immediately preceding such first date over the price index for the last month prior to the date of enactment of this Act for which the price index showed a percent rise forming the basis for a cost-of-living increase under section 882(b) of the Foreign Service Act of 1946 (22 U.S.C. 1121(b)), as in effect immediately prior to the date of enactment of this act.

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

The SPEAKER pro tempore (Mr. McFALL). Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ADDABBO. Mr. Speaker, I demand a division of the question.

The SPEAKER pro tempore. The question will be divided.

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

Mr. Speaker, the conferees agreed to retain the provisions added by the Senate which pertain to adjustments to pension computation for Federal retirees. These provisions eliminated the "1 percent kicker" and added a new method of computing increases for retirees to adjust for cost-of-living increases. This action will result in savings of $3 billion over the next 5 years.

Under existing law, when the cost of living increased by 3 percent for 3 months, a pension recomputation was made and retirees got that increase plus 1 percent. The 1 percent was to make up for the retiree what had not been paid during the period before recomputation occurred.

Since the 1-percent provision has been adopted, the cost of living has increased 56 percent while the pension payment increase has been 72 percent. This growth in pension increase in excess of the cost-of-living increase is a function of compounding the 1-percent kicker. Elimination of the kicker has been endorsed by the chairman and the ranking minority member of the Post Office and Civil Service Committee and the Civil Service Commission.

To replace the kicker provision, the conferees agreed to provisions that provide for a semiannual recomputation based on the actual cost-of-living increase in the preceding 6-month period. The provisions agreed to by the conferees provide that the first increase effective on March 1, 1977 will be based on the change that occurred between the last base month, December 1975, and December 1976—a 12-month period.

Mr. Speaker, I yield 5 minutes to the distinguished gentleman from New York (Mr. ADDABBO).

Mr. ADDABBO. Mr. Speaker, I would hope that the House would act today to continue to provide the 1-percent increase in cost-of-living benefits for Federal retirees and not bow to the imposition of the will of the other body.

Let me make clear that the 1-percent kicker in the pension benefit does not raid the Federal Treasury. The money which would be paid to retirees comes completely from the retirement fund, a contributory retirement fund which pays for all pension benefits.

But even more important than where the money comes from is the reality of life for people who must exist today on fixed-income pensions. We are talking about small increments to retirees, perhaps as little as $4 or $5 a month, perhaps less.

Ask yourselves if in the last year inflation has not already eaten up $4 or $5 a month in increased food costs, clothing costs, medical care, prescription costs, travel costs? You know it has.

We are talking here mainly about retired postal workers and the other Federal employees, the majority of those people whose lives were based on paychecks rather than other income, people who need every pension dollar they can get just to survive another month.

There are ways in which the Congress ought to act to cut Federal spending. I have spent some time on this floor talking about the waste in the defense budget, and against my protests the House has gone on to appropriate billions of dollars each year in wasteful programs. There are people on this floor who will vote for useless weapons, defense waste and overruns, but who will not vote for people.

Well, as far as I am concerned, this is a vote for people. This is a vote for people who have spent their lives working on behalf of their country, who have contributed all of their working years to a pension plan so that when they reached retirement age, they would be able to spend their remaining years in some degree of comfort and security.

The retired workers of America have not caused the inflation that has ravaged the lives of those who must live on fixed incomes. The people of America have lived with double-digit inflation and for years now, and I see nothing soothing in our immediate future. Things may get better but they will not be much better anytime in the foreseeable future.

It would be a breach of faith for this

Congress to vote to do away with this small increment today without full hearings, debate, and proper legislative action. To deny this badly needed extra would be to cave in to the unfeeling complaints of those who have never—and do not now—demonstrated concern about the poor, the ill, and the forgotten millions who are our fellow citizens. I appeal to the House to reject any move to deny this desperately needed pension allowance. It will be money well spent, for it is literally bread in the mouths of those who cannot help themselves.

If the Congress wishes to do away with the 1-percent kicker, let us do it in an orderly and proper legislative manner. Let the Post Office and Civil Service Committee bring forth a bill which then can be debated and possibly approved.

This bill and procedure gives the House no possibility of working its will. The proposition before us arbitrarily passed by the other body without hearings and little debate does not permit the House to work its will. We are being asked to accept legislation outlined in over 3 pages of the conference report. There is no way of knowing the end result of the amendment we are asked to accept. We do not know the cost of such an amendment.

I ask that the motion to recede be defeated and my later motion to insist on disagreement to the Senate amendment be approved.

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

Mr. ADDABBO. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Speaker, I have been advised that there is a former Member of Congress who retired from this body with a good many years of service, who is now receiving more money in retirement pay than a sitting Member of Congress. This is primarily due to the 1-percent kicker. Is that true? Is there a former Member of Congress now receiving more retirement pay than a sitting Member of Congress receives in pay?

Mr. ADDABBO. This has been an allegation which has been circulated, but the question is how he computes it. He has military pay, other pay. State pensions, and also he is entitled to the normal cost-of-living raise. It may have risen, but not because of the 1-percent kicker.

Mr. ICHORD. The 1-percent kicker has resulted in that increased pay, has it not?

Mr. ADDABBO. There has been increased pay, but again they are entitled to it. This House, the Congress, gave them that 1-percent kicker because this House felt that our retirees were entitled to it. I am not saying that there may not be need of revision of the 1-percent kicker, but let it come before this House in normal fashion so that if it is taken away, there will be other types of recomputation and other amendments which could be offered to make up for the loss they receive.

Mr. ICHORD. But is it not true that if we do not concur in the amendment of the gentleman from Illinois, that this former Member of Congress will receive even greater increases in retirement pay?

Mr. ADDABBO. The gentleman is comparing the misery of a man living on a small pension, as compared to a man who earned a large income. Is the man who is getting $3 per month additional under this going to be denied that because perhaps 1 percent of the retirees are receiving a larger pension? Are we going to penalize him and force him to perhaps eat cat food because he cannot afford a decent meal?

Mr. COUGHLIN. Mr. Speaker, I rise in opposition to the motion made by the gentleman from New York (Mr. ADDABBO).

The Senate amendment to which the conferees agreed is not an unfair amendment, and it does not really strip a benefit from retirees because it makes an alternate provision for retirees that is, in fact, much fairer than the current provision. It does provide for a semiannual adjustment for cost of living, and that is as it should be.

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

Mr. COUGHLIN. I yield to the gentleman from Washington.

Mr. ADAMS. Mr. Speaker, I think the gentleman was referring to a motion by the gentleman from New York (Mr. ADDABBO). In a few minutes I am going to make a parliamentary inquiry, but it was my understanding that the gentleman from New York demanded a division of the question, and that the division of the question is a matter of right to him, and the question has been divided.

Therefore, what is presently pending is the motion of the gentleman from Illinois (Mr. SHIPLEY) to recede. Therefore, the vote on this would be an aye vote in support of the committee. I will ask that, but I wanted to be certain that the gentleman, in his remarks, agrees with my interpretation.

Mr. COUGHLIN. I do agree with the gentleman's interpretation, and I was in error. It should be an aye vote in support of the motion offered by the gentleman from Illinois (Mr. SHIPLEY).

This method of dealing with the 1-percent kicker, or a method essentially similar to this, has been previously passed upon by a majority of this House. This has been considered at great length by the Committee on Post Office and Civil Service. The whole question has been debated before this House before.

In view of the fact that this is a fair way of doing it, in view of the fact that it is fair to apply this uniformly across the board for the various classes of governmental employees, I rise in support of the motion offered by the gentleman from Illinois (Mr. SHIPLEY).

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

Mr. COUGHLIN. I yield to the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. I thank the gentleman for yielding.

Mr. Speaker, I would like to address a question or two to the gentleman. I have, frankly, not made up my mind on how I will vote on this matter. I find it an exceedingly difficult matter. I was one of those who voted against the motion to suspend the rules when this matter came up under the Suspension of the Rules. But I understand now that the proposition before us is an improvement, from the point of view of the retirees, over the proposition that was before us at that time. Is that correct or is that not correct?

Mr. COUGHLIN. As I understand it, that is correct.

Mr. BINGHAM. If the gentleman will yield further, will the gentleman explain to me in what respect it is an improvement?

Mr. COUGHLIN. Because this has an automatic semiannual adjustment for cost of living for the retirees.

Mr. BINGHAM. And previously the adjustment would only have been made annually; is that correct?

Mr. COUGHLIN. That is correct.

Mr. BINGHAM. May I ask the gentleman another question? I understand that the payment for these funds for these retirees comes from the retirement fund and is not a direct charge against the Federal budget, but that the retirement fund itself shows a balance of unfunded obligations in the neighborhood of $80 billion; is that correct?

Mr. COUGHLIN. I do not pretend to be an expert in this field, but I think there are direct government funds that go into the Retirement Fund. Certainly there would be.

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

Mr. COUGHLIN. I yield to the gentleman from Washington (Mr. ADAMS).

Mr. ADAMS. I thank the gentleman for yielding.

Mr. Speaker, I would state to the gentleman that the unfunded liability in the Federal Civil Service Fund at the present time, when we started this year, was $91 billion. During the course of this year it has now risen to $95 billion. We have started to pay partial interest payments out of the general fund on the $91 billion. In 1980 we will start to pay total interest payments. A portion of the 1-percent kicker which is tied to this, the military, is a complete Government contribution. There is no contribution into it at all. So all of the 1-percent matters are hanging on what we do here now. I can state that the amount of money that went out of the general fund last year into the area of the military alone is between $7 billion and $8 billion, and the amount of contributions that are going in in the 7 percent withheld are $91 billion short of meeting the obligations of those presently working.

Mr. BINGHAM. If the gentleman will yield further, I am very grateful to the gentleman from Washington (Mr. ADAMS) for that clarification.

Mr. Speaker, I would like to pursue another thought. I have many retirees in my district, and many of them are having a hard time getting along, I know, on whatever they receive from their retirement. But is it not true that the 1-percent kicker was introduced on the theory that it was to compensate for the delay in the cost-of-living adjustments and not as a way of improving the general level of benefits under the retirement system?

Mr. COUGHLIN. That is correct. But I think in this proposal now we have a better method of compensating for the delay. The delay is compensated for and we do not have something built into the system that can end up, as it has in the current situation, in distorting the system.

Mr. BINGHAM. I thank the gentleman for his comments.

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

Mr. COUGHLIN. I yield to the gentleman from New York (Mr. ADDABBO).

Mr. ADDABBO. I thank the gentleman for yielding.

Mr. Speaker, there has been a colloquy here in reference to what it would cost the budget. I am just wondering whether anyone can tell the Members right now what the Senate amendments would cost. The Senate amendment which we are being asked to accept today appears on pages 8, 9, 10, and 11 of the conference report.

Does any Member know what that will cost?

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

Mr. COUGHLIN. I will be glad to yield to my colleague, the gentleman from Illinois.

Mr. DERWINSKI. Mr. Speaker, if I may address myself to the gentleman from New York (Mr. ADDABBO), the emphasis should be upon what the amendment will say, which is really the key to this issue. The figures we have show that the Chiles amendment—and that is what we are speaking of in the Senate amendment, the Chiles amendment—which provides a semiannual cost-of-living increase in lieu of the 1-percent kicker would under the budget estimate save $228 million in fiscal year 1977, and from fiscal year 1977 through 1981 the accumulated savings would be over $3 billion.

Now, these are savings to the Treasury, savings in unfunded liability, savings that we are really establishing for future annuitants, and this would protect the solvency of the fund.

Mr. Speaker, that is the emphasis that we should place behind the Chiles amendment.

Mr. ADDABBO. Mr. Speaker, if the gentleman will yield further, I will say that when this matter was in conference, we heard several different figures. This is the third or fourth figure I have heard. We have heard figures of $100 million, $200 million, and $300 million. I do not believe anyone has yet been able to analyze this amendment because it was passed so hurriedly in the Senate without hearings and no consideration by the House.

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

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

Mr. DERWINSKI. Mr. Speaker, if I may have the attention of the gentleman from New York (Mr. ADDABBO), I do not, of course, claim to be a master of the budgetary or the appropriation process, as is my good friend, the gentleman from New York. However, as the gentleman knows, when the House and the Senate passed the First Budget Resolution and then just 2 weeks ago passed the supplemental budget resolution, we presumed in both instances the passage of the repeal of the 1-percent kicker.

Therefore, any Member who was supporting that budget resolution should support this position. Other Members who voted against it did so because they felt it was too high a figure. To be consistent with any affirmative vote on the budget resolutions, one should support the position of the gentleman from Illinois (Mr. SHIPLEY) and accept the Senate amendment to repeal this 1-percent kicker.

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

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

Mr. BRINKLEY. Mr. Speaker, I would like to make an inquiry of the gentleman as to one distinguishing feature which I seem to detect in this conference report, as compared to the provision we voted upon earlier.

As I understand it, there will be no lag in the adjustment, with the biyearly adjustment that we are making in this conference report, whereas, on the other hand, under our consideration of the bill under suspension of the rules the lag was reduced to 2 months and whereas earlier there had been a lag of 5 months?

Mr. COUGHLIN. The gentleman is correct.

Mr. BRINKLEY. So, therefore, the conference report represents that improvement, in that there will be no lag?

Mr. COUGHLIN. The gentleman is correct.

Mr. BRINKLEY. Mr. Speaker, I thank the gentleman.

PARLIAMENTARY INQUIRY

Mr. FASCELL. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. MCFALL). The gentleman will state his parliamentary inquiry.

Mr. FASCELL. Mr. Speaker, do I understand that the question has now on request been divided by the Chair?

The SPEAKER pro tempore. The gentleman is correct.

Mr. FASCELL. And, Mr. Speaker, do I understand the first question that will be put whenever we get to it will be on the motion to recede?

The SPEAKER pro tempore. The gentleman is correct.

Mr. FASCELL. Mr. Speaker, I gather that a yes vote on that will permit the next question to be put—and that, I understand, has already been put since the question has been divided—and that is the question on the motion to concur in the Senate amendment with an amendment?

The SPEAKER pro tempore. The gentleman is correct. The gentleman states the parliamentary situation exactly correctly.

Mr. SHIPLEY. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. CHARLES H. WILSON).

Mr. CHARLES H. WILSON of California. Mr. Speaker, I join my friend, the gentleman from New York (Mr. ADDABBO), in asking that we do not recede and concur in the Senate amendment. There are four points I am going to make, and I am going to be as brief as possible.

First, this amendment is absolutely not germane to the bill that is under consideration. It should never have been put in the bill, but the Senate has certain peculiar rules that are entirely different than the rules we have here in the House of Representatives. This is not a germane amendment, and it does not belong in this bill.

Second, as the gentleman from New York (Mr. ADDABBO) mentioned, there have been no hearings on the Chiles amendment.

The Senate has not had any hearings on any kind of amendment involving the 1-percent kicker.

The gentleman from Texas (Mr. WHITE), the chairman of the Subcommittee on Retirement and Employee Benefits of the Committee on Post Office and Civil Service, has had about 2 days of hearings on the general subject of the 1-percent kicker, but no hearings have been held whatsoever on the Chiles amendment itself.

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

Mr. CHARLES H. WILSON of California. I yield to the gentleman from Maryland.

Mr. GUDE. Mr. Speaker, I want to commend the gentleman in the well for his statement.

Certainly on an amendment of this magnitude, involving such a large number of retired employees, there should at least be some type of hearing in the House and the Senate.

Mr. Speaker, I certainly support the gentleman's position.

Mr. Speaker, I am greatly disturbed that the conferees accepted the Senate provision to delete the 1-percent kicker on Federal retiree annuities and replace it with a system which will not allow these annuity checks to keep pace with the cost of living. As I stated to the House last month, retirees are already struggling to keep up with hikes in utility rates and real estate taxes not to mention hefty increases in every day living expenses such as food and gasoline, and cannot afford to be undercompensated in this way.

I am deeply disturbed that the House committee did not hold hearings on this provision which will adversely affect millions of retirees. In fact, the full committee never met to discuss the issue. I would like to insert for the record an analysis of the cumulative increase in cost-of-living adjustments which would have accrued without the 1-percent kicker and also an analysis based on the provision in this bill which provides for a semiannual consideration of cost-of-living increases, also without the 1 percent. I want to emphasize once again that the computation of retiree annuities as provided for in this bill will not assure a payment for the time it takes to make a decision on a cost-of-living increase to the time retirees actually receive that increase in their annuity checks.

ANALYSIS OF ANNUITY ADJUSTMENTS SINCE ENACTMENT OF PUBLIC LAW 91-93 (OCT. 20, 1969)

14 INCREASES WITH SEN. CHILES AMENDMENT

6-mo period through—	CPI	Increase (percent)	Compounding (percent)	Cumulative increase (percent)
June 1969	127.6			
December 1969	131.3	2.9		2.9
June 1970	135.1	2.9	0.0841	5.8841
December 1970	138.5	2.5	.1471	8.5312
December 1970	119.2			
June 1971	121.5	1.9	.1621	10.5933
December 1971	123.1	1.3	.1377	12.0310
June 1972	124.9	1.5	.1805	13.7115
December 1972	127.3	1.9	.2605	15.8720
June 1973	132.4	4.0	.6349	20.5069
December 1973	138.5	4.6	.9433	26.0502
June 1974	146.9	6.1	1.5891	33.7393
December 1974	155.4	5.8	1.9569	41.4962
June 1975	160.6	3.3	1.3694	46.1656
December 1975	166.3	3.5	1.6158	51.2814
June 1976	170.1	2.3	1.1795	54.7609
Total		41.5 +	10.2609 =	54.7609

10 INCREASES WITHOUT 1 PERCENT ADD-ON

Effective—	Increase (percent)	Compounding (percent)	Cumulative increase (percent)	
Nov. 1, 1969	4.0		4.0	
Aug. 1, 1970	4.6	0.1840	8.7830	(4+4.6+0.1840)
June 1, 1971	3.5	.3074	12.5914	(8.7840+3.5+0.3074)
July 1, 1972	3.8	.4407	16.8321	
July 1, 1973	5.1	.8584	22.7905	
Jan. 1, 1974	4.5	1.0256	28.3161	
July 1, 1974	5.3	1.5006	35.1167	
Jan. 1, 1975	6.3	2.2125	43.6291	
Aug. 1, 1975	4.1	1.7888	49.5179	
Mar. 1, 1976	4.4	2.1788	56.0967	
Total	45.6 +	10.4967 =	56.0967	(56 percent).

Mr. CHARLES H. WILSON of California. Mr. Speaker, I appreciate the gentleman's comments.

He is certainly correct on this, that we must have some type of hearings. We must have more information.

The gentleman from New York (Mr. ADDABBO) just discovered, through his questions, that no one can tell us what the Chiles amendment will constitute. Mr. Speaker, it is absolutely wrong to take this type of action.

The third thing that should be emphasized again is this fact: Let us separate the military and the Federal judges from the civilian employees who make contributions to this fund. The fund that involves the civilian employees is a solvent fund. There is more money in it, coming in each year, than that which is being taken out. This is their money. There is not a penny of tax money in that fund.

Mr. Speaker, if someone wants to have some legislation that would require that the military and the Federal judges make contributions to their retirement program, I would be for that 100 percent. I think perhaps that is what we should do, but let us not penalize the civilian employees, the Federal employees, who are making contributions and pay for their retirement program, and who are going to be hurt by the Chiles amendment that is under consideration at this time.

Mr. Speaker, the last point I want to make is that it is not the Congressmen that we have heard about from the gentleman from Missouri (Mr. ICHORD) who are the ones at stake here in this particular case. The fact is that 70 percent of the retirees here are people who are receiving $500 or less per month in their retirement program. Twenty percent of the annuitants receive less than $200 per month. It is people of this type who are going to be extremely penalized as a result of this particular amendment.

Mr. Speaker, I hope and urge that we reject the motion of the chairman of the subcommittee. I have all the respect in the world for him, but I think we would be making a mistake if we caved in to the Senate in this particular instance.

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

Mr. CHARLES H. WILSON of California. I yield to the gentleman from Virginia.

Mr. FISHER. Mr. Speaker, there is some confusion in my mind as to whether the plan that is in the bill and which the Senate has approved actually involves a delay in the giving of raises on account of cost of living.

I think it was said a little bit ago on the other side that there would be no delay. As I understand it, there would be at least a 2-month delay between the expiration of the 6 months' period and the reflection of any increases in the retirement check; is that correct?

Mr. CHARLES H. WILSON of California. Mr. Speaker, I am going to refer the question of the gentleman from Virginia (Mr. FISHER) to the gentleman from New York (Mr. ADDABBO).

Mr. ADDABBO. Mr. Speaker, if the gentleman will yield, I would have to agree with the gentleman from Virginia because what we are speaking about is under subsection (A), which reads:

> (A) on January 1 of each year, or within a reasonable time thereafter, determine the percent change in the price index published for December of the preceding year over the price index published for June of the preceding year.

Mr. Speaker, subsection (B) says that on July 1 the same thing would have to be determined 6 months after the fact.

Therefore, by the time they got a check it would be at least 2 months.

Mr. FISHER. Mr. Speaker, if the gentleman would yield further, there is, consequently, at least a 2-month delay. In addition, it seems to me that one would have to wait 6 months to establish an increase in the cost of living, on the basis of which the retirement check might be increased 2 months later. However, the cost of living may have gone up at any time during that 6 months' period, so there could be, in my opinion, an additional delay of 4 or 5 months if the cost of living, in fact, went up in the early part of the 6 months' period.

The SPEAKER pro tempore (Mr. McFALL). The time of the gentleman from California (Mr. CHARLES H. WILSON) has expired.

Mr. SHIPLEY. Mr. Speaker, I yield 2 additional minutes to the gentleman from California.

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

Mr. CHARLES H. WILSON of California. I yield to the gentleman from Virginia.

Mr. FISHER. Mr. Speaker, it seems to me, contrary to what may have been the understanding, that there is a delay, and it may be a delay of many months, between the increase in the cost of living and the reflection of that in the retirement check.

Mr. Speaker, I would like to ask one other question. I was furnished with some statistics, and perhaps other Members were as well, indicating that considering the last 10 or so pay increases, under the Chiles amendment which we are being asked to approve today, in effect, the accumulated increase over the 10 periods would be less by a little bit than what the increase would have been without any 1-percent kicker at all.

I wonder if the gentleman from New York (Mr. ADDABBO) or the gentleman from Illinois (Mr. SHIPLEY) could answer that?

Mr. ADDABBO. Mr. Speaker, if the gentleman will yield, let me say that I cannot answer that question and I do not think there is any person in the House who could do so. That was debated in the Senate and in the conference and again, and I repeat myself, we heard three different figures. No one knows what the effect of the Chiles amendment will be.

Mr. CHARLES H. WILSON of California. Mr. Speaker, that is another reason why we need further hearings on this so as to learn more about what we are going to do.

Mr. FISHER. Mr. Speaker, if the gentleman will yield further, these figures were furnished by an interested group, the National Association of Retired Federal Employees. They use a pretty sharp pencil on this. So I think without further

hearings, this is the kind of evidence that comes up at the last minute. We should have more information, more analysis, a better basis for anything as complicated, as difficult and as sensitive to millions of people as a proposal to reduce retirement benefits is bound to be. Indeed, if we remove the 1-percent kicker and substitute this new way of handling the matter, we will be kicking the retiree in the teeth as well.

I urge my colleagues to vote this proposal down.

Mr. SHIPLEY. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey (Mr. DOMINICK V. DANIELS).

Mr. DOMINICK V. DANIELS. Mr. Speaker, I rise in opposition to Senate amendment No. 91, which would eliminate the 1-percent add-on to civil service, military, and Foreign Service annuities and provides a new formula for computing cost-of-living adjustments.

I want to take just a moment to remind the Members why we have a provision providing for the 1-percent add-on in the present law.

Presently, a cost-of-living increase for annuitants is only triggered when the Consumer Price Index rises by at least 3 percent over the previous base month. Once the 3-percent trigger level is reached, the cost-of-living adjustment actually shows up in a retiree's check 6 months later.

During that period, the Consumer Price Index inevitably continues its upward trend, generally obtaining a level in excess of 1 percent over the actual percentage rate of the annuity increase. As a result, by the time an annuitant actually receives a check containing a cost-of-living increase, the ever-climbing CPI has already wiped out the purchasing power of that increase, and in most cases, the benefit afforded by the 1-percent add-on. In other words, even under existing law, with the add-on, the purchasing power of an annuitant generally fails to keep pace with the rise in the cost of living.

Now, if we agree to Senate amendment No. 91, we are going to deprive the retiree of the add-on, and we are still going to make him wait 9 months from the time the 6-month computation period begins to run until he actually receives a check with the appropriate increase.

I was a member of the House Post Office and Civil Service Committee in 1969 when it reported the bill which eventually was enacted to provide the 1-percent add-on. The committee, and the Members of this House, then clearly recognized the effect of the time lag between annuity increases, and the resulting need for the add-on, as indicated in the original House report (H. Rept. 91-158):

> In order to correct this serious deficiency in the adjustment formula and thereby compensate retirees and survivor annuitants for the intervening incremental rises in the cost of living, H.R. 17682 will add one percent to all future percentage adjustments.

Nothing has changed. The time lag still exists, and it will be 9 months if we agree to the Senate amendment.

Finally, and most disturbing, if we agree to this amendment the Congress is, in essence, going back on its word. We are taking money away from retirees, which we had promised them, and which they had relied upon receiving. I think this is a mistake, and I urge my colleagues to join me in voting "no" on Senate amendment No. 91.

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

Mr. DOMINICK V. DANIELS. I yield to the gentleman from Texas (Mr. WHITE).

Mr. WHITE. Mr. Speaker, as the gentleman from New Jersey has pointed out, the 1-percent add-on is intended to make the annuitant whole while he waits for the cost-of-living increase.

Mr. DOMINICK V. DANIELS. That is true. There is a 7-month lag.

Mr. WHITE. Is it not true the conferees could find some other way of making annuitants whole such as cash reimbursement for the lag, other than the Chiles amendment, some other way that would not cause hardship to the annuitant nor to the United States?

Mr. DOMINICK V. DANIELS. My colleague from Texas is entirely correct. The gentleman from Texas is now serving as chairman of the Subcommittee on Retirement and Employee Benefits and has held a couple of days of hearings on this matter, which is very complex and involved. I think we should not consider the Chiles amendment which is now being proposed to the membership of this House, because of the fact that it completely wipes out the present formula for retaining the cost-of-living increase and also wipes out the 1-percent add-on.

Mr. WHITE. I thank the gentleman from New Jersey for yielding.

Mr. COUGHLIN. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. DERWINSKI).

CALL OF THE HOUSE

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

The SPEAKER pro tempore. Evidently a quorum is not present.

Mr. SISK. 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. 795]

Abzug	Hébert	Mosher
Archer	Heckler, Mass.	Nix
Biaggi	Heinz	O'Hara
Bonker	Helstoski	Passman
Burton, John	Henderson	Patten, N.J.
Byron	Hinshaw	Peyser
Cederberg	Holland	Pike
Clancy	Jarman	Rangel
Cochran	Johnson, Calif.	Rees
Conyers	Jones, Ala.	Richmond
Diggs	Karth	Rosenthal
Drinan	Kastenmeier	Roush
Esch	Kemp	Ruppe
Evins, Tenn.	Lehman	Santini
Fenwick	McCollister	Sarbanes
Fish	McKinney	Scheuer
Foley	Madigan	Seiberling
Forsythe	Mathis	Shuster
Gialmo	Matsunaga	Smith, Nebr.
Gradison	Meeds	Stark
Green	Melcher	Steelman
Guyer	Meyner	Steiger, Ariz.
Harsha	Milford	Stephens
Hayes, Ind.	Mink	Stuckey
Treen	Van Deerlin	Wright
Udall	Waxman	Young, Alaska
Ullman	Weaver	Young, Tex.

Mr. McFALL. On this rollcall 349 Members have recorded their presence by electronic device, a quorum.

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

CONFERENCE REPORT ON H.R. 14238, LEGISLATIVE APPROPRIATION ACT, 1977

The SPEAKER pro tempore (Mr. McFALL). Prior to the quorum call, the gentleman from Pennsylvania (Mr. COUGHLIN) had just yielded 5 minutes to the gentleman from Illinois (Mr. DERWINSKI).

The gentleman from Illinois (Mr. DERWINSKI) is recognized.

Mr. DERWINSKI. Mr. Speaker, let me sum up this 1-percent-kicker issue and in the process let me dispel a few innocent misstatements that have been made.

First of all, it is absolutely untrue to say that if we do away with the 1-percent kicker, we are taking something away from the retirees. The facts of life are that the 1-percent kicker is an overpayment, it is a bonus. All we are doing here is providing actuarial and fiscal soundness; we are not taking basic provisions away.

The second point we have to consider is that under the Chiles amendment adopted in the Senate the retirees will be receiving semiannual adjustments in the cost of living. The next adjustment, according to the Civil Service Commission, will be on April 1, 1977, and that will be approximately 5.2 percent.

Mr. Speaker, if the Members are wondering about fairness, let me point out that only 4 percent of the private pension plans in existence in the country have a cost-of-living increase provision, and under social security retirement the adjustment is made just once a year. So the Federal retirees, under the civil service retirement program, have a much better situation, even with the Chiles amendment, than the private sector has, and that social security beneficiaries have.

But the real guts of the issue is this: The charge has been made that this is something they paid for. That is just untrue. This 1-percent kicker has never been paid for. It is charged entirely to the unfunded liability of the civil service retirement system. All that the civil service annuitants pay for at the present time is 7 percent matched by the Government, and that in and of itself is less than the payment needed to meet the unfunded liability.

Mr. Speaker, what we are speaking of here is a long overdue step to correct the mistake that Congress made 8 years ago.

The other thing to remember is that when we are speaking of the unfunded liability, we are speaking not just of the present recipient but we are speaking of future generations. If you would just read the morning New York Times we find there a story of a new crisis that has developed in the pension fund of the city of New York.

Who suffers when a State, a local, or a Federal pension fund goes awry? It is the future generations, the millions and millions of recipients who will be drawing these funds in years to come. Those are the people to be considered at this time.

Then if the Members want to hear one staggering figure, the Civil Service Commission estimates that if we assume an annual inflation rate of only 6 percent from 1976 to 1990, the 1-percent kicker, if retained, would cost $37 billion by 1990. Let me repeat. That is $37 billion. Just where are we going to raise the money to cover that?

I am going to read for the Members one paragraph of the House report that was written when this 1-percent kicker was adopted back in 1969. The report reads as follows:

> It is estimated that an additional 1 percent increase granted annuitants on any future cost-of-living adjustments will have a minimum annual cost of approximately $23 million.

That was an underestimate.

The SPEAKER pro tempore. The time of the gentleman from Illinois (Mr. DERWINSKI) has expired.

Mr. COUGHLIN. Mr. Speaker, I yield 2 additional minutes to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, the report went on to say that the unfunded liability would be increased by $243 million annually. That was in the report at the time this was adopted. It just slipped by; it did not get enough attention, and no one realized the sobering implications.

But the implications here today are these: If a Member voted for the budget resolution or if a Member supported the gentleman from California (Mr. ROUSSELOT) and voted against it, that Member was voting to either limit spending to the figures provided in the budget resolution or to cut spending.

That budget resolution assumed the passage of this repeal of the 1-percent kicker.

Second, Mr. Speaker, we must remember that we are not funding the 1-percent kicker. The third thing to remember is that this 1-percent kicker is a bonus. When we take it away, we are not penalizing anyone; we are just making a practical adjustment in the light of experience. We have debated this on four previous occasions this year.

Each time a majority of the House has gone on record to repeal the 1-percent kicker.

Mr. Speaker, to be consistent with our past votes in this session, to be consistent with our vote for the budget resolution, and to be consistent with our interest in future generations., I urge support of the committee report and support of the position taken by the gentleman from Illinois (Mr. SHIPLEY).

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

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

Mr. ROUSSELOT. Mr. Speaker, I appreciate my colleague's yielding.

The gentleman in his statement made it clear that the Chiles amendment mandates a semiannual determinaton of pension benefit increases for Federal retirees. It is my understanding that this amendment is superior to the current provisions for pension increases because retirees will no longer be forced to wait many months for increases in their retirement check due to a lengthy triggering process. However, the cost of the 1-percent extra bonus if retained would be $2.6 billion annually based on a 6-percent rate of inflation. This far exceeds the original 1969 estimate made by the Post Office and Civil Service Committee of $23 million annually. Clearly, the 1-percent kicker if retained as is, endangers the viability of the Federal retirement system not only for current annuitants but for future generations of Federal employees.

Under the Chiles amendment the Federal pension recipients are guaranteed cost-of-living reviews twice a year: Is that correct?

Mr. DERWINSKI. April 1 and October 1 of every year.

Mr. ROUSSELOT. That is because under the Chiles amendment pension increases are clearly tied, twice a year, to the cost-of-living index. Is that correct?

Mr. DERWINSKI. That is absolutely correct.

The SPEAKER pro tempore. The time of the gentleman from Illinois (Mr. DERWINSKI) has expired.

Mr. COUGHLIN. Mr. Speaker, I yield 1 additional minute to the gentleman from Illinois.

Mr. ROUSSELOT. Mr. Speaker, if the gentleman will yield further, according to a recently completed study by the General Accounting Office on Federal pension benefits only a small percentage of pensioners in the private sector enjoy the same level of benefits as the Federal employees will under this amendment; is that not correct?

Mr. DERWINSKI. The last figure we have is that only 4 percent of the private pension plans had seasonal adjustment for cost of living.

Mr. ROUSSELOT. So the Chiles amendment places the Federal pensioners in an advantageous position over employees in the private sector; is that not correct?

Mr. DERWINSKI. And in an advantageous position compared to social security beneficiaries.

Mr. ROUSSELOT. Mr. Speaker, I thank my colleague, the gentleman from Illinois (Mr. DERWINSKI) for his very concise and careful analysis of this Chiles amendment. The House should support the conferees.

Mr. DERWINSKI. Mr. Speaker, I thank the gentleman from California for helping me make my point.

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

Mr. DERWINSKI. I yield to the gentleman from Ohio, the ranking minority member of the Committee on the Budget.

Mr. LATTA. Mr. Speaker, let me commend the gentleman from Illinois (Mr. DERWINSKI) for a very excellent statement. I agree with him 100 percent.

The SPEAKER pro tempore. The time of the gentleman from Illinois (Mr. DERWINSKI) has again expired.

Mr. COUGHLIN. Mr. Speaker, I yield 2 additional minutes to the gentleman from Illinois.

Mr. LATTA. Mr. Speaker, if the gentleman will yield further, when we are talking about the private sector, we must also point out that they do not have the 1-percent kicker in their retirement plans, nor do they have the cost-of-living factor, with the exception of 4 percent. Therefore, we will still have the cost-of-living factor which is a plus over 96 percent of all of the pension systems in the private sector.

Mr. DERWINSKI. That is correct.

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

Mr. DERWINSKI. I yield to the gentleman from Texas (Mr. MAHON), the chairman of the Committee on Appropriations.

Mr. MAHON. Mr. Speaker, did I correctly hear the gentleman say that we have had several votes on the elimination of the kicker, and in each and every case, by a substantial vote, the House has turned down the 1-percent kicker?

Mr. DERWINSKI. That is right. The last vote we had when we attempted to suspend the rules. We did not have the needed two-thirds, but we certainly had a solid vote in favor of repealing the 1-percent kicker.

Mr. MAHON. On how many occasions have we voted on this issue during this session?

Mr. DERWINSKI. We voted on it in the measure for Foreign Service retirees and for the military.

Mr. MAHON. We voted on it for the military; that is correct.

Mr. DERWINSKI. And the figures were implied in the budget—not implied—the figures were assumed in the budget resolution. Then we had the specific vote under suspension, which just fell short of the needed two-thirds vote.

Mr. MAHON. Mr. Speaker, I thank the gentleman, and I support the position taken by the chairman of the subcommittee, and by others who have spoken in the same vein.

Mr. DERWINSKI. Mr. Speaker, I am overwhelmed by this tremendous support.

Mr. ROUSSELOT. Mr. Speaker, I rise in support of the Chiles amendment which is included in the conference report on H.R. 14238.

This Chiles amendment is a practical and reasonable compromise to proposed suggestions for revising the cost-of-living formula of civil service annuities.

The amendment repeals the 1-percent extra bonus—notice we say extra bonus—presently applied to civil service annuity adjustments and provides for semiannual adjustments to Federal annuitants based on increases in the consumer price index.

The cost savings to the U.S. Treasury and the taxpayers are substantial. Estimated savings in outlay for fiscal year 1977 are $228 million—$105 million for civil retirees and $123 million for military retirees. The 5-year savings, the unnecessary increases, are $3 billion.

Elimination of the 1-percent extra bonus is important to safeguard the resources of the civil service retirement fund. The 1-percent add-on has been in

effect since 1969, and has now resulted dramatically in overcompensation in the last 3 years. Since November 1969, civil service annuity increases have totaled 72 percent. Yet, during this same period, the consumer price index, to which annuity adjustments are geared, rose by only 56 percent.

Congress never envisioned a program that would have such runaway unfunded costs. The results of this action were totally unanticipated. At the time the extra bonus was put into effect to allow Federal retired employees to catch up with inflation. Since 1969 Federal retired employees have caught up.

The financial magnitude of this extra compensation is illustrated by the fact that of the $28 billion added to the unfunded liability of the civil service retirement system since 1969 by cost-of-living adjustments, about $4.9 billion is attributable to the one-percent add-on.

Even without the 1-percent kicker, our civil service retirement program, with its built-in guarantee of automatic adjustments, must be rated on the generous side when compared with retirement programs in the private sector. Other retirement programs commonly apply limits on the amount and frequency of increases. This is not the case with our Federal employee system. Retention of the 1-percent extra bonus would leave the Federal program virtually in a class by itself, and that is a distinction I do not think we can afford to perpetuate.

This amendment keeps faith with the civil service annuitants by permitting their annuities to stay abreast of cost-of-living rises twice a year and at the same time squares with the mood of the American working taxpayers by eliminating the 1-percent extra bonus.

Mr. Speaker, I urge favorable action on this Chiles amendment.

Mr. SHIPLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. ADAMS).

Mr. ADAMS. Mr. Speaker, the conference agreement on the Legislative Appropriations Act, 1977, provides budget authority of $943 million, which is fully consistent with the second budget resolution. This is a compromise from the original proposition of complete elimination of the 1-percent kicker.

Of great importance to the congressional budget for fiscal year 1977 and future years is the provision adopted by the Senate and agreed to by the House managers which would eliminate the so-called 1-percent kicker in computing cost-of-living increases for Federal retirees. The conference agreement would eliminate the 1-percent kicker immediately, and would substitute for it a provision which looks toward twice-a-year adjustments of Federal retirement benefits, based solely upon increases in cost of living. Elimination of the 1-percent kicker was a very important aspect of the 1977 congressional budget, and I am pleased that the Congress has an opportunity to vote on this matter and that the recommended cost savings can be realized. Members are aware that passage of this legislation relating to civil service retirees will—by the operation of measures adopted by Congress earlier this session—also eliminate the 1-percent kicker with respect to military and foreign service retirees.

My colleagues will recall that this issue has been before the House several other times this year. Both the military and State Department authorizations provided for elimination of the kicker in whatever way it is done in the civil service system. On June 17, 1976, the House voted 331 to 64 to eliminate funding for the 1-percent kicker in the military appropriations bill. The House then eliminated it for Foreign Service officers. On August 2, 1976, an absolute majority of the House approved the compromise offered by the chairman of the Post Office and Civil Service Committee, DAVID HENDERSON. The vote was 238 to 143, but because that measure came to the House under suspension of the rules, it failed to pass.

This amendment is a compromise between flat elimination of the 1-percent kicker with no other change and continuation of the status quo. This amendment is a worthy reform not only in terms of fiscal responsibility, but also in terms of providing more uniform treatment between Federal annuitants and social security retirees, who receive cost-of-living increases only once a year without the 1-percent kicker.

Savings in fiscal year 1977 are consistent with what we have assumed in the second budget resolution. A preliminary estimate of cumulative savings through fiscal year 1981 is $3 billion. These savings are not quite as large as assumed in the first resolution, because in that resolution we assumed straight elimination of the kicker without the semiannual increases proposed in this conference agreement. Savings of $3 billion over 5 years is a significant sum, especially since cost-of-living increases are financed from general funds, not from the matching employer-employee contributions. If the conference agreement is accepted, the Congress will have made the same provisions applicable to all Federal employees.

We all have been receiving letters on this issue. The recipients, of course, want to keep this advantage. But the compromise would not be unfair; it would not punish Federal retirees. Indeed, it would still provide two cost-of-living increases a year, rather than once a year as is the case with social security. Since the kicker was enacted in late 1969, these annuities have been increased by 72 percent while the cost of living for which these annuities were to compensate rose by only 56 percent.

We need to protect our retirees against inflation. There is no argument with that. We also need to protect those presently working. We do not need to overcompensate them for inflation, especially when we do not do this for social security. Indeed we simply cannot afford to do so and still hope to maintain the Federal retirement system which has grown from $91 to $95 billion since we started on this issue last year. We are now appropriated from the general fund only part of the interest on this. If we do not control the system this unfunded liability will continue to grow and payments can only come from the general fund which supports all other programs. At present the Government is appropriating $4 billion to $5 billion into the retirement trust annually in addition to 7-percent matching contribution from each agency and that will have to be automatically increased to cover the unfunded liability which is being increased by both the cost-of-living and 1 percent kicker increases.

I urge support of the motion of the chairman.

Mr. SHIPLEY. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. MAGUIRE).

Mr. MAGUIRE. Mr. Speaker, I rise in opposition to the motion offered by the gentleman from Illinois (Mr. SHIPLEY) to recede and concur in the Senate amendment. The reason I do this is because the parliamentary situation once again does not allow alternative proposals to be considered in the House unless the Shipley motion is first rejected.

Mr. Speaker, I have introduced an amendment with the gentleman from California (Mr. MINETA) which would eliminate the 1-percent kicker while providing retroactive compensation for delay periods in processing cost-of-living adjustments. On every occasion when we have considered this issue the parliamentary situation has precluded consideration of our alternative. This is the third time this year that this has happened.

Mr. Speaker, I have never quarreled with the attempt to eliminate the 1-percent kicker. In fact, I favor eliminating it. I have spoken for and voted for its elimination.

But what I do not want to do is to make a mistake distorting the situation in the opposite direction. Let us eliminate the 1-percent kicker, but let us also eliminate the difficulty that retirees have in coping with increases in inflation. Let us not increase the real value of the pension through the back door but also let us not decrease it, either. Let us eliminate the 1-percent kicker but assure that retirees are not denied, through time lags, the real value of their pension.

Under the present system cost-of-living increases are triggered when there are three consecutive monthly increases of 3 percent or more in the CPI. Effective on the first day of the third month after the trigger is set off, monthly benefits are increased by 1 percent plus the highest monthly percent increase during the triggering period and this month becomes the new base month.

The purpose of the additional 1-percent increase is to make up for the lag between the triggering time and the time when the increased benefits can be distributed.

Mr. Speaker, our amendment would simply eliminate the 1-percent additional increase and make the benefits retroactive. In other words, in the month when the increased benefits are distributed, the recipient receives the value of the cost-

of-living increase for the 5-month lag period. Second, our amendment would eliminate the 1-percent kicker immediately and would institute the new retroactive formula for payments beginning in fiscal year 1978. Our amendment will achieve the savings assumed by the Committee on the Budget for fiscal year 1977 by saving some $173 million. This amendment will also save $73 million over the conference version for fiscal year 1977. It will achieve two-thirds of the savings between now and 1981 that are contemplated in the Chiles amendment .

What the gentleman from California (Mr. MINETA) and I have offered, but which on the three successive occasions that we have voted on this we have been unable to present to the House, is simple retroactivity which would seem to meet any reasonable equity test. I think the House must demonstrate that its only intention is to achieve equity and it must be ready to replace the present system with a formula that is both fair and reasonable. Our amendment presents a fair and reasonable solution to the problem of the 1-percent kicker. We hope we will finally have an opportunity today to offer it so that it may be voted on by this House.

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

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

Mr. BINGHAM. Mr. Speaker, I thank the gentleman for yielding. I think the gentleman has offered a very commendable solution to a very difficult situation. I have been listening to the debate carefully and I support the position taken by the gentleman from New Jersey.

Mr. SHIPLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Maryland (Mrs. SPELLMAN).

Mrs. SPELLMAN. Mr. Speaker, I am opposed to the motion to recede from the House position on Senate Amendment 91, which amends the provisions for computation of cost-of-living increases for hundreds of thousands of Federal retirees.

We all know that this amendment was added on the floor of the Senate to the legislative branch appropriations bill, hardly what might be considered a germane bill. All of this was done late in the evening with a good number of Senators absent, despite the fact that the Senate has never conducted a single day of hearings on the proposal. Although the House has spent much time discussing the controversial subject of the 1-percent add-on, we, too, have not conducted a single day of hearings to determine the effects of the Senate amendment. Some may call the practice of passing a measure without fully considering it the normal legislative process, but I am sure most of us believe that such a practice is an unjust, unethical sham which is a disgrace to the integrity of the U.S. Congress.

Let us for a moment consider, not the retired executives, generals, and admirals, but the number of people who depend upon an annuity for their livelihood. According to the U.S. Civil Service Commission Report of Statistical Data for 1975, out of a total 982,433 Federal annuitants in the United States 248,594 receive an annuity of $3,600 or less, per annum. Just think about it, that means that more than 25 percent of the people who receive Federal annuities receive sums that are below all poverty standards. Would you say this is a befitting reward to the dedication which our Federal employees have long displayed.

Is this not a reform-minded Congress that has pledged itself to purging out the "old ways" which have disenfranchised millions of voters, a Congress which is concerned with restoring public confidence in Government? Then how can we expect a restoration of confidence if we alter the benefits of hundreds of thousands of citizens without the background work necessary to enable us to make a just decision?

Let us, also, finally consider the Senate amendment. In effect, it will dictate that, for the purpose of computing Federal annuities, the cost-of-living index be examined every 6 months. If it has gone up, Federal annuities would be computated on a 6-month basis rather than require that it had to go up by 3 points and had to stay up for 3 months, which is the present method of computation. Considering the analysis of annuity adjustments since October 20, 1969, when the add-on was enacted into law, one can see that if the Chiles Senate amendment were enacted in place of the add-on a retiree would have received a cumulative increase of 54.8 percent. That is 1.3 percent less than the cumulative increase in the cost-of-living index on this same period of time. So what in effect is being proposed here is not only the elimination of the add-on but the replacing of it with a formula which will not even keep Federal retirees up with the cost of living.

Mr. Speaker, I am very much opposed to the Senate amendment and I implore my colleagues in the name of fairness and justice to vote against this proposal. There are many questions to be answered before Congress can vote with a clear conscience. I urge my colleagues to join me in voting against the motion to recede from the House position and concur with the Senate amendment.

Mr. SHIPLEY. Mr. Speaker, I think the debate has been very thorough on this matter. We have had an opportunity to vote several times on the elimination of this 1-percent kicker. The House has acted. The Senate has acted. Under leave to extend my remarks I will insert a chronology which shows this matter has been voted on 10 times during this calendar year by either the House or the Senate.

The matter referred to follows:

SIGNIFICANT CONGRESSIONAL ACTION BY 94TH CONGRESS—2ND SESSION ELIMINATION OF 1 PERCENT KICKER

1. April 9, 1976—Approved elimination of 1% kicker for military retirees—298–52—H.R. 12438.

2. April 29, 1976—Adopted H. Con. Res. 611—the 1st congresisonal budget resolution which assumed repeal of the 1 percent kicker—221 yea; 155 nay.

3. May 13, 1976—Adopted the conference report on the 1st congressional budget resolution which assumed repeal of the 1 percent kicker—224 yea; 170 nay.

4. June 18, 1976—Approved elimination of 1% kicker for foreign service retirees—327–22—H.R. 13179.

5. August 2, 1976—H.R. 12882—Majority of house voted to repeal 1% kicker and to prohibit recomputation until cost-of-living had increased by 3%. Vote of 238 yea; 143 nay; 1 present. Was not 2/3, so bill failed to pass on suspension.

6. September 8, 1976—Senate adopted Hollings amendment to Legislative appropriation bill to eliminate 1% kicker—68 yea; 11 nay.

7. September 8, 1976—Senate adopted Chiles amendment to Legislative appropriation bill to provide for recomputation each 6 months for total increase in cost-of-living—thus eliminating the minimum increase of 3% in present law—adopted by voice vote.

8. September 9, 1976—House adopted H. Con. Res. 728—2nd concurrent resolution on the budget which assumed elimination of the 1% kicker—227–151.

9. September 15, 1976—Conferees reached agreement on Legislative appropriation bill agreeing to elimination of 1% kicker and providing new computation period.

10. September 16, 1976—House adopted conference report on 2nd concurrent resolution on the budget which assumed elimination of the 1% kicker—234–143.

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

Mr. SHIPLEY. I yield to the gentleman from Massachusetts.

Mr. BURKE of Massachusetts. Mr. Speaker, I think what we ought to keep in mind here is that the Government has made a contract with the retirees. Many of those retirees retired ahead of time with the understanding that they were going to get this 1-percent kicker.

Does this provision, I would ask the gentleman, provide that it takes effect immediately and that the 1-percent kicker is repealed immediately upon the enactment of the law?

Mr. SHIPLEY. Upon enactment of the law, the gentleman is absolutely correct.

Mr. BURKE of Massachusetts. Does the gentleman not think that is rather unfair? Here are these people who retired and who thought they would be given the 1-percent kicker, and here a year later they are told that it will be taken away from them. We encouraged these people to retire earlier from the various agencies of the Government. We encouraged Members of Congress to retire from the Congress. I think this year 32 Members are retiring and many of them were retiring with the understanding they were going to get the 1-percent kicker and they were retiring to make place for the younger people who wanted to take their place. They wanted to get a younger Congress in. Now what do we find?

We find the Government is going to break its word to the retirees.

Why not give them at least 2 years or 3 years or 5 years to prepare?

Mr. SHIPLEY. I would say to the gentleman from Massachusetts, who mentions that it is not fair; certainly it is a fair thing to do because while the 1 percent has been added, the cost of living has increased 56 percent but the retirees' pensions have been increased 72 percent. That is what is not fair. The House and

the Senate have expressed themselves many times in various forms to the effect that we made a mistake in adopting the kicker in the first place. I think it is very wise today to go along with the Senate in eliminating the kicker.

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

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

Mr. ROUSSELOT. Mr. Speaker, I would like to say to the gentleman from Massachusetts that one of our former colleagues, Hastings Keith, a retired Member of the House of Representatives, has written us a letter which I will now read:

BROCKTON, MASS., *June 22, 1976.*

Hon. RICHARD C. WHITE,
Chairman, Subcommittee on Retirement and Employee Benefits, Washington, D.C.

DEAR MR. CHAIRMAN: I regret that a hospital stay prevented me from testifying before your committee concerning the proposal to discontinue the so-called "one percent add-on" feature of the Civil Service (Military) Retirement Plan for all federal annuitants. I appreciate your willingness to make this letter a matter of public record in the hearings which you will be publishing of today's meeting.

You know from my earlier appearance—last November 14—that I have been very much concerned with the long-range implications—both social and economic—which flow from this one percent "kicker."

I am convinced that unless this provision is deleted from the existing statutes that it will unnecessarily and unjustifiably increase the pension benefits of the retired federal employees to a degree that will accelerate the very inflation with which it was intended to cope. Furthermore, it will bring about other unforeseen problems that will cause difficulties far beyond those which we have thus far encountered.

All of this was forecast by our highly-esteemed former member, Martha Griffiths, who represented Michigan in the Congress for so many years. In 1970, while she was chairing a meeting of the Joint Economic Committee she forecast a taxpayers' revolution which would eventually occur as a result of the taxpayers' conclusion that they would have to work longer hours and pay heavier taxes in order to support the early retirement and the generous pensions that were being legislated for public employees.

That was in 1970, long before the effects of the cost-of-living increase or the one percent add-on had even begun to be felt! Since that time, Mr. Chairman, we have seen the City of New York on the verge of bankruptcy; we have witnessed the state employees of Massachusetts so adamant in resisting change in their pension plan that the governor had to take drastic steps in an effort to remain solvent; we have seen the District of Columbia (the city whose pension plan is very much the creature of Congress) now confronted with unfunded liabilities that are so extensive that Senator Eagleton has warned Congress and the nation of a pending time bomb pension explosion.

Mr. Chairman, there are other signs of disaster—even of revolution—which confront the country in general and Congress in particular. There are big questions which you and your colleagues have been wrestling with for many years; these problems have developed because of the "layering" of benefits that has occurred as Congress has attempted to do something additional for the civil service constituency in most every year, certainly in every election year. I am sympathetic to your problem, and as you know, generally speaking, I supported legislation which this committee has brought to the floor of Congress.

I would, however, in self-defense point out that I have from time-to-time protested some of what seemed to me to be overly-generous amendments which have been added to the Civil Service Retirement Act and to other Acts relating to retirement benefits. I have registered my concern in Congressional debates on many occasions—on abuses in the Railroad Retirement Act of 1960, on the generosity of the federal judiciary's pension plan, and generally on the early retirements of federal employees, whose so-called "hazardous" occupations were frequently used to provide early retirement for them. It seemed to me then as it does now that lateral transfers within the civil service would have made possible a much more effective utilization of their talents and at the same time saved the taxpayers hundreds of thousands of dollars—perhaps millions of dollars.

Finally, Mr. Chairman, I voted for the H.R. Gross amendment that would have deleted the one percent add-on in 1969. I did speak against this amendment but such argumentation was inadequate, and we committed the nation to a course, the fruit of which has brought us to the point where we are now.

Under the Henderson bill those existing add-ons which the legislation seeks to stop are eliminated. No recognition is given to the existence of those add-ons already effected by the extraordinary inflation of recent years.

I do not suggest that they should be taken away—or that the pension should be immediately adjusted downward to correspond to the actual increases that would have resulted from close correlation with the cost of living. What I do suggest is that all of the existing federal annuitants and their surviving spouses continue to receive their present annuities (and this means the present increment of the current pension benefit which is, even now, in excess of the cost of living) until such time as the cost of living catches up with the annuities they are now receiving. This would allow the pensioners to keep, of course, the more than one billion dollars above the cost of living that has already been paid to them and allow them to continue to draw the additional amounts contained in their present pensions for rather lengthy periods of time. It would mean that they would get another billion dollars in benefits above the cost of living during the catch-up period!

But eventually, Mr. Chairman, the cost of living would catch up with these individual pensions, and these annuities would thereafter keep pace with the cost of living—whatever it may be.

As you probably know, Congressman Findley has offered an amendment which would implement this philosophy. If that amendment were accepted by your committee and the Congress, it would save the taxpayers approximately thirty-eight billion dollars over the life expectancies of the existing annuitants and their surviving spouses.

I realize that it is very difficult for the committee, for the Congress, or for anyone to comprehend how such a relatively small amount of money as a billion dollars could, when compounded at six percent, increase pension payouts by so many billions of dollars, but this is in fact the case. It seems to me that we have all forgotten if we ever knew about Einstein's reply when asked, "What is man's greatest invention?" He didn't say the wheel or the lever; he said, "Compound interest!"

Here is how $100 of federal pension (without the "add-on") compounds at six percent. The $100 increment increases (compounds) to $242 during a life expectancy of fifteen years. The total payments flowing from this increment amount to $28,346. At the annuitant's death the surviving spouse will receive a follow-on pension starting at $136 per month and rising during his or her life expectancy of ten years to $245 per month. It provides a total of $21,786. (Since only fifty-five percent of the pensioners will leave a surviving spouse, the average will total $11,982.)

Assuming conservatively that there are two million military and civilian retirees with an average monthly increment from the one percent add-on of only $50—at six percent inflation—the total over their life expectancies would be about $28 billion. The total follow-on benefits to their surviving spouses would cost another $12 billion.* (All of this is in addition to the basic pension and in addition to cost-of-living increases. And all of it is financed from general revenues. None of it comes from employee contributions. It stands in sharp contrast to the fate of the rest of the American work force which does not share in such a benefit program.)

It is these additional costs, on top of several hundred billion dollars of other unfunded liabilities, that have prompted me to speak out on this question. I am deeply concerned that continuation on the present course will wreak havoc with our economy—and consequently with our society.

Responses which I receive to press coverage on this subject and to my earlier testimony before your committee indicate to me that most of the critics of my arguments are those who are getting small pensions. I would concur that if those retirees have spent the major part of their working years with the federal government and are not being adequately cared for by other federal programs, particularly Social Security, they should get increases in pensions which allow them to live comfortably in retirement.

Mr. Chairman, I believe that it is not only the general public which is concerned with the constantly increasing cost of public pensions. I believe, too, that the hard-working career public servant recognizes that these pension benefits (and taxes) can't continue, and he hopes that the Congress will correct these abuses before the nation suffers a fate somewhat akin to that of New York City and the State of Massachusetts.

Sincerely,

HASTINGS KEITH.

Since 1969 there has been an increase in Federal pensions of 72 percent. "Federal pensioners have been more than compensated by the 1 percent extra bonus" according to our former colleague. Our former colleague states that it is time to eliminate the 1-percent kicker. Additionally he notes that under the Chiles amendment Federal employees will be brought up to proper levels of income with the increases according to the cost-of-living index, twice a year.

So, I would say to my good colleague, the gentleman from Massachusetts (Mr. BURKE) that our former colleague from Massachusetts, Mr. Keith, who is now retired, that he believes all Federal employees have not only caught up but also that they are ahead in the race to keep up with inflation. Further Mr. Keith believes they will continue to stay ahead of the game on the basis of the Chiles amendment. I know that the gentleman from Massachusetts (Mr. BURKE) agrees that our former colleague has an excellent sense of fairness.

Mr. BURKE of Massachusetts. I would like to tell my good friend that Hastings Keith and I are very close personal

* This information was supplied to me by Mr. Robert Myers, former Chief Actuary for the Social Security Administration and now professor of actuarial science at Temple University.

friends. Hastings is doing very well. He gets two pensions. But there is nothing to prevent Hastings from giving back the 1-percent kicker if he does not need it.

But I am talking about the people who need it, those in the low-pension group. I think it is unfair of this Congress and a piece of callousness on our part to take it away from the pensioners now. Oh, I know, politically it is a great move to make.

But to say to those low-paid people, to say to them they are not going to get it, I would like to remind the gentleman who talked about the increase in the pension, that increase was based on a very low pension in the first place; so even though the increase might have gone up further than the cost-of-living, the pension that was received in the first place was inadequate.

Mr. SHIPLEY. Mr. Speaker, the gentleman talked about the political vote. The political vote here would be to keep the 1-percent kicker and not kick it out.

Mr. BURKE of Massachusetts. No, no; that does not take courage to vote to repeal. To keep the 1 percent, it takes courage.

Mr. SHIPLEY. Mr. Speaker, I yield 1 minute to the gentleman from Indiana (Mr. MYERS).

Mr. MYERS of Indiana. I thank my friend from Illinois, Mr. SHIPLEY, for yielding. Mr. Speaker, there are a number of people speaking about cowardice. I am not sure where the cowardice lies in this particular vote. I think I know, but the gentleman from Illinois (Mr. SHIPLEY) has put his finger right on it; but in any event, we have been talking about that it does not take any money from the Treasury, and this is true at this point. The gentleman from Illinois (Mr. DERWINSKI) talked about the actuarial account, how we are using it up. So who are we taking money from when we give the people now receiving benefits the 1-percent kicker? It is the people working now for the Federal Government in the district of the gentlewoman from Maryland (Mrs. SPELLMAN) and the other people working now for the Government who are having their retirement accounts depleted, when their accounts are being diminished by these payments sometimes in the future either someone must pay a lot more into the account or the Treasury must take it over.

So, Mr. Speaker, I say it takes courage to stop the 1-percent kicker, to protect the people still working and the retirement account all are or will be drawing upon.

Mrs. HOLT. Mr. Speaker, I rise to express my opposition to Senate amendment No. 91 to the Legislative Branch Appropriations Act.

Every Member in this Chamber recognizes that there are growing problems associated with the Federal retirement system. I am sure that we are all committed to providing retirees with adequate compensation at a cost affordable to the taxpayers.

However, we must exert extreme caution in acting on measures that affect millions of our Nation's senior citizens. The retirement system is a complex system which provides benefits to 2.5 million Federal retirees. It is not susceptible to quick and easy changes. Alterations must be carefully thought out and scrutinized before being implemented.

I oppose this amendment today because it fundamentally changes the cost-of-living mechanism for Federal retirees and yet it was not subjected to the normal legislative process. It was not reported or analyzed by the appropriate jurisdictional committee. This proposal was an amendment offered on the floor of the Senate. We all know that sound legislation is a product of the committee process; it is not written on the floor. I urge my colleagues not to be stampeded into an action which may adversely affect 2.5 million retirees, and to join with me in opposing this amendment.

Mr. FRENZEL. Mr. Speaker, I congratulate the conferees for giving us a chance to vote to repeal the infamous 1 percent "kicker" on Federal and military pensions. I urge a vote for repeal of the kicker.

Since it became law, the kicker has escalated pensions at a rate well above increases in the cost of living. Unless we repeal it, it will cost the taxpayers billions of dollars. Estimated extra costs of the kicker over the next 5 years is $3 billion. It has already cost the taxpayers $5 billion extra since 1969.

The compromise on COL adjustments every 6 months seems to me to be a good one. If we ever get a handle on inflation, the pensioners will not have to wait for a 3-percent increase to get their cost-of-living adjustment.

Repeal of the kicker will also help keep the Federal pension system from bankruptcy. The unfunded liability of the system is now $106 billion. We chop that liability, a debt of the taxpayers of tomorrow, by billions by repeal.

Mr. UDALL. Mr. Speaker, today we vote on whether or not we should repeal the "1 percent kicker" for Federal retirees. As a friend of Federal employees and retirees, I intend to vote in favor of the Chiles amendment to replace the 1-percent add-on provision with an automatic, twice-yearly cost-of-living adjustment for Federal retirees.

Let me make the following points—

In the debate and discussion continual reference has been made to the fact that no specific hearings have been held on the subject. I would suggest that sometimes a problem is so self-evident that all it takes is common sense to understand that a law which was intended to resolve one problem has simply created an entirely different one. That is what we did when we enacted the original legislation. In solving one serious injustice to retirees, we created another problem. The question before us today is how to adjust the law so that we still protect the retired employee without granting benefits that are unfair. And that, in my judgment, is what the Chiles amendment does.

Furthermore, the Chiles amendment will give Federal retirees an automatic adjustment twice a year, based on actual increases in the cost of living. This provision is better than the one provided for social security annuitants, who get a similar adjustment once a year.

It is hard for me to understand how a retiree can say that it is equitable for them to have twice-yearly adjustments when no other large group of retirees have similar benefits.

Finally, it is estimated that the Chiles amendment will save something over $3 billion through fiscal year 1981.

When the original 1-percent kicker was adopted by the Congress, no one knew for sure how it would work. What we were trying to do was to be fair to retirees so that they would not suffer the ill effects of inflation while living on fixed incomes. We made that adjustment, but we overadjusted it, to such an extent that this group of retirees received over 25 percent more in their retirement benefits than the actual increase in the cost of living. We did not intentd for that to occur and as responsible legislators, we have an obligation to rectify our mistakes.

For that is what it is—a mistake. And when you make a mistake, you ought to try to undo what you did.

Now, maybe the Chiles amendment is not perfect, but the Committee on Post Office and Civil Service will watch it in the next Congress, and if it does not work as well as it should, we will change it.

But for now, I think it is a fair and equitable solution to a mistake we made 6 years ago, and for these reasons I intend to support it.

Mr. KOCH. Mr. Speaker, I have consistently been in support of the elimination of the so-called 1-percent kicker to the pensions of Federal retirees. All along I have maintained that we should only pay increases in the cost-of-living to Federal annuitants. I still believe that the 1-percent add-on is too costly and ought to be eliminated from the Federal pension plan.

However, I intend to vote against Senator CHILES' amendment to the legislative branch appropriations bill on two basic grounds.

The first is that the House of Representatives did not adequately discuss and vote on elimination of the 1-percent add-on. The House Committee on Post Office and Civil Service never took a vote on the issue and the one time this issue was before the full House, the House voted against the elimination of the 1-percent add-on under a suspension of the rules. I believe that a significant change in benefits to retirees on fixed incomes ought to be adequately debated and reflected upon.

Second, as I understand it, the Chiles amendment reduces the benefits received beyond the 1-percent add-on and actually would not give the annuitants a full cost-of-living increase. We do know that the 1-percent add-on has led, since 1969, to a benefit increase higher than the cost-of-living increase since 1969. But it has been estimated that in the Chiles amendment had been in effect since 1969, the increase in benefits would have been less than the cost-of-living increase during that period.

Therefore, I will cast my vote against the Chiles amendment on the grounds that it goes beyond the mere elimination of the 1-percent add-on and would unfairly penalize those who count on the

cost-of-living increase to help provide them with an adequate fixed income. When and if a proper amendment is offered which will protect the pensioner from any loss as a result of inflation and at the same time not provide a bonus resulting in a loss to the taxpayer—I will vote to rescind the 1-percent add-on. This amendment does not do that.

Mr. FORD of Tennessee. Mr. Speaker, I rise today to oppose the elimination of the 1-percent add-on for Federal retirees included in the conference report on H.R. 14238, the "Legislative Branch Appropriations Act for Fiscal Year 1977." While I do support the provisions of this bill pertaining to the operation of the legislative branch, I object to the inclusion of the motion which would eliminate the 1-percent add-on.

The House in its wisdom has rejected previous efforts to make changes in the cost-of-living increases for retired Federal employees. Only little more than a month ago, the House considered a bill, H.R. 12882, which contained an amendment that would have eliminated the add-on. I may add that many of the Members of this distinguished body who objected to this action did so because they felt that it was improper to consider this issue as part of an unrelated bill.

However, here we are today considering another nongermane amendment, but this time to an appropriations bill. This amendment was sent to us by the Senate which has a penchant for forcing such decisions on the House. I wish that Congress would reject this amendment as eagerly as it accepted a pay raise for itself last year, which was also added to an unrelated bill. The difference today though is that we are asking the people who pay our salaries to involuntarily sacrifice an important part of their incomes. These are retired people; those who can least afford any reduction in their earnings. In addition, the group of retirees we are singling out are those people who worked for the same employer we do.

As a member of the Select Committee on Aging, I am well acquainted with the financial problems retirees face. Inflation ravages their incomes; therefore, an quitable means of coping with the changes in the economy must be guaranteed to them. So far, the 1-percent add-on has been both a fair and suitable answer to this problem. Indeed it is a better answer than the cost-of-living adjustment provided for in this bill.

I hope that my colleagues will be reminded of the most important dimension of our actions here—the human dimension. The elimination of the 1-percent add-on will adversely affect millions of persons. Before casting your vote, remember that it was the 94th Congress which established the first committee to examine the problems of the older citizens of this country, the Select Committee on Aging. We have just begun to realize that these persons are an invaluable resource for our Nation. It would be a terrible setback to the progress we have made for the elderly if we eliminate the 1-percent add-on. Congress will be betraying the trust of these people which I am not willing to do. I urge the Members of this august body to join with me in opposing this grossly insensitive effort to deprive this Nation's senior citizens dignified lives.

Ms. ABZUG. Mr. Speaker, despite reports to the contrary, the issue of the 1 percent cost-of-living adjustment for Federal retirees remains very much alive. I am particularly disturbed to see this issue raised as an amendment to an appropriations bill. I oppose this feature of the bill. When the 1 percent cost-of-living adjustment was enacted in 1969, it was the intent of Congress that retirees should not only be able to keep up with inflation, but that they should also, to some extent, be able to maintain their standard of living and benefit by the productivity of the current work force. The Consumer Price Index is based on the rise in the cost of goods and services and used in computing the cost-of-living increase for our Federal retirees may have actually understated the impact of inflation on senior citizens inasmuch as the preponderance of a senior citizen's income is spent on food, housing, fuel, and medical care, items which have experienced the highest rates of inflation.

To eliminate the so-called "kicker" would penalize annuitants for inflation. This makes no sense. Inflation hurts those on fixed incomes more than anyone else. I am appalled by those who advocate economy at their expense. They are not the cause of our economic ills, they should not have to unduly suffer for them.

Mr. MOAKLEY. Mr. Speaker, I rise in opposition to the motion to recede and concur, with an amendment, in Senate amendment No. 91 relative to the 1-percent cost-of-living add-on.

I commend the managers on the part of the House for presenting this matter in a manner that will permit a separate vote on this issue. I am nevertheless troubled by the repeated attempts to repeal the 1-percent add-on "under cover of darkness."

The issue was presented to the House August 2 in the form of a motion to suspend the rules and pass an unrelated bill with an amendment repealing the 1-percent add-on. The motion was offered by the chairman of the Committee on Post Office and Civil Service acting without the authorization of the committee.

The motion having failed for lack of the required two-thirds vote, it was proposed to offer the repeal as an amendment to the same bill when it was considered under a rule. This was never done, primarily because the amendment was apparently not germane to the bill under clause 7, rule XVI.

Now we are presented with the repeal in language extensively amending matters which lie within the exclusive jurisdiction of the Committee on Post Office and Civil Service. And this is done in a conference report presented by a nonlegislative committee. Even were such a matter within the jurisdiction of Appropriations, the Subcommittee on the Legislative Branch does not appear to be the appropriate subcommittee.

There is a clear threat that this repeal will be enacted in a manner which represents a clear raid on the jurisdiction of a standing committee of the House and will go into law without the benefit of any hearings.

And why are we shortcircuiting the legislative process?

I will gladly yield to anyone who claims that the "kicker" results in payments to civil service and military annuitants which outpace the Consumer Price Index. This is absolutely true. The numbers are there and there is no point in trying to debate them.

But the numbers are at best misleading and at worst deceptive.

The CPI is a good guide to the increase in the cost of living of the "typical" married couple with two and a half children, a suburban house and a typical employment and spending pattern.

But theirs is a very different spending pattern from that of the retired people who will be hurt by Senate Amendment No. 91.

A study conducted by my office in February 1975 indicated that the cost-of-living for senior citizens was then running a full 3 percentage points ahead of the CPI.

The reason for this is that it is precisely those items which have been under the greatest inflationary pressure on which senior citizens expend the largest portion of their income—food, medical care, prescriptions, housing and so on.

Even with the so-called kicker, senior citizens on Federal annuitities are steadily slipping in purchasing power.

Last year I introduced a bill (H.R. 3449) which would have required the Bureau of Labor Statistics to compile a "Senior Citizen CPI." I regret that this bill was not reported. I would like to have these numbers used as the basis for this debate.

But I think it is very unfair to tamper with the add-on until we have a clearer idea of what we are doing to retirees. I urge the House to defeat the motion so that this kind of analysis can take place through the normal machinery of committee hearings by which such an important matter should reach the House.

Mr. SHIPLEY. Mr. Speaker, I move the previous question on the motion to recede.

The previous question was ordered.

The SPEAKER. The question is on the motion to recede.

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

Mr. ADDABBO. 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 250, nays 157, answered "present" 1, not voting 22, as follows:

[Roll No. 796]

YEAS—250

Abdnor	Andrews, N.C.	Armstrong
Adams	Andrews, N. Dak.	Ashbrook
Alexander	Annunzio	Ashley
Ambro	Archer	Aspin
Anderson, Ill.		AuCoin

Baldus
Baucus
Bauman
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biester
Blouin
Boland
Bolling
Bonker
Brademas
Breaux
Breckinridge
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burleson, Tex.
Burlison, Mo.
Butler
Carr
Carter
Cederberg
Clawson, Del
Cochran
Cohen
Collins, Tex.
Conable
Corman
Cornell
Cotter
Coughlin
Crane
Daniel, Dan
Danielson
Derrick
Derwinski
Devine
Dickinson
Downing, Va.
Drinan
Duncan, Oreg.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erlenborn
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Fenwick
Findley
Fish
Flowers
Flynt
Foley
Forsythe
Fountain
Fraser
Frenzel
Fuqua
Gibbons
Goldwater
Goodling
Grassley
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammer-schmidt
Hansen
Harkin
Harrington
Hayes, Ind.
Hébert
Hechler, W. Va.
Heckler, Mass.
Hefner
Hightower
Horton
Howe
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Johnson, Colo.
Johnson, Pa.
Jones, Okla.
Karth
Kasten
Kelly
Kemp
Ketchum
Keys
Kindness
LaFalce
Latta
Lent
Levitas
Long, La.
Long, Md.
Lundine
McClory
McCloskey
McCormack
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Mahon
Mann
Martin
Mazzoli
Meeds
Melcher
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murtha
Myers, Ind.
Myers, Pa.
Neal
Nedzi
Nichols
Nowak
Obey
O'Brien
Ottinger
Passman
Patterson, Calif.
Pattison, N.Y.
Paul
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Railsback
Rees
Regula
Rhodes
Roberts
Robinson
Rodino
Roncalio
Roush
Rousselot
Roybal
Ryan
Santini
Sarasin
Satterfield
Schneebeli
Schroeder
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Snyder
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steiger, Wis.
Stratton
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thornton
Treen
Udall
Ullman
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Wampler
Whalen
Whitten
Wiggins
Wilson, Tex.
Winn
Wirth
Wright
Wylie
Yates
Zablocki

NAYS—157

Abzug
Addabbo
Allen
Anderson, Calif.
Badillo
Bafalis
Beard, R.I.
Biaggi
Bingham
Blanchard
Boggs
Bowen
Brinkley
Brodhead
Brown, Calif.
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burton, John
Burton, Phillip
Byron
Carney
Chappell
Chisholm
Clausen, Don H.
Clay
Cleveland
Collins, Ill.
Conte
Conyers
D'Amours
Daniel, R. W.
Daniels, N.J.
Davis
de la Garza
Delaney
Dellums
Dent
Diggs
Dingell
Dodd
Downey, N.Y.
Duncan, Tenn.
Eilberg
Evans, Ind.
Fary
Fisher
Fithian
Flood
Florio
Ford, Mich.
Ford, Tenn.
Frey
Gaydos
Gilman
Ginn
Gonzalez
Gude
Hanley
Hannaford
Harris
Harsha
Hawkins
Heinz
Hicks
Hillis
Holland
Holt
Holtzman
Howard
Hubbard
Hughes
Jeffords
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Koch
Krebs
Krueger
Lagomarsino
Leggett
Lehman
Lloyd, Tenn.
Lott
Lujan
McDade
Maguire
Mathis
Metcalfe
Meyner
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Murphy, N.Y.
Natcher
Nolan
Oberstar
O'Hara
O'Neill
Patten, N.J.
Pepper
Perkins
Quillen
Randall
Rangel
Reuss
Richmond
Riegle
Rinaldo
Risenhoover
Roe
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Runnels
Russo
St Germain
Sarbanes
Scheuer
Schulze
Sikes
Solarz
Spellman
Spence
Steed
Stephens
Stokes
Stuckey
Studds
Sullivan
Thompson
Thone
Traxler
Tsongas
Van Deerlin
Walsh
Waxman
Weaver
White
Whitehurst
Wilson, Bob
Wilson, C. H.
Wolff
Wydler
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Zeferetti

ANSWERED "PRESENT"—1

Lloyd, Calif.

NOT VOTING—22

Clancy
Conlan
Esch
Giaimo
Gradison
Green
Guyer
Helstoski
Henderson
Hinshaw
Jones, Ala.
Landrum
McCollister
Matsunaga
Mink
Nix
Peyser
Ruppe
Smith, Nebr.
Steelman
Steiger, Ariz.
Young, Tex.

The Clerk announced the following pairs:

Mr. Matsunaga with Mr. Clancy.
Mr. Green with Mr. Steiger of Arizona.
Mr. Giaimo with Mr. Gradison.
Mr. Helstoski with Mr. Peyser.
Mrs. Mink with Mrs. Smith of Nebraska.
Mr. Nix with Mr. Conlan.
Mr. Henderson with Mr. Ruppe.
Mr. Jones of Alabama with Mr. Esch.
Mr. Landrum with Mr. Guyer.
Mr. McCollister with Mr. Steelman.

Mr. MOSS changed his vote from "nay" to "yea."

Mr. HOLLAND changed his vote from "yea" to "nay."

So the motion to recede was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the motion to concur in the Senate amendment with an amendment offered by the gentleman from Illinois (Mr. SHIPLEY).

The motion to concur in the Senate amendment with an amendment was agreed to.

A motion to reconsider the votes by which action was taken on the several motions and on the conference report was laid on the table.

GENERAL LEAVE

Mr. SHIPLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to and that I may be permitted to include certain tabulations with respect to the conference report and the action taken by the House on this matter today.

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

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Roddy, one of his secretaries, who also informed the House that on September 17, 1976 the President approved and signed bills of the House of the following titles:

H.R. 5071. An act to amend section 584 of the Internal Revenue Code of 1954 with respect to the treatment of affiliated banks for purposes of the common trust fund provisions of such Code; and

H.R. 6622. An act to provide for repair of the Del City aqueduct, a feature of the Norman Federal reclamation project, Oklahoma.

REQUEST FOR PERMISSION TO FILE CONFERENCE REPORT ON S. 2228

Mr. ROE. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the Senate bill (S. 2228) to amend the Public Works and Economic Development Act of 1965, as amended, to extend the authorizations for a 3-year period.

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

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the gentleman tell us why it is necessary to make this unanimous-consent request?

Mr. ROE. If the gentleman will yield, because we have to get unanimous consent to file by midnight.

Mr. ROUSSELOT. Further reserving the right to object, why is it necessary to get unanimous consent? Why can it not be filed in the normal manner?

Mr. ROE. If the gentleman will yield, because we are hoping to bring this conference report up by tomorrow.

Mr. ROUSSELOT. Further reserving the right to object, has that been discussed with the minority leadership?

Mr. ROE. It is my understanding that it has been. I do not know.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, could the gentleman check with the minority and find out?

Mr. ROE. If the gentleman will yield, I would be glad to.

Mr. Speaker, I will withdraw my unanimous-consent request and bring it up later.

CONFERENCE REPORT ON H.R. 7108, AUTHORIZING APPROPRIATIONS FOR ENVIRONMENTAL RESEARCH, DEVELOPMENT, AND DEMONSTRATION

Mr. BROWN of California (on behalf of Mr. TEAGUE) filed the following conference report and statement on the bill (H.R. 7108) to authorize appropriations for environmental research, development, and demonstration:

CONFERENCE REPORT (H. REPT. No. 94–1645)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7108) to authorize appropriations for environmental research, development, and demonstration, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments which added new sections 6 and 7 to the bill.

That the House agree to remove all references in the bill to the Safe Drinking Water Act.

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

That this Act may be cited as the "Environmental Research, Development, and Demonstration Authorization Act of 1976".

SEC. 2. (a) There is authorized to be appropriated to the Environmental Protection Agency for the following categories, as follows:

(1) Research, development, and demonstration under the Noise Control Act of 1972 (42 U.S.C. 4901 et seq.), not to exceed $2,110,000 for the fiscal year ending June 30, 1976, and not to exceed $527,500 for the fiscal transitional period ending September 30, 1976.

(2) Research, development and demonstration under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.), not to exceed $14,047,000 for the fiscal year ending June 30, 1976, and not to exceed $3,511,975 for the fiscal transitional period ending September 30, 1976.

(3) Research, development, and demonstration under section 301 of the Public Health Service Act (42 U.S.C. 241), not to exceed $2,115,000 for the fiscal year ending June 30, 1976, and not to exceed $528,750 for the fiscal transitional period ending September 30, 1976.

(4) Research, development, and demonstration under the Clean Air Act (42 U.S.C. 1857 et seq.), not to exceed $148,194,700 for the fiscal year ending June 30, 1976, and not to exceed $37,048,675 for the fiscal transitional period ending September 30, 1976.

(5) Research, development, and demonstration under the Solid Waste Disposal Act (42 U.S.C. 3251 et seq.), not to exceed $13,534,300 for the fiscal year ending June 30, 1976, and not to exceed $3,383,575 for the fiscal transitional period ending September 30, 1976.

(6) Research, development, and demonstration under the Federal Water Pollution Control Act Amendments of 1972, not to exceed $148,800,000 for the fiscal year ending June 30, 1976, of which—

(A) $89,900,000 shall be for programs authorized by section 104(u)(1) thereof (33 U.S.C. 1254(u)(1)),

(B) $5,600,000 shall be for programs authorized by section 104(u)(4) thereof (33 U.S.C. 1254(u)(4)),

(C) $2,000,000 shall be for programs authorized by section 104(u)(5) thereof (33 U.S.C. 1254(u)(5)),

(D) $20,000,000 shall be for programs authorized by section 104(u)(6) thereof (33 U.S.C. 1254(u)(6)),

(E) $24,700,000 shall be for programs authorized by section 105(h) thereof (33 U.S.C. 1255(h));

(F) $4,600,000 shall be for programs authorized by section 107 thereof (33 U.S.C. 1257), and

(G) $2,000,000 shall be for programs authorized by section 113 thereof (33 U.S.C. 1263) and

not to exceed $37,200,000 for the fiscal transitional period ending September 30, 1976.

(b) No funds may be transferred from any particular category listed in subsection (a) of this section to any other category or categories listed in such subsection if the total of the funds so transferred from that particular category would exceed 10 percent thereof, and no funds may be transferred to any particular category listed in subsection (a) of this section from any other category or categories listed in such subsection if the total of the funds so transferred from that particular category would exceed 10 percent thereof, unless—

(1) a period of 30 legislative days has passed after the Administrator or his designee has transmitted to the Speaker of the House of Representatives and to the President of the Senate a written report containing a full and complete statement concerning the nature of the transfer and the reason therefor, or

(2) each committee of the House of Representatives and the Senate having jurisdiction over the subject matter involved, before the expiration of such period, has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

(c) In addition to any transfers among the categories listed in subsection (a) of this section which are authorized by subsection (b) of this section, not to exceed 10 percent of the total amount appropriated pursuant to such subsection (a) may be transferred to other authorized activities of the Environmental Protection Agency (except construction grants for waste treatment works and scientific activities overseas), and not to exceed 10 percent of the total amount appropriated for such other authorized activities may be transferred to any category or categories listed in such subsection (a).

SEC. 3. Appropriations made pursuant to the authority provided in section 2 of this Act shall remain available for obligation for expenditure, or for obligation and expenditure, for such period or periods as may be specified in the Acts making such appropriations.

SEC. 4. No appropriation may be made to the Environmental Protection Agency for environmental research, development, or demonstration, for any period beginning after September 30, 1976, unless previously authorized by legislation hereafter enacted by the Congress.

SEC. 5. The Administrator of the Environmental Protection Agency shall transmit to the Congress, within 6 months after the date of enactment of this Act, a comprehensive 5-year plan for environmental research, development, and demonstration. This plan shall be appropriately revised annually, and such revisions shall be transmitted to the Congress no later than two weeks after the President submits his annual budget to the Congress in such year.

OLIN E. TEAGUE,
GEORGE E. BROWN, Jr.,
JEROME A. AMBRO,
LARRY WINN, Jr.,
Managers on the Part of the House.

JENNINGS RANDOLPH,
EDMUND S. MUSKIE,
HOWARD H. BAKER, Jr.,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The Managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 7108) to authorize appropriations to the Environmental Protection Agency for FY 1976 for Research, Development and Demonstration, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the Managers and recommended in the accompanying conference report.

The points in disagreement and the conference resolution of them are as follows:

(1) On the recommendation of the Committee on Labor and Public Welfare, the Senate voted to add the following new sections to the bill:

SEC. 6. Whenever in any fiscal year funds appropriated for the purposes of administering laws through the Administrator of the Environmental Protection Agency exceed $718,192,000, such excess amounts up to $3,000,000 and if such excess is greater than such amount, any of such greater excess which the Administrator finds necessary shall be used solely for the purposes of monitoring and assuring the adequacy reliability and quality of the testing of chemicals under any provision of law administered by him.

SEC. 7. Chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371) is amended by adding at the end thereof the following new section:

"RELIABILITY AND QUALITY TESTING

"SEC. 708. Whenever in any fiscal year funds appropriated for the purposes of this Act exceed $223,000,000, such excess amounts up to $25,280,000 and if such excess is greater than such amount, any of such greater excess which the Secretary finds necessary shall be used solely for the purposes of monitoring and assuring the adequacy, reliability, and quality of preclinical and clinical testing of drugs, food additives, devices and cosmetics which are tested under the provisions of the Federal Food, Drug, and Cosmetic Act.".

The Conferees agree that these two new sections 6 and 7 are not appropriate to the bill, and have agreed to delete these sections.

(2) The House authorized not to exceed $12,789,200 for the fiscal year ending June 30, 1976, and not to exceed $3,197,300 for the fiscal transitional period ending September 30, 1976 for research, development, and demonstration under The Safe Drinking Water Act (42 U.S.C. 300f, *et seq.*)

Authorization of appropriations for research, development, and demonstration under The Safe Drinking Water Act has already been approved under existing legislation, which authority extends beyond fiscal year 1976 and the fiscal transitional period. Accordingly, on recommendation of the Senate Committee on Commerce, the Conferees agree to delete all references to The Safe Drinking Water Act in this bill.

(3) The Conferees agree that Section 5 of the bill which requires the Administrator of the Environmental Protection Agency to revise annually a comprehensive 5-year plan for environmental research, development and demonstration and to transmit such revisions to the Congress no later than November 10 of each year should be modified to require transmittal of such revisions no later than two weeks after the President submits his annual budget to the Congress each year.

OLIN E. TEAGUE,
GEORGE E. BROWN, Jr.,
JEROME A. AMBRO,
LARRY WINN, Jr.,
Managers on the Part of the House.

JENNINGS RANDOLPH,
EDMUND S. MUSKIE,
HOWARD H. BAKER, Jr.,
Managers on the Part of the Senate.

PROVIDING FOR CONSIDERATION OF H.R. 15377, EXTENDING THE EXPORT ADMINISTRATION ACT

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1549 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1549

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 15377) to amend the Export Administration Act of 1969. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and rank-

ing minority member of the Committee on International Relations, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 15377, it shall be in order in the House to take from the Speaker's table the bill S. 3084 and it shall then be in order in the House, to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 15377 as passed by the House.

The SPEAKER. The gentleman from California (Mr. SISK) is recognized for 1 hour.

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

Mr. Speaker, the reading of the resolution makes clear that this is a relatively simple rule. It is an open rule providing for 1 hour of general debate, under the normal procedure; and a motion to recommit can be made with or without instructions.

Let me say, Mr. Speaker, that the only question that was brought to the attention of the Committee on Rules in connection with this particular piece of legislation has to do with an amendment adopted by the Committee on International Relations. It is the understanding that the actual bill itself, H.R. 15377, did not contain any material which would have called for sequential referral. However, the amendment adopted by the committee and the amendment which did raise some questions that were brought to our attention before the Committee on Rules did raise a question as to whether, in fact, sequential referrals would have been in order.

Mr. Speaker, the other committee involved in this case is the Joint Committee on Atomic Energy. That was so because it is our understanding that the Committee on International Relations adopted an amendment that requires the United States to retain reprocessing control over all nuclear materials produced by nuclear reactors of United States origin. All countries to which the U.S. exports nuclear equipment must explicitly agree not to use these materials and equipment to make nuclear explosive devices. To insure compliance, the amendment requires recipient states to permit the International Atomic Energy Agency to report to the United States on the status of inventions of weapons grade nuclear materials possessed by that country. Foreign reprocessing of U.S. nuclear fuels can occur only after the Secretary of State determines that adequate safeguards have been established to detect diversions of nuclear materials.

Mr. Speaker, it is the understanding of the Committee on Rules that although this does raise a question, an amendment to strike, of course, or at least a vote on the amendment as proposed by the Committee on International Relations will, of course, be in order and that those feeling that the amendment is not proper will have an opportunity, under this open rule, to make their feelings felt, and also to discuss the issue.

Therefore, Mr. Speaker, I would urge the adoption of the resolution in order to permit the Committee on International Relations to present their case in connection with this legislation.

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

Mr. Speaker, as the gentleman from California (Mr. SISK) has already explained, this rule provides for 1 hour of general debate, and the bill as introduced was a simple extension of the Export Administration Act. Certainly there is a need for the extension of this act, but what happened after it was introduced is the cause of the trouble. In its present form the administration opposes this piece of legislation particularly because of the anti-foreign-boycott provisions that it contains. The administration maintains that these provisions would be potentially harmful to the economic and political interests of the United States in the Middle East.

Certainly the passage of this legislation and its becoming law would bring on, in my humble opinion, a very early oil embargo, which would be disastrous to the economic recovery of this country.

The provisions on the reprocessing of nuclear fuel are unrealistic in that they impose conditions on the International Atomic Agency, and on foreign customers, which could not be enforced. They would result in sending customers to other suppliers exercising less stringent safeguards and thus harming our nonproliferation objectives.

Mr. Speaker, as I pointed out earlier, the administration supports a simple extension of this act and no more. The rule should be defeated and a clean bill reported and passed.

Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, and Members of the House, I am not going to urge other Members to oppose the rule on this legislation even though I will vote against it because, as both the gentlemen who preceded me have indicated, the basic legislation extending the current act will soon expire and an extension is important. But, Mr. Speaker, I want to address myself at this particular time, because I may not have time later, to the issue of the Bingham amendment to this act.

Mr. Speaker, the amendment proposed by the gentleman from New York (Mr. BINGHAM) has a laudable objective but in the pursuit of this objective, the sponsors are proposing legislation so broad in its reach and so severe in its penalties that legitimate business activities with both Arab countries and Israel would be severely hampered and tens of thousands of jobs in the United States will be placed in jeopardy.

This is for all intents and purposes with the Bingham amendment, an unemployment bill.

Let me put this into proper perspective for all Members of the House.

Last year U.S. firms exported more than $5 billion in goods and services to Arab countries and, according to the Department of Commerce figures, those exports account for 400,000 U.S. jobs.

In a current article in U.S. News & World Report entitled "Fighting the Arab Boycott—A Move That Could Backfire on U.S." the projections of dollar sales to the Arab bloc is as high as $7.1 billion in 1976.

I intend to ask permission to include the entire article at the close of my remarks.

Mr. Speaker, we have been hearing all this talk about how we need to keep people employed, and as a matter of fact to put people in public service jobs to meet this problem of unemployment in this country. Now here we have 400,000 jobs at stake with the Bingham amendment at the same time we have 315,000 people employed in public service jobs costing us $2.5 billion. It does not make sense. We are going to wipe out whatever gain there is from those employed in public service jobs with an ill-conceived amendment because it is a political year and all the ramifications flow from it.

Just one firm in my district, the Caterpillar Tractor Co. which has its worldwide headquarters there exported from the United States over $100 million of equipment in 1975 to Arab countries. Those exports accounted for 6,000 U.S. jobs, 2,000 within Caterpillar and 4,000 in those other supporting suppliers such as steel mills, forging shops, manufacturers of component parts, both large and small.

I have ample reason to believe the U.S. firms now are able to conduct legitimate nondiscriminating business transactions with both the Arab countries and Israel. As a matter of fact Caterpillar in addition to the $100 million in exports to the Arab countries from this country, are doing some $30 million of business with Israel.

But we are faced here with legislation so far reaching as to actually impose an embargo on shipments of all U.S. products to the Middle East. Trade responsible for tens of thousands of jobs in California, Illinois, Ohio, Pennsylvania, Texas, and other States would be in fact prohibited under the terms of the Bingham amendment.

Now I ask those Members who sponsor this severe measure: Are you really aware of the employment impact of this proposal? At a time when you are swinging away at the administration for not doing enough about unemployment you seem willing to add tens of thousands to the unemployment rolls by adoption of this amendment?

Some have the Pollyannaish belief that such legislation will force Arab nations to "cave in" on the boycott because of their heavy dependence on U.S. goods. Come now. Let us take an objective look at the facts.

The Arab States depend upon us for

less than 20 percent of their imports. The truth, if examined in the sobering light of early dawn, is that the legislation would force the Arab States to turn even more to the Japanese, the Europeans and others to supply their needs. So you see we are not just talking about the direct impact on 400,000 U.S. jobs today but also about the impact in years to come because of our losing a foothold today and in the future in the expanding Arab market.

The Bingham amendment will be counterproductive in its impact on U.S. political and commercial relations with Arab nations. It will be extremely costly in terms of U.S. jobs and our balance of payments.

Although well intentioned, the amendment has been hastily drafted with little thought for the havoc it would surely produce. The issue is too important to be rammed through in the heat of a political campaign. Before we sacrifice American jobs on the altar of political expediency, let us seek a more intelligent solution to this problem.

I would like to think we might have the kind of support that would knock out this amendment but I am a realist. I know that in the committee there was only one dissenting vote. It came out 27 to 1. There has not been the kind of time to lay the groundwork for getting these facts to the Members, so I am not going to pursue that route.

But I want to lay out here for all the Members to clearly understand what they are doing and hopefully in the conference there can be some modification. The Stevenson amendment over on the other body is acceptable and could be a vehicle. But I ask the Members not to tie themselves down here so tightly that we cannot extricate ourselves and find ourselves doing irreparable harm and damage to our trade with this bloc of countries over an extended period of years.

Mr. Speaker, I should like to include with my remarks at this point a letter received from Mr. Lee Morgan, president of Caterpillar and the article from U.S. News & World Reports mentioned earlier in my remarks:

CATERPILLAR TRACTOR CO.,
Peoria, Ill., September 20, 1976.

DEAR BOB: Proposed legislation dealing with the Arab boycott of Israel is now before the House in the form of an amendment to the Export Administration Act. As one of the very largest exporters in the entire United States, and with substantial sales to both Israel and a number of Arab countries, Caterpillar is, of course, deeply interested in U.S. policies relating to the Middle East. Our purpose in communicating is to share with you some of our concerns with respect to the proposed anti-boycott legislation.

Let me state first that Caterpillar opposes boycotts, in principle and in practice. We have long advocated the removal of obstacles to free trade, of which boycotts are an example. We share the judgment of most Americans that the Arab boycott of Israel is particularly unfortunate, especially when an attempt is made to block American firms from dealing with other American firms.

In practice, Caterpillar has continued to maintain good business relationships with both Israel and the Arab countries. There is a Caterpillar dealer in Israel, and dealers in a number of Arab countries. We sell significant quantities of product to both sides, and our business relations with all parties in the area have been conducted on a non-discriminatory basis.

A few statistics will help to illustrate the growing importance of this area to our company and our employees. Our 1975 sales to Israel totaled about $30 million, while combined sales to the Arab countries amounted to over $250 million. Thus, Israel and the Arab countries together accounted for approximately 10 percent of Caterpillar's $2.8 billion in sales outside the United States last year. About two-thirds ($1.9 billion) of our total overseas sales consisted of products exported from the United States, resulting in a contribution of $1.7 billion to our national balance of payments.

A substantial and growing number of Caterpillar employees in the United States owe their jobs to our sales in the Arab world. In 1973, about 780 U.S. jobs were dependent on such sales; by 1975 that level had risen to approximately 2,000. For each of these Caterpillar jobs, we estimate that two more jobs are generated with supplier firms from whom we buy materials, components, and services. We are not, then, talking about a mere handful of jobs, but about the means of livelihood of thousands of people in this country resulting from sales to the Arab world by just one company.

Stabilizing employment is an important objective of our company, as it is an important social and economic objective of governments everywhere. I can tell you very frankly that we probably could not have achieved our record of employment stability over the past several years had not increased sales to the Middle East made up for relatively flat markets in the United States, Europe, and Japan.

We are deeply concerned that the Congress, in pursuit of a laudable objective, may enact legislation so broad in its reach and so severe in its penalties that legitimate business activities such as ours, and tens of thousands of U.S. jobs, will be jeopardized.

Supporters of this legislation appear confident that the Arab countries are so eager to obtain U.S. products and technology that they will abandon their boycott when confronted with a firm U.S. stance. We are unable to share this confidence. The United States is not the Arabs' major supplier of imports, and we at Caterpillar are acutely aware of foreign competition for Arab markets. Our major competitor in the Middle East is not another U.S. firm—which would be equally affected by boycott regulations as Caterpillar—but the Komatsu Machinery Company of Japan. Numerous European firms also offer products competitive with ours. If we attempt to dictate to the Arab countries the conditions under which they will be allowed to buy our products, they can—and quite likely will—turn to foreign suppliers who attach no such conditions.

In summary, we believe the proposed legislation is likely to be counterproductive in its impact on U.S. political and commercial relations with the Arab nations, and extremely costly in terms of U.S. employment and our balance of payments. Although well-intentioned, the proposed legislation appears to have been hastily drafted with little thought given to either its cost or the results it is likely to produce. This matter is too important to be rushed through in the heat of an election campaign. Dealing as it does with one of the most volatile political issues on this globe as well as with economic matters of vast importance, any new legislation on this issue deserves the most thoughtful analysis and skillful legislative craftsmanship of which our Congress is capable.

Sincerely,

LEE L. MORGAN,
President.

FIGHTING THE ARAB BOYCOTT

A MOVE THAT COULD BACKFIRE ON U.S.

Fears are growing that an attempt by Congress to crack down on American firms that go along with the Arab boycott of Israel will boomerang against the United States.

Already, there are signs that the Arabs are likely to retaliate with these steps:

An increase of $1.50 or more per barrel in the price of oil produced by the Organization of Petroleum Exporting Countries (OPEC) cartel of which the Arabs are key members. That would mean a boost in what U.S. motorists pay for gasoline—as much as 2 cents a gallon.

A cutback in production from Arab wells just as economic recovery has caused an upswing in worldwide demand for oil—a move that could imperil the business rebound, especially in European nations that are heavily dependent on oil imports.

Loss of business for American firms that have been cashing in on the billions of petrodollars that Arab nations are spending on vast development plans.

White House officials, as well as U.S. business leaders, say that the steps taken by Congress will prove of little help to Israel in its conflict with the Arabs and will hamper U.S. peace efforts in the Midle East.

At issue are two bills—almost certain to become law in a matter of days—that seek to prevent American firms from participating in the boycott.

Under the boycott, Arab nations refuse to do business with companies on their blacklist, which includes 1,500 American firms. The list is made up of firms that deal with Israel, assist its economic development or refuse to fill out questionnaires on such matters.

One of the antiboycott measures is contained in the new tax-reform bill. As outlined in the box on page 30, any U.S. company found to have agreed to terms of the Arab boycott will be stripped of certain tax benefits.

The second part of the congressional crackdown, an amendment to a bill extending the Export Administration Act, is even stronger. The House version of the bill forbids American companies, under the threat of criminal penalties, to participate in the boycott.

Insiders say the tough House measure probably will be passed rather than the milder Senate version, which would permit companies to refuse to do business with Israel but would ban them from agreeing not to deal with firms blacklisted by the Arabs. The final bill probably will require firms to reveal whether they will bow to boycott demands.

American business leaders are upset with the new measures. Robert Norris, director of the Foreign Trade Council, argues that the nation's tax laws should not be used to deal with complicated foreign-policy issues.

Officers of the Mobil Oil Corporation contend that the new legislation will result in a loss of business for American firms in the Mideast and that U.S. export trade will suffer as Arabs shift their business to other nations.

POTENTIAL LOSERS

The oil firms stand to lose the most from the tax-penalty measure, since they have huge fixed investments in Arab lands. It is probable that they would accept the loss of the tax breaks rather than risk angering the Arabs with a tough antiboycott stand.

In recent weeks, Arab leaders such as Sheik Hisham Nazer, Saudi Arabia's Minister of Planning, have let it be known that they will take their business elsewhere if the U.S. adopts the antiboycott measures.

Many American business executives assert that there are few, if any, products and services now supplied By U.S. firms that could not be purchased from other countries.

Ruddick Lawrence of Continental Oil, the president of the U.S.-Arab Chamber of Commerce, an American group that fosters Mideast trade, observes that the Arabs are already stepping up their trade with the Japanese, Germans and even Communist nations such as Rumania and Poland.

Supporters of the new antiboycott measures counter that the Arabs are bluffing and are too dependent on American products and know-how to turn to other nations.

Roger Majak, staff counsel for the House International Relations subcommittee on trade, thinks that at worst there might be a few temporary reprisals. He believes: "The Arabs might kill a big U.S. contract or go to the Japanese or Germans on a major deal, but in the end they'll swallow it and come back to U.S. firms."

Ze'ev Sher, the economic minister of the Israeli Embassy in Washington and a strong force behind the new legislation, also contends that the Saudi Arabian development plan is "totally dependent" on the U.S.

Last year, U.S. firms did 5.5 billion dollars' worth of trade with the Arab countries that observe the boycott, and this year's business could total more than 7 billion dollars' worth. The U.S. Army Corps of Engineers is in charge of Saudi Arabian construction projects valued at nearly 18 billion dollars.

ACHILLES' HEEL

In addition to the potential loss of billions in trade, the U.S. is vulnerable to retaliation because of its increasing reliance on oil from the Arab nations of the Mideast and Africa.

Since the 1973–74 Arab oil embargo, the U.S. has more than doubled its imports from the Arab world. Saudi Arabia, the staunchest defender of the boycott, is now the No. 1 supplier of oil imported by this country.

In recent days, Saudi Arabian spokesmen have hinted that the oil-rich Kingdom will not try to stop other members of OPEC from seeking oil-price increases of 10 to 20 per cent above the current basic price of about $11.50 a barrel. Saudi leaders have said they may cut oil production from 8.2 million barrels a day to 5 million—a step that would assure that the cartel could make the price boost stick.

The only current U.S. law specifically dealing with the boycott is one that requires American companies to report any Arab demands to the Commerce Department and to report whether they intend to go along with them.

Commerce, however, keeps this information confidential, and its handling of the reports has upset many lawmakers. A study just released by the House Interstate and Foreign Commerce Committee's investigations subcommittee contends that the Department's regulations contain many loopholes that allow firms to evade their reporting obligation. In some cases, the study said, Commerce has actually promoted business opportunities with the Arabs, knowing that the potential deals had boycott provisions attached to them.

The study also shows that in 1974 and 1975 combined, at least 4.5 billion dollars' worth of U.S. sales and proposed sales to Arab countries were subject to boycott requests.

Says Senator Abraham Ribicoff (Dem.), of Connecticut, chief sponsor of the tax-penalty measure: "It is intolerable to have Americans discriminate against their fellow countrymen at the behest of any foreign nation. Americans must be free to trade with Americans, with Arabs and with Israelis."

The White House, though strongly protesting the boycott, argues that no new legislation is needed to curb it.

The thinking of the Ford Administration is that laws already on the books, such as those dealing with civil rights and unfair business practices, are sufficient to deal with the boycott problem. One example cited is the antitrust suit that the Justice Department brought early his year against Bechtel Corporation. The giant construction company is accused of refusing to deal with subcontractors on the Arab boycott list.

"One thing's for sure—these new laws won't end the boycott," says Assistant Treasury Secretary Gerald Parksy, "and they'll add fuel to the arguments of those in the Arab world who are against the United States."

Administration officials claim there is evidence that the Arabs have been taking steps to soften the boycott themselves. They cite the fact that earlier this year Saudi Arabia removed from its visa applications a request for information on religion.

There are also reports, according to Treasury Secretary William Simon, that the Arabs may exempt firms that make as significant a contribution to their countries as they do to Israel.

GRANDSTAND PLAY

What is happening, say critics of the new legislation, is that lawmakers are attempting to make political points in an election year by portraying the boycott as a vehicle for religious discrimination against those of the Jewish faith. However, the House Commerce subcommittee's study found that only 15 of 4,000 boycott requests examined had clauses of a religious or ethnic nature.

Arab leaders justify their boycott as an economic sanction against Israel applied in the same way that the U.S. has curbed trade with Cuba.

Representative Paul Findley (Rep.), of Illinois, the only member of the International Relations Committee to vote against the extension of the Export Administration Act and its antiboycott provision, says he has received "furious" letters accusing him of religious bigotry. Mr. Findley asserts that he voted against the measure because it would harm U.S. peace efforts in the Mideast.

That is a minority view in Congress, where the antiboycott measures have won overwhelming support and have been attached to bills that President Ford may find virtually impossible to veto.

If he signs the measures, the months ahead will reveal whether the Arabs will actually carry out their threats against the U.S.

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

Mr. MICHEL. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Speaker, I strongly support the position of the gentleman from Illinois.

Mr. Speaker, because I have official business in Arkansas this evening, I may not be present when the vote is cast on H.R. 15377. I, therefore, wish at this time to associate myself with the remarks of my colleague, Mr. MICHEL, with respect to consideration of the Export Administration Act amendments.

While I do support an extension of the act, which I feel is badly needed, I have opposed the rule under which this legislation will be acted upon, because of my concern over the danger implicit in approving the amendment to be offered by the gentleman from New York, making any form of American compliance with the Arab boycott illegal.

I cannot believe that the far-reaching, and I might add highly harmful ramifications of imposing such provisions are not crystal clear to everyone. In my view, the adverse impact of such action is obvious. If this amendment is adopted and becomes law, a totally unacceptable impediment will be placed in the path of the legitimate and proper conduct of American business, as far as the goods and services we export to Arab nations are concerned.

I, for one, will not be a part of any action that will place such an undue and unwarranted restriction on our American business firms doing business with those nations. This amendment, if implemented, will tie the hands of our businesses by placing them at an unfair disadvantage in the international marketplace. Its provisions are so broad and so severe, both economically and politically, that I call upon each of us in this body to fully consider their implications.

What we are talking about in this context is the American economy—jobs and employment, the balance of payments, the very soundness of our national economy. And, this boycott proposal comes at a time when we are struggling to find our way out of the constraints of an economy in recession. We cannot allow ourselves to plunge back into a deeper recession.

The boycott amendment to be offered does not represent a prudent course of action, although it is well intentioned and is the end product of sincere convictions and motivations. Very simply, it ignores reality.

Have we already forgotten the effects of the OPEC oil embargo of the fall of 1973, which resulted in a fivefold increase in world oil prices? I need not remind my colleagues of the impact of that action on the American economy and on the international economy.

The statistics available as to the impact of the oil embargo and the statistical projections available on the impact of implementation of this amendment speak for themselves. I need not belabor the point. The Commerce Committee report on the Arab boycott and its effect on American business clearly states that "* * * the impact on U.S. business has been substantially greater than Congress had been led to believe* * *."

Let me not be counted among those who would irresponsibly and unfairly restrict our American business community—the very core of our economic system. I oppose this amendment and urge my colleagues to do likewise and to act accordingly.

Mr. MICHEL. Mr. Speaker, I thank the gentleman from Arkansas.

I thank the gentleman from Ohio for yielding me this time.

Mr. SISK. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. BINGHAM).

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

Mr. Speaker, since we are here debating the rule, I do not want to enter into a full-fledged debate with the gentleman from Illinois at this point on the merits of the boycott amendment that was adopted by the Committee, but let me make just a few points. This is not an ill-considered matter as the gentleman charged. It has been before this House since 1965 when we first adopted legisla-

tion that stated it to be U.S. policy that we were opposed to such boycotts and that American businesses were to be discouraged from complying with those boycotts. In those 10 years we have had a demonstration that that legislation was not working. There were no teeth to it. It simply was ignored.

We have had three subcommittees of the House of Representatives studying this matter; my own subcommittee, the Subcommittee on International Trade and Commerce; the Subcommittee on Oversight headed by the gentleman from California (Mr. MOSS), and investigations of the Committee on Interstate and Foreign Commerce and the Subcommittee on Commerce, Consumer and Monetary Affairs of the Government Operations Committee headed by the gentleman from New York (Mr. ROSENTHAL). All these subcommittees came to the conclusion that something drastic has to be done about the boycott. American concerns are being, in effect, compelled to refuse to do business with people with whom they may want to do business. This is an issue that goes to the fundamentals of American freedom of enterprise.

Finally, the Committee on International Relations gave the amendment which I offered full consideration and voted in favor of it by the resounding vote of 27 to 1. I can assure this House that no such vote would have occurred in the Committee on International Relations without full consideration of the implications of the amendment and what it might do to U.S. employment.

The answer to that question very clearly is that nobody knows precisely how the Arabs will respond to this. My own feeling is that they will not refuse to do business with American firms under these terms; but fundamentally, the question is one of principle and of morality.

Mr. LATTA. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, listening to the gentleman from New York, the author of this amendment, the gentleman does assume apparently there is going to be some reaction by the Arab nations if this bill is passed. He does not know how they will react, but the gentleman assumes there will be some reaction. I can predict how they will react. They will react with an oil embargo. The gentleman knows it and I know it and we all know it. That is what we are faced with.

I do not think we ought to continue to meddle in the internal affairs of other nations. We have gotten burned several times in the last year or two by our meddling caused by congressional meddling. I think it is high time we learned from our past mistakes.

Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, when this legislation was before the Committee on Rules, I testified in strong opposition to the granting of a rule for another reason, other than those that have been mentioned by the previous speakers; that is, because of the section contained in the bill, section 18, which would establish specific requirements for the transfer of nuclear equipment and material by the United States, specific requirements that would be included in all new agreements for cooperation with other nations in the peaceful uses of atomic energy. At the present time all the statutory requirements that deal with the licensing of nuclear equipment, nuclear material equipment and technology and provisions that deal with agreements for cooperation, are contained in the Atomic Energy Act of 1954, as that has been subsequently and from time to time amended. The jurisdiction with respect to that act is clearly within the jurisdiction of the Joint Committee on Atomic Energy.

Mr. Speaker, I think that during this time that we are considering the rule, we ought to be concerned about what is a clear violation of the rules, a clear invasion of the jurisdiction of that committee, chaired by the Senator from Rhode Island and the vice chairman, my colleague, the distinguished gentleman from Illinois (Mr. PRICE). To show that the committee did, in fact, act with full knowledge of what they were doing, that they were circumventing the rules of this House with respect to the jurisdiction of committees, let me read very briefly from a transcript of the House Committee on International Relations at their markup sessions on August 26, 1976, which I hold in my hand:

I am somewhat concerned about the jurisdictional problem that I think may be raised by the Joint Committee on Atomic Energy.

This is Mr. BINGHAM, of New York:

I think what we are doing here is putting into the Export Administration Act a provision which the joint committee may feel, and I think with some reason, amounts to amendment to the basic Act, the Atomic Energy Act of 1954. I don't believe we should be perturbed by that, but I believe we should recognize that may be a problem.

Mr. ZABLOCKI. The Joint Atomic Energy Committee could request referral, regardless.

A little later, in the same transcript, appears this very interesting colloquy:

Mr. ZABLOCKI. To make it absolutely legal, I ask unanimous consent to withdraw my amendment from the bill . . .

This is section 18, I am talking about.

The bill we will introduce will be the clean bill.

Chairman MORGAN. Any objection?

There is no objection.

Now, the gentleman from New York (Mr. SOLARZ) enters the act, Mr. SOLARZ of New York:

On this possibility on which we have embarked, I assume the strategy now is, once the bill comes before the committee, for us to adopt the Zablocki-Findley amendment as an amendment to the clean bill. Having done that, is there any possibility that at that point, having added this amendment to the bill, that the joint committee will come in and say, "Now, it is a matter relative to our jurisdiction. We want a referral before it can come up on the floor?"

Chairman MORGAN. There is no way amendments can be referred.

In other words, what they did was to go back into session, take the Zablocki amendment out of the bill, introduce a clean bill and then adopt a committee amendment so that they could avoid the point of order that would otherwise have been raised against the bill, that they were clearly violating the rules of this House and invading the jurisdiction of the Joint Committee on Atomic Energy. I am not the only one who is disturbed by what has occurred, and I speak not simply out of jurisdictional sensibilities that have been offended because another committee seeks to trespass on the jurisdiction of my committee. Let me read to the Members very briefly from a letter dated September 9, 1976, signed by Robert C. Seamans, Jr., Administrator of the Energy Research and Development Administration:

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

Mr. LATTA. Mr. Speaker, I yield 5 additional minutes to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Speaker, I quote from the letter I referred to:

We believe that nuclear policy issues such as those addressed in section 18 of H.R. 15377 are too important to be dealt with on a piecemeal basis. Inconsistent legislative requirements and policies regarding nuclear proliferation will doubtless create confusion and hinder the United States' ability to exert leadership in this area. Rather than being fragmented among multiple pieces of legislation and reports, each based on a different perspective of the issues and advancing a different approach to the problems, these issues should properly be treated in comprehensive legislation, and we have been working with the Joint Committee on Atomic Energy to that end.

What makes this a real travesty on the legislative process is that a week ago last Tuesday, by a unanimous vote of the Joint Committee on Atomic Energy, we reported out a bill that had been coauthoried by the gentleman from Illinois (Mr. PRICE) and myself, and which had been very carefully worked out over a period of many weeks. Working together with the officials of the Energy Research and Development Administration, we unanimously reported out comprehensive legislation dealing with this important question. Now, nobody on the joint committee will take a back seat to anyone on the International Relations Committee in his regard for the importance of this subject.

Nuclear proliferation, the danger that by illegal and illicit diversion of special nuclear materials—plutonium, if you will—that nations, presumably engaged in the peaceful use of atomic energy, are diverting to weapons purposes, we want to curb that problem around the world. But believe me, this legislation, section 18 of this legislation, is not the way to do it. It is going to be counterproductive. It is going to have the effect of sowing so many doubts in the minds of our trading partners around the world that what we are going to end up with, I am afraid, is the very opposite of doing something about this very important problem.

If this rule is adopted—and I do not think it should be, with the shape this

legislation is in—I am going to ask for some time to go into some of the specifics of section 18 of this bill, to show the Members of this body just how poorly designed it is. But let me point out just one section in that regard, and it is section 18(3)(A), on page 22, beginning at line 14 of the bill.

No license may be issued for the export of any nuclear material, equipment, or devices pursuant to an agreement for cooperation unless the recipient country, group of countries, or international organization, has agreed that the material, equipment, and devices subject to that agreement will not be used for any nuclear explosive device, regardless of how the device itself is intended to be used.

This is the so-called Indian provision. This is the provision that was put in this legislation to deal with the fact that surreptitiously India used a research reactor and heavy water supplied by both Canada and the United States to manufacture an explosive device.

But then what does the committee do in the succeeding paragraph, on line 21, subparagraph (B)?

(B) Subparagraph (A) of this paragraph shall take effect at the end of the one year period beginning on the date of enactment of this section.

Instead of giving guidance to the Nuclear Regulatory Commission that even now is dealing with the subject of whether or not this Government should export nuclear fuel for the reactor, they are going to put a 1-year moratorium on their own antiexplosive pledge in this legislation. That is not what the NRC wants, I know that, because this is the joint committee that has oversight jurisdiction over the NRC. They are looking for some explicit policy guidelines from the Congress on how to deal not only with the Indian situation but others that may be like it. We give them that kind of device; we give them guidelines on the bill that the gentleman from Illinois (Mr. PRICE) and I have filed in this House last Tuesday.

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

Mr. LATTA. Mr. Speaker, I yield 1 additional minute to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, if I had more time I could point out other provisions of this section that work against the very important goal and objective that the Committee on International Relations says they were trying to deal with. But I submit they have not done it correctly in this section of the legislation. It ought to be stricken from the bill. The rule should not have been granted to a bill that so patently and obviously and, I submit, with great injury, invades the jurisdiction of another committee of this Congress.

Mr. SISK. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Illinois (Mr. PRICE).

Mr. PRICE. Mr. Speaker, I am in complete agreement with the statement made by my colleague, the gentleman from Illinois (Mr. ANDERSON). This is a definite infringement on the jurisdiction of a committee. But that is not the main concern. The main concern is the problem that might arise from the language in the bill and its subsequent consequences.

The principal objection to the amendment in the bill, which is section 18, is that it attempts to deal with the very important problem of the proliferation of nuclear explosive devices on a piecemeal basis.

We concede that the Committee on International Relations would have some interest in this matter, just as we have interest in matters that are purely within the jurisdiction of the Committee on Foreign Relations, but we do not attempt to legislate within that committee's jurisdiction.

Attempting to prevent the further proliferation of nuclear explosives requires a comprehensive approach. In that regard, the Joint Committee on Atomic Energy has reported legislation, the proposed Nuclear Explosive Proliferation Control Act of 1976, and I have requested that a rule be granted on this bill. I am hopeful that we will have action on it before we adjourn next weekend.

The Joint Committee bill includes a comprehensive declaration of U.S. nonproliferation policy, effective requirements for U.S. nuclear exports, long-term negotiating objectives leading to international agreements on broad proliferation controls for international nuclear trade, and incentives to encourage other nations to cooperate with us in reaching an effective international solution to this important problem.

Moreover, the Joint Committee bill approaches these many aspects of the nuclear proliferation problem within the existing statutory framework of the Atomic Energy Act of 1954.

The Joint Committee on Atomic Energy had the original jurisdiction, and it is because the Joint Committee has given thorough attention to this problem on a constant and almost daily basis that the House today is asked not to transfer the jurisdiction of these problems to another committee. This is plainly a raid on a committee's jurisdiction, and I believe that the House should support the committee which had original jurisdiction.

Mr. Speaker, I ask that the Members reject this rule. The Joint Committee would gladly support the other sections in the bill recommended by the Committee on Foreign Relations. I ask for a nay vote on the rule.

Mr. SISK. Mr. Speaker, I yield 2 minutes to the distinguished chairman of the Committee on International Relations, the gentleman from Pennsylvania (Mr. MORGAN).

Mr. MORGAN. Mr. Speaker, I hate to rise in opposition to one of my best friends in the House of Representatives, my good friend, the gentleman from Illinois (Mr. PRICE), who is the cochairman of the Joint Committee on Atomic Energy, but I want to point out that the Committee on International Relations reported this bill to the House on September 1. The Joint Committee on Atomic Energy had ample time to ask the Speaker of the House for coreferral. That did not occur, as far as I know.

I want to warn the House that the Export Administration Act expires on September 30. That is only 8 days from now. We are not going to have time to wait for the bill that the joint committee may bring out. If we vote this rule down, we will kill this bill for this session of Congress.

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

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

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

I just want to assure the gentleman and the Members of the House that the gentleman from Illinois (Mr. PRICE) and I were not negligent in the regard the gentleman just mentioned. We did address a letter in which we asked that this bill be sequentially referred to the Joint Committee on Atomic Energy because we felt then and we feel now that it involves the basic jurisdiction of that committee.

Mr. MORGAN. Mr. Speaker, I just want to say to the gentleman that I listened to the debate on the rule very attentively, and I feel that any chairman of a major committee in this House who does not have the commonsense to protect his bill against points of order when it comes to the House should not be the chairman of that committee.

Mr. SISK. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. MCCORMACK).

Mr. MCCORMACK. Mr. Speaker, I find myself in a rather awkward position. I respect the sincerity of the members of the Committee on International Relations in their attempts to try to move forward in controlling nuclear exports. Furthermore, I recognize the urgency with which this bill must be treated.

Mr. Speaker, I want to point out that the wording in section 17 of the bill is such that it preempts parts of the Atomic Energy Act of 1954, as amended, and it also clearly sets up language and provisions that are in contradiction to the law; all in an attempt to improve it. In so doing, Mr. Speaker, the drafters cause great confusion, although it may not be easily discerned by those who have not studied the subject.

Let me point out to the Members of the House that section 17 of this bill in providing restrictions related to the issuing of licenses for the export of nuclear materials, if any explosive device could be made with these materials, says that such restrictions shall take effect after 1 year, beginning on the date of enactment of this section.

Mr. Speaker, these provisions are already in effect under the Atomic Energy Act of 1954, as amended, and with no waiting period at all.

In the last section, the Secretary of State "may only determine that safe-

guards can be applied effectively to such reprocessing if he finds that the reliable detection of any diversion will occur well in advance of the time in which that party could transform strategic quantities of diverted nuclear material into explosive nuclear devices."

Mr. Speaker, that is physically impossible. There is no possible way in which this could be done. Anyone with the most simplistic understanding of the processes knows this.

I should like to point out that the provisions of this bill, in prohibiting agreements, ignores the fact that we have military agreements with our NATO allies involving nuclear material and nuclear weapons. These would be prohibited under these provisions.

Mr. Speaker, I am attempting to demonstrate that, in their good intentions to prepare this section, the drafters have ignored the existing law, the international relations, and the physical realities of the subject. They would create great chaos and confusion with what they are trying to do.

I support the recommendation of the ranking member in the House of Representatives of the Joint Committee on Atomic Energy, the gentleman from Illinois (Mr. PRICE), and other members of the Joint Committee, who point out the confusion that is being caused by this section of the bill.

Therefore, Mr. Speaker, I oppose the rule.

Mr. SISK. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. BROWN).

Mr. BROWN of California. Mr. Speaker, I thank the gentleman for yielding.

I am, as was the gentleman from Washington (Mr. MCCORMACK), reluctant to take the time to discuss this matter here because I recognize, and I hope the Members of the House recognize, that we are dealing with an area which legitimately falls within the jurisdiction of both of these committees. There is no question but what the matter of exports is properly within the jurisdiction of the Committee on International Relations and that likewise matters involving nuclear energy fall within the jurisdiction of the Joint Committee on Atomic Energy.

Mr. Speaker, when we get to the export of nuclear materials, we have a situation which overlaps into both committees. I must say, however, that the bill reported by the Joint Committee on Atomic Energy, referred to by the distinguished gentleman from Illinois (Mr. PRICE), the vice chairman of the Joint Committee, takes cognizance of this point. It provides that agreements for cooperation involving nuclear matters would be referred to both of these committees, so that both of them would have an input into the process of how these agreements for cooperation would work.

It deals also in a comprehensive way with the total problem of nuclear proliferation, in an effort to bring about a workable solution to this important problem.

I must compliment the gentleman from Wisconsin (Mr. ZABLOCKI) and the other members of the Committee on International Relations for their demonstration of concern in this matter. Ideally, members of both committees who share this concern should sit down and work out the details of workable nonproliferation legislation. But we are not in an ideal situation, and under present circumstances I will have to go with the vice chairman of the Joint Committee on Atomic Energy, Mr. PRICE, of Illinois, and the distinguished ranking member, Mr. ANDERSON of Illinois, in opposition to this rule.

Mr. LATTA. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Speaker, the remarks of my esteemed colleague, the gentleman from Illinois (Mr. ANDERSON), makes me realize the depth of his feeling on this matter. The gentleman has long been respected as a student in this field. I certainly think he is correct in stating that no member of this committee need take a back seat in respect to nuclear proliferation to any other member. But the same goes for our Committee on International Relations; we have not neglected this field either.

On the question of jurisdiction it is very plain that the Committee on International Relations has a thorough basis for its amendment language.

I will just say one thing to establish that fact. An amendment to the Export Administration Act of 1974 directed the President to report to the Congress on the adequacy of all laws, regulations, and safeguards relating to U.S. nuclear exports. In his May 1975 report to the Congress, the President said that to be effective, international nuclear safeguards must provide early detection of diversions. And the American rights and the law and policy objectives outlined by the President in the report he made are permitted by the very act to be amended by this legislation now before us.

But I would be pained if this body would judge the merit of this language purely on the basis of jurisdiction. We have an element that has not been mentioned up to this time. I am sure the witnesses before the Joint Committee on Atomic Energy, just as the witnesses before the Committee on International Relations, one after another have warned that if greater restraint on nuclear proliferation is not achieved within a span of not more than 10 years, there will be 40 nations possessing nuclear weapons or in a position to possess weapons within a day or so. I think this ought to be of vital concern.

One of the issues that the Committee on International Relations was up against was the time limit, as to what could be considered this year. I would hope that the Members of this body would recognize the urgency of the United States taking a role of leadership and a role in international affairs in order to hopefully establish the kind of safeguards on reprocessing which can at least slow down this dread progress of nuclear proliferation which presently is so clearly in prospect.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Delaware (Mr. DU PONT).

Mr. DU PONT. Mr. Speaker, and my colleagues, I think it is important, in view of the impassioned argument of my friend, the gentleman from Illinois, about the jurisdiction of our committee that we not let readers of the CONGRESSIONAL RECORD tomorrow get the impression that his remarks reflect an accurate portrayal of the jurisdiction of the Committee on International Relations.

I do not suppose the Joint Committee on Atomic Energy has ever claimed exclusive jurisdiction over the Export Administration Act, and that is the act we are talking about today. I do not deny for a moment the right of the gentleman's committee to report out bills of its own, but we are dealing with an appropriate vehicle here—the Export Administration Act is within the jurisdiction of our committee—and it is an appropriate vehicle for adding an amendment designed to prevent the spread of nuclear proliferation.

I would also say to the Members present that if they are worried about the problem of the spread of nuclear weapons—and anybody who has considered the problem, I think, has to be worried—they ought to recognize that this is the only vote they get. The bill reported out by the other committee will not be before the House this year, and this is their last chance to vote to halt the spread of nuclear weapons between now and sometime next spring. So do not vote down the rule; vote it up; and let us get on with the debate.

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

Mr. DU PONT. I yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentleman for yielding.

On the point the gentleman makes about the appropriateness of this committee amendment legislation, of course, if the rule is adopted, if this committee amendment is out of order, it can be objected to on a point of order, as the gentleman well knows.

Mr. DU PONT. Of course, it can. It can be objected to on a point of order. It can be amended. The rule is open. There is an opportunity for the gentleman from Illinois to improve upon the language that we have drafted.

Mr. Speaker, I urge adoption of the rule.

The SPEAKER. The time of the gentleman has expired.

Mr. SISK. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Speaker, it was not my intention to take any time on the rule, but after listening to my good friends and distinguished colleagues from Illinois, the ranking member on the Joint Committee on Atomic Energy, Mr. PRICE and Mr. ANDERSON, I decided that it was necessary to set the facts straight as to the question of jurisdiction. I believe others have adequately pointed out that indeed the Export Administration Act of 1969 and the amendment to the Export Administration Act of 1974 made it clear. Even our colleague, the gentleman from California (Mr. BROWN), a member of the joint committee has stated, the

Committee on International Relations has a proper jurisdiction and a rightful input in legislation in this field.

The Export Administration Act of 1969 regulates the export of all products for purposes of national security and foreign policy. The amendment on nuclear export, section 18, is aimed at protecting the national security through limiting nuclear proliferation, which is also a foreign policy goal.

We have heard in the past, for example at the Committee on Rules hearing, that the Committee on International Relations had performed an amateurish job on this amendment. The members of the International Relations Committee must resent such unfounded allegations. Mr. Speaker, we have held weeks and weeks of hearings by my Subcommittee on International Security and Scientific Affairs and by the full Committee on International Relations. Further, during the markup, we stayed within the rules and regulations of the House. Again, if I may refer to our good colleague, the gentleman from California (Mr. BROWN) and his additional views to the report on the Nuclear Export Proliferation Control Act of 1976, H.R. 15419, by the Joint Committee on Atomic Energy. Congressman BROWN of California states in that report very clearly that he had not seen or received the amendments before the morning of the vote on H.R. 15419. He states further, and I quote:

> I myself only received these amendments the morning of the vote on H.R. 15419. . . . The amendments have the potential of transforming this to a license for "business as usual. . . ." This development greatly disturbs me because H.R. 15419 was a good bill before the Joint Committee adopted, under highly unusual circumstances, these major amendments. . . . It was only the last minute amendments which were rushed, and which I now want to criticize. . . .
>
> Unfortunately, the nature of these last minute amendments by ERDA is such that I cannot, in good faith, defend this bill unless these amendments are removed or substantially altered.

Now, what were those "unusual circumstances"? The gentleman from Illinois had taken the privilege of reading from the transcript of our Committee on International Relations.

The SPEAKER. The time of the gentleman has expired.

Mr. SISK. Mr. Speaker, I yield 1 additional minute to the gentleman from Wisconsin.

Mr. ZABLOCKI. I thank the gentleman may I relate some of those unusual circumstances during the Joint Committee markup on the bill H.R. 15419, which the gentleman from Illinois claims is superior to that presented by the International Relations Committee. The Joint Committee convened at 10:15 a.m.—at approximately 10:45 a.m. the Committee proceeded to the markup of H.R. 15419, though a quorum was not present. At almost exactly 11:30 a quorum was present. That was approximately 1 hour and 15 minutes after the meeting convened and following an extensive effort during which the committee had struggled to get a quorum. At that time the committee was on page 2 of a 7-page-long list of technical amendments. Consideration of five substantive amendments had not even begun. On a motion of the gentleman from Illinois (Mr. PRICE), a vote was taken and all members voted in favor of it. An exchange between Senator BAKER, the Senator from Tennessee and the gentleman from Washington (Mr. MCCORMACK) then took place, and I quote now from the transcript:

> Senator BAKER. We have voted to report whatever it is we end up with?
>
> Representative MCCORMACK. That is right.

In other words, the committee reported out the bill and then proceeded to amend the bill that they had already reported out. Almost immediately after the vote on reporting the bill was made, certain members left and a quorum was no longer present for the remainder of the bill.

Now speaking of what committee has violated the rules of the House, would the kettle call the pot black?

I submit, Mr. Speaker, that our committee realizes the dual jurisdiction. As the gentleman from Washington (Mr. MCCORMACK) must attest, we have also offered to try to work out a compromise between our two committees. We tried since last Friday, the day H.R. 15377 was first listed on the calendar, but to no avail. We could not make any arrangements with other members of that committee.

Mr. Speaker, the resolution before us provides for an open rule. The bill can be amended. I trust the rule will be granted.

I urge a "yes" vote on the rule and a "yes" vote on Bill H.R. 15377.

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Speaker, to rebut the suggestion made by my friend, the gentleman from Wisconsin (Mr. ZABLOCKI), that this is only a jurisdictional quarrel and not really a question on substantive matters which is involved here, let me point out a letter from the Administrator Dr. Robert C. Seamans, Jr., and this is a part which the gentleman from Illinois did not read, which says:

> Our concern about section 18 of H.R. 15377 is especially great since the important and complicated non-proliferation points treated in it have had only an abbreviated consideration.

ERDA was not even given an opportunity to testify on this committee amendment. Dr. Seamans goes on in the letter to point out:

> 1. The Amendment would impose ill-defined timeliness criteria for warning of a diversion which may be impossible to implement.
>
> 2. The Amendment could be interpreted as signalling U.S. acquiescence in national reprocessing ventures in non-nuclear weapon states if safeguards could assure timely warning. This is contrary to our policy of discouraging such national reprocessing and, instead, promoting multinational control of sensitive fuel cycle facilities and materials.

The legislation involved in this bill ought to be defeated.

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

Mr. LONG of Maryland. Mr. Speaker, the joint committee is a late comer in its concern over this problem of proliferation. A year ago in debates on this floor, the Joint Committee leadership saw no problem at all. No problem at all did they see. It is only when they began to recognize a national alarm and to perceive a chance that they might lose jurisdiction over this area that they came forward with a bill. I submit that what they really want to do is control the pace at which we act to slow it down. In the words of Lady Macbeth who said to two noblemen of Scotland, "Stand not upon the order of thy going, but go at once." I say here today: "Stand not upon the order of our acting, but act."

Mr. SISK. Mr. Speaker, I urge adoption of the rule and I move the previous question on the resolution.

The SPEAKER. Without objection the previous question is ordered.

There was no objection.

The SPEAKER. The question is on the resolution.

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

Mr. LATTA. Mr. Speaker, I object to the vote on the ground that 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 313, nays 82, answered "present" 1, not voting 34, as follows:

[Roll No. 797]

YEAS—313

Abdnor	Clay	Ford, Tenn.
Abzug	Cleveland	Fountain
Adams	Cochran	Fraser
Addabbo	Cohen	Frenzel
Allen	Collins, Ill.	Fuqua
Ambro	Conte	Gaydos
Anderson, Calif.	Conyers	Gibbons
Andrews, N.C.	Corman	Gilman
Andrews, N. Dak.	Cornell	Goldwater
Annunzio	Cotter	Gonzalez
Ashley	Coughlin	Goodling
Aspin	Daniel, Dan	Grassley
AuCoin	Daniels, N.J.	Gude
Badillo	Danielson	Guyer
Baldus	Davis	Haley
Baucus	de la Garza	Hall, Ill.
Bauman	Delaney	Hamilton
Beard, R.I.	Dellums	Hanley
Bedell	Dent	Hannaford
Bennett	Derwinski	Harkin
Bergland	Dickinson	Harrington
Biaggi	Diggs	Harris
Biester	Dingell	Harsha
Bingham	Dodd	Hawkins
Blanchard	Downey, N.Y.	Hayes, Ind.
Blouin	Downing, Va.	Hechler, W. Va.
Boland	Drinan	Heckler, Mass.
Bolling	Duncan, Oreg.	Hefner
Bonker	Duncan, Tenn.	Hicks
Bowen	du Pont	Hightower
Brademas	Eckhardt	Hillis
Breaux	Edgar	Holland
Brodhead	Edwards, Ala.	Holt
Brooks	Edwards, Calif.	Holtzman
Broomfield	Eilberg	Horton
Buchanan	Emery	Howard
Burgener	English	Howe
Burke, Calif.	Eshleman	Hubbard
Burke, Fla.	Evans, Colo.	Hughes
Burke, Mass.	Evans, Ind.	Hungate
Burleson, Tex.	Fary	Jacobs
Burlison, Mo.	Fascell	Jeffords
Burton, John	Fenwick	Jenrette
Burton, Phillip	Findley	Johnson, Calif.
Byron	Fish	Jones, Ala.
Carney	Fisher	Jones, N.C.
Carr	Fithian	Jones, Okla.
Chappell	Flood	Jones, Tenn.
Chisholm	Florio	Jordan
Clausen, Don H.	Flowers	Kasten
	Flynt	Kastenmeier
	Foley	Kemp
	Ford, Mich.	Ketchum

Keys
Koch
Krebs
Krueger
Lagomarsino
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Long, La.
Long, Md.
Lundine
McClory
McCloskey
McDade
McFall
McHugh
McKay
McKinney
Madden
Madigan
Mann
Martin
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murtha
Myers, Pa.
Natcher
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Pettis
Pike
Pressler
Preyer
Pritchard
Quie
Railsback
Randall
Rangel
Rees
Regula
Reuss
Richmond
Riegle
Rinaldo
Risenhoover
Roberts
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schroeder
Schulze
Seiberling
Sharp
Shipley
Shriver
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steiger, Wis.
Stokes
Studds
Sullivan
Symington
Symms
Talcott
Taylor, N.C.
Teague
Thompson
Thone
Traxler
Treen
Tsongas
Udall
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Yates
Yatron
Young, Ga.
Zablocki
Zeferetti

NAYS—82

Alexander
Anderson, Ill.
Archer
Armstrong
Ashbrook
Bafalis
Beard, Tenn.
Bell
Bevill
Breckinridge
Brinkley
Brown, Calif.
Brown, Ohio
Broyhill
Butler
Carter
Cederberg
Clawson, Del
Collins, Tex.
Conable
Crane
Daniel, R. W.
Derrick
Devine
Erlenborn
Forsythe
Ginn
Hagedorn
Hall, Tex.
Hammer-schmidt
Hansen
Hutchinson
Hyde
Ichord
Johnson, Colo.
Johnson, Pa.
Karth
Kazen
Kelly
Kindness
Landrum
Latta
Lloyd, Tenn.
Lott
Lujan
McCormack
McDonald
McEwen
Mahon
Michel
Milford
Montgomery
Moorhead, Calif.
Myers, Ind.
Passman
Paul
Pickle
Poage
Price
Quillen
Rhodes
Robinson
Rousselot
Runnels
Satterfield
Schneebeli
Sebelius
Shuster
Snyder
Stephens
Stratton
Stuckey
Taylor, Mo.
Thornton
Ullman
Vigorito
Waggonner
Whitten
Wiggins
Wylie
Young, Alaska
Young, Fla.

ANSWERED "PRESENT"—1

Conlan

NOT VOTING—34

Boggs
Brown, Mich.
Clancy
D'Amours
Early
Esch
Evins, Tenn.
Frey
Giaimo
Gradison
Green
Hébert
Heinz
Helstoski
Henderson
Hinshaw
Jarman
LaFalce
McCollister
Maguire
Matsunaga
Mink
Murphy, N.Y.
Neal
Nix
Pepper
Peyser
Ruppe
Smith, Nebr.
Steed
Steelman
Steiger, Ariz.
Wilson, C. H.
Young, Tex.

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Jarman.
Mr. Murphy of New York with Mr. Brown of Michigan.
Mr. Nix with Mr. Frey.
Mr. Pepper with Mr. Gradison.
Mr. Matsunaga with Mr. Peyser.
Mr. LaFalce with Mr. Esch.
Mr. Early with Mrs. Smith of Nebraska.
Mr. Giaimo with Mr. Steelman.
Mr. Hébert with Mr. Evins of Tennessee.
Mr. D'Amours with Mr. Ruppe.
Mr. Helstoski with Mr. Steiger of Arizona.
Mrs. Mink with Mr. Maguire.
Mr. Neal with Mr. Henderson.
Mr. Charles H. Wilson of California with Mr. Clancy.
Mr. Green with Mr. Heinz.
Mr. Steed with Mr. McCollister.

Mrs. LLOYD of Tennessee changed her vote from "yea" to "nay."

Mr. PRITCHARD and Mr. O'BRIEN changed their votes from "nay" to "yea." So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROHIBITING DEPRIVATION OF EMPLOYMENT OR OTHER BENEFIT FOR POLITICAL CONTRIBUTION

Mr. HUNGATE. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 11722) to amend title 18 of the United States Code to prohibit deprivation of employment or other benefit for political contribution, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, strike out all after line 6 over to and including line 20 on page 2 and insert:

"(a) Whoever, directly or indirectly, knowingly causes or attempts to cause any person to make a contribution of a thing of value (including services) for the benefit of any candidate or any political party, by means of the denial or deprivation, or the threat of the denial or deprivation, of—

"(1) any employment, position, or work in or for any agency or other entity of the Government of the United States, a State, or a political subdivision of a State, or any compensation or benefit of such employment, position, or work; or

"(2) any payment or benefit of a program of the United States, a State, or a political subdivision of a State;

If such employment, position, work, compensation, payment, or benefit is provided for or made possible in whole or in part by an Act of Congress, shall be fined not more than $10,000, or imprisoned not more than one year, or both.

Page 3, line 10, strike out "(1)" and insert: "(A)".

Page 3, line 11, strike out "(2)" and insert: "(B)".

Page 3, line 13, strike out "(3)" and insert: "(C)".

Page 3, line 15, strike out "(4)" and insert: "(D)".

Page 3, line 17, strike out "(5)" and insert: "(E)".

Page 4, line 15, strike out "purposes on" and insert: "purposes, on".

Mr. HUNGATE. Mr. Speaker, H.R. 11722 passed the House under suspension of the rules on April 5 of this year. In the Senate, the bill was referred to the Senate Judiciary Committee's Subcommittee on Criminal Laws and Procedures. That subcommittee, and the Senate Judiciary Committee, reported the bill favorably, but with some amendments. Just yesterday the Senate voted to pass the bill with those amendments.

The amendments added by the Senate are acceptable to the Subcommittee on Criminal Justice and to Representative J. EDWARD ROUSH, the chief sponsor of the bill. In fact, Representative ROUSH and the subcommittee were consulted by the Senate Judiciary Subcommittee on Criminal Laws and Procedures in the drafting of the amendments. We indicated at that time that the amendments were agreeable to us. The amendments added by the Senate are those the subcommittee and Representative ROUSH helped draft and that we approved.

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

There was no objection.

A motion to reconsider was laid on the table.

ELECTION AS MEMBER OF COMMITTEE ON THE BUDGET

Mr. RHODES. Mr. Speaker, I offer a privileged resolution (H. Res. 1562) and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1562

Resolved, That John H. Rousselot, of California be, and is hereby, elected a member of the Committee on the Budget.

The resolution was agreed to.

A motion to reconsider was laid on the table.

EXTENDING THE EXPORT ADMINISTRATION ACT

Mr. MORGAN. 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. 15377) to amend the Export Administration Act of 1969.

The SPEAKER. The question is on the motion offered by the gentleman from Pennsylvania (Mr. MORGAN).

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. 15377, with Mr. EVANS of Colorado 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 Pennsylvania (Mr. MORGAN) will be recognized for 30 minutes and the gentleman from Michigan (Mr. BROOMFIELD) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. MORGAN).

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

Mr. Chairman, the bill before us, H.R. 15377, is a measure to extend the Export Administration Act of 1969 and to make various improvements in that act.

It is an important and necessary piece

of legislation. The Export Administration Act, as Members know, safeguards the national interest by providing authority to restrict exports under certain conditions.

The present act is scheduled to expire on September 30. A companion bill to extend the law already has been passed by the Senate.

Because this is the first time that the Committee on International Relations has had the responsibility for acting on this legislation, the committee has made a special effort to investigate fully the various problems and questions that have been raised regarding export controls.

The committee requested several studies by the Congressional Research Service.

Two of our subcommittees held hearings on specific aspects of export control issues.

The full committee then held 8 days of hearings on the Export Administration Act.

H.R. 15377 thus reflects hard and serious work by the committee. We have produced what we believe to be a very worthwhile bill.

The first 13 sections of H.R. 15377 are aimed principally at improving the export licensing process. Included in these sections are:

A 1-year extension of the act, through September 30, 1977; provision for a specific authorization for appropriations after fiscal year 1977; an increase in the penalties for violation of the act; a clarification of congressional access to information collected under the act; a directive to consider means to simplify the U.S. control list; strengthening of the intent of Congress that licenses be processed within a 90-day period.

These 13 sections were developed, for the most part, pursuant to extensive hearings before the Subcommittee on International Trade and Commerce, headed by Congressman BINGHAM. The full committee owes a note of thanks for the hard work and thought the subcommittee and its chairman have put into these amendments.

Section 14 strengthens the existing policy statement in the act that declares it to be U.S. policy to oppose boycotts of countries friendly to the United States. It prohibits any U.S. person from complying with a request to participate in such a boycott.

The committee strongly favored this strengthening of our resistance to the Arab boycott of Israel through prohibiting U.S. compliance with secondary and tertiary boycotts.

The last two sections of the bill, 17 and 18, deal with the matter of nuclear exports. Section 17 reinstates in law a provision of the Foreign Assistance Act that prohibits the use of aid funds for the construction of nuclear powerplants in foreign countries.

Section 18, a committee amendment, seeks to strengthen U.S. nuclear export control standards and safeguards. It attempts to assure that foreign reprocessing of U.S. nuclear fuel will occur only under safeguards that provide genuine protection against the possible use of plutonium for nuclear explosives.

This amendment was offered by Congressmen ZABLOCKI and FINDLEY pursuant to extensive hearings before the Subcommittee on International Security and Scientific Affairs. Their strong case convinced the committee that we should adopt this proposal as a necessary step toward controlling the spread of nuclear weapons.

Mr. Chairman, questions have been raised as to: Whether this committee amendment is germane to this bill; whether it is within the committee's jurisdiction; and whether the Committee on International Relations has attempted to end-run the Joint Committee on Atomic Energy on this issue.

I would like to make several points.

This amendment on nuclear exports is clearly germane to H.R. 15377. H.R. 15377 amends the Export Administration Act, the primary purpose of which is to provide the executive with guidelines for imposing export controls. A 1974 amendment to that act directed a review of all laws and regulations relating to nuclear exports. The committee amendment was written so as to carry out the recommendations of the resulting report.

The Committee on International Relations has jurisdiction over matters relating to this Nation's foreign policy and national security and over export controls. This amendment clearly affects our country's foreign policy and security and it controls our nuclear exports.

The only reason the committee adopted this provision as a committee amendment was in order to assure speedy consideration of H.R. 15377. This bill extends the Export Administration Act, the current authority for which expires September 30, 1976. There are some 40 to 50 items of difference between this bill and the Senate bill. The conference committee will require adequate time to resolve the differences and get a law enacted within the next 2 weeks.

Further, the Rules Committee set a date of September 10 as a cut-off for receiving requests for rules. The Export Administration Act is an important law which has to be renewed; that is the reason this committee has sought to bring this entire matter before the House without delay.

Mr. Chairman, the committee has worked hard in drafting H.R. 15377. The bill was approved by voice vote with bipartisan sponsorship. I urge its favorable consideration by the House of Representatives.

Mr. GRASSLEY. Mr. Chairman, my question is in regard to section 16 that deals with agricultural commodities. Is section 16 in this bill absolutely necessary from this standpoint? Without it could a country be prohibited from receiving grain that that country had bought, paid for, and stored in this country? In other words, without this amendment would it be impossible for that country to receive that grain?

Mr. MORGAN. Section 16, of course, exempts from export limitation certain agricultural products purchased for use overseas, stored in the United States. I am sure the gentleman from Illinois (Mr. FINDLEY) has proposed some additional language and could answer that question.

I yield to the gentleman from Illinois (Mr. FINDLEY) for an answer.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MORGAN. Mr. Chairman, I yield myself 5 additional minutes.

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

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

Mr. FINDLEY. I thank the gentleman for yielding.

The language in the bill provides a safeguard to certain interests in the event that curtailment or embargo of farm commodities should occur under authority of this act.

Under certain conditions it gives assurance that commodities purchased for export may be exported notwithstanding a general curtailment or embargo.

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

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

Mr. REES. I thank the gentleman for yielding.

I would like to ask the distinguished Chairman as to his interpretation of the intent of the bill on page 15, section (k). It says that any person—which is a firm—receiving a request for furnishing information or entering into an agreement as specified must report it to the Secretary of Commerce, and then it is made open for public inspection. So the mere receiving of the request, even though the request is not accurate, means that a firm must furnish this to the Department of Commerce, and then that information shall be made public.

Mr. MORGAN. Mr. Chairman, I yield to the gentleman from New York (Mr. BINGHAM) for a response, the author of this section.

Mr. BINGHAM. I thank the gentleman for yielding.

I am sorry; would the gentleman repeat the question?

Mr. REES. On line 11 it says there are two circumstances by which a businessman must furnish information to the Department of Commerce. One is if he receives a request for furnishing information, say, from an Arab country, he must report that request to the Department of Commerce, and then that is made public; and, No. 2, if they actually enter into the agreement, they must report that to the Secretary of Commerce and that is made public.

Mr. BINGHAM. That is correct. What is the gentleman's question?

Mr. REES. My worry is that someone by the mere fact that he has received a request for information, and that being made public, might subject him to harassment, just the mere fact of receiving a request for information.

Mr. BINGHAM. The requirement for the receipt of a request for information is in the law today, and such information supplied was a matter of discussion in the subcommittee headed by the gentleman from California (Mr. Moss) which investigated very extensively the responses to that requirement of the filing of information.

Mr. REES. But the law today is not that it shall be made public.

Mr. BINGHAM. I do not understand the gentleman's point. To what particular point in the bill is he referring?

Mr. REES. I am referring to page 15, section (k), and then the next section, section (B). It says that all of this information shall be made public, and it is my impression that that is not in the law.

Mr. BINGHAM. If the gentleman will yield further, the purpose of this entire amendment is to require disclosure of what goes on under the efforts of the Arab nations who oppose the boycott. Disclosure is an essential part, and disclosing the request for the receipt of information is part of that disclosure.

Mr. REES. I would like to ask the Chairman if it would be possible for me to get time. I have two more questions as to the legislative intent of the bill.

Mr. MORGAN. I will try to yield the gentleman some time and he can ask the author of the amendment.

The CHAIRMAN. The time of the gentleman has expired.

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

Mr. BROOMFIELD. Mr. Chairman, H.R. 15377 marks the first time that the Committee on International Relations has exercised its authority over export administration, and I commend the committee and its distinguished chairman for an outstanding performance.

The legislation before us contains significant improvements in the export licensing process, procedures that should facilitate the flow of American exports and serve the interests of the American business community; H.R. 15377 also includes important provisions designed to arrest the dangerous process of nuclear proliferation; and it seeks a legislative remedy to a situation we all find obnoxious: Commercial discrimination and the use of economic blackmail against the State of Israel.

Let me state at the outset that I am totally opposed to the Arab boycott of Israel and I am determined to do whatever I can to render the boycott ineffective. I voted for the Bingham amendment in committee and I shall vote in favor of H.R. 15377 today.

President Ford has made it clear, in deed and in word, that discrimination of any sort is repugnant to the American character and totally unacceptable to the American people.

One need only refer to Secretary Simon's June testimony before the Committee on International Relations to appreciate that the Ford administration has not confined itself to passive or verbal disapproval of the boycott. On the contrary, President Ford has acted to insure that exclusionary policies of other states do not apply to the selection of American contractors or personnel for overseas assignments. In January of this year the administration submitted legislation to prohibit the use of economic means to coerce any person or entity to discriminate against any U.S. person or entity on the basis of race, color, religion, sex, or national origin.

In addition, the Department of Commerce now requires U.S. firms to indicate whether or not they supply information on their dealings with Israel to Arab countries, and Commerce refuses to accept or circulate documents containing boycott conditions.

I recognize that there are those who will contend that the administration, in an effort to avoid confrontation with certain states important to our Middle East peace initiative, has not moved far enough or fast enough; the language of this bill is a reflection of such an attitude. In stating my support for H.R. 15377 and the Bingham resolution, I would nevertheless suggest that the administration is acting in good faith on the boycott issue. Differences President Ford may have with the Congress on this matter are differences of tactics and not of principle. I sincerely hope that our legislative proposals on the boycott, drawn with the most honorable intentions, produce the intended effect. I think they will, and I urge support of this legislation.

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

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

Mr. LENT. I thank the gentleman for yielding.

Mr. Chairman, I rise in strong support of this legislation, which would, among other things, improve export licensing procedures and make illegal complicity by American firms in the Arab boycott of Israel. As one who actively participated in the deliberations of the Oversight and Investigations Subcommittee on this issue, I was pleased to note that many of the recommendations in our recent report on the boycott would be implemented in H.R. 15377.

I was especially pleased to see the inclusion of a provision I have long advocated which would prohibit the withholding of boycott information from Congress under section 7(c) of the Export Administration Act.

Almost a year ago, I sponsored H.R. 9932, to amend section 7(c) to provide that no material obtained by the Secretary of Commerce pursuant to that section could be withheld from the Congress. My bill was introduced in response to the heated controversy over whether then Secretary of Commerce Rogers Morton was legally permitted to turn over U.S. Exporter Reports obtained by the Department to the Oversight Subcommittee. Attorney General Levi ruled that he could not.

The committee report on H.R. 15377 states that this provision, which incorporates the language of H.R. 9932, "should not be necessary," and that it is made necessary only because of the administration's interpretation of section 7(c) "in a manner inconsistent with the intent of Congress." With all due respect to the committee, I believe there is ample justification for the interpretation put upon the existing section 7(c) by the executive branch. If Congress wants access to information, it should be willing to make that intent clearly known when it drafts legislation. Hence, I view the inclusion of this provision as a victory for not only statutory clarity, but also for better executive-legislative relations and for improved congressional oversight of the enforcement of the Export Administration Act.

Mr. BURKE of Florida. Mr. Chairman, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentleman from Florida.

Mr. BURKE of Florida. Mr. Chairman, as a member of the Committee on International Relations I cosponsored H.R. 15377. I am proud I did and I now strongly support this bill which will extend and amend the Export Administration Act of 1969. I now emphasize in the strongest possible terms the need for the support of section 14 of this bill, namely the foreign boycott section—which would make illegal American complicity in the Arab boycott. This is, I believe, one of the most significant pieces of legislation to come to the floor of the House in recent years.

There is no doubt that the Arab boycott constitutes one of the most monstrous and most sinister campaigns ever to be directed against the United States, and yet, Mr. Chairman, it is one of the most subtle. In this seemingly innocuous effort, every aspect of American life comes under attack.

In the first instance, compliance with this boycott requires that American corporations violate the basic principles of the free enterprise system. Free competition is replaced by a process of racially discriminate bargaining.

Secondly, the primary symbols of the American political life—freedom and equality under the law—are ruthlessly challenged; and, finally, American sovereignty itself—most clearly manifested in the ability of the United States to conduct an independent foreign policy—is undermined and made subject to foreign interests. Domestically and internationally, the Arab boycott threatens our American way of life, and my colleagues, this we cannot tolerate.

Mr. Chairman, in counting up this dread-balance sheet, the U.S. House of Representatives has before it no other viable alternative. We cannot stand idly by waiting to be tamely and abjectly enslaved. Rather, we must strike at the very heart of this unparalleled and deliberate act of political and economic aggression. We must pass H.R. 15377 with section 14, which is presently under consideration. In so doing, we will bear witness to the American people and to the rest of the world that America is still the land of those who love freedom, and the home of those who have the courage to live and make sacrifices for that freedom.

To see the wide-spread character of this boycott, it is only necessary to consider briefly its nature. From the very founding of Israel in 1948, the Arab States ceased to do business with that state. This severance of economic ties has precedent in international relations and resembles American policy with respect to countries such as Cuba, North Vietnam, and North Korea. This action is known as the primary boycott and has been viewed by the United States as an acceptable form of international behavior.

But, Mr. Chairman, the Arab boycott has other dimensions which make it

totally unacceptable to the United States. Contrary to what can be tolerated, the Arab States carry this practice to include the internal affairs of all trading partners — including the United States. This extension of the Arab boycott to include a penetration of American society though our American business community, has two aspects commonly called the secondary and the tertiary boycott.

The secondary boycott focuses its impact upon American businesses. A much publicized blacklist has been developed which contains mostly American companies and individuals allegedly connected in some way with Israel or with Jews. The secondary boycott employs this blacklist in accordance with a very simple principle. No company on the blacklist can expect to do business with any Arab State or business. Conversely, any company doing business with an Arab State or business cannot do business with Israel. The basic thrust of this principle is that no company could expect to have access to lucrative Arab markets if it was engaged in trade with Israel or with Jews anywhere.

In practical terms, the following kinds of conditions are imposed upon those who would do business with any Arab State. First, exporters are asked to certify that they do not sell to Israel. Second, shipping lines must confirm that vessels stopping at Arab ports have not stopped in Israel. Third, manufacturers must stipulate that they have no Israeli operations and that their products contain no Israeli-made components. Fourth, banks will honor certain letters of credit only for customers who certify that they have no dealings with Israel. The upshot of these actions is that the Arab States not only refuse to do business with Israel, they also refuse to trade with those who do.

However, the Arab boycott has a further devious dimension. The tertiary boycott extends throughout the entire economic life of those countries who would trade with the Arab States. Any business which trades with the Arab States is forbidden—if it desires to continue that trade—from doing business with any other company which does in fact trade with Israel. The significance of this is simple. U.S. firms are forced to discriminate against other American firms and are thus made subject to the express policy of a foreign government. This violates the basic principles of American sovereignty and seriously undermines the American way of life.

Mr. Chairman, running throughout the entire spectrum of the Arab boycott is another theme which I feel we should bring into the clear light. There can be no doubt that the overriding character of the Arab boycott is nothing other than a hate crusade against the Jewish people with a view to the deliberate and systematic destruction of the State of Israel. Every since 1948 when we followed the British lead it has been the policy of the United States to give its active support and assistance to Israel to make it a viable and self-sustaining state. My colleagues, regarding our failure now to actively participate in any boycott of the kind under discussion will be to give credence and material assistance to a policy of anti-Semitism. I cannot condone this because it would violate the sacred trust and honor we owe to those who fought and died in Europe in World War II.

Mr. Chairman, it has been just over 30 years since the world recognized Hitler's national policy of racial discrimination and religious bigotry. What we are witnessing today in the Arab boycott is another start toward the hates of other days. The demand that American firms practice religious and racial discrimination in hiring, promotion, job assignment, selection of corporate officers and in dealing with other American firms sound all too familiar. It is in all honesty repugnant to the American belief of fairness and as an American I cannot condone it. Any and all attempts by foreign countries to intrude into American domestic life and to coerce American foreign policy must be defeated with dispatch and an open willingness to face those who would try by threats to bring us to our knees.

We would be naive if we did not anticipate at least the thought of the Arab States' undertaking certain actions of reprisal. For instance, there could be some short-term diversion of trade to other European countries or to Japan. It is to be expected that the Arabs will express their displeasure when they realize that their scheme no longer enjoys even tacit, let alone explicit, support by the American public.

Mr. Chairman but I am willing to bet that any major shift in commercial dealings would work a much more unacceptable hardship upon the Arab business community than could be anticipated in the United States. The fact is that some Arab businessmen have expressed private misgivings about the operation of the boycott. They feel that they have become unnecessarily restricted in their dealings with the blacklisted companies. There is considerable evidence which indicates that failure to comply with a boycott request would not necessarily lead to a termination of commercial relations. The Morgan Guaranty Bank officials testified that the offensive boycott language was stricken by the Arab and other foreign banks, in 23 out of 24 times where the bank refused to process such letters of credit which contained objectionable language. In other words, there are strong indications which would lead me to the conclusion that the Arabs would rather waive boycott conditions rather than deprive themselves of American goods and services.

Mr. Chairman, in the final analysis, we who are called upon to vote on this measure must admit, that even if a high price is to be exacted from us, there is no alternative but to take the course of action presently being considered. Fundamentally what is in question, is not the price of oil or the profits of corporations—although these are important, but is the willingness of the American people to support its principles and its own sovereignty. That to me is the basic issue. It is simply a matter of justice, and if there is any common truth to which we must all subscribe, it is that justice cannot be measured in terms of dollars alone. Since when, have we in America used the dollar sign as our symbol of justice or as a substitute for right.

I strongly urge my colleagues to approve H.R. 15377. We must once again put an end to a policy of racial and religious discrimination. Our action today will also serve notice to all the peoples of the world, that the United States intends to remain the principle defender of freedom regardless of the economic pressures by others. To do anything less would be to betray our principles for which so many have fought and died and would be a sorrowful beginning for the hopes of our citizens for a free tomorrow.

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

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

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of H.R. 15377 and the provision in the Export Administration Act (H.R. 15377) which seeks to reduce the danger of nuclear proliferation.

The purpose of this provision is to insure that adequate safeguards are in effect to prevent the spread of nuclear weapons. Readily fissionable nuclear material, specifically plutonium, is the direct byproduct of reprocessing spent fuel for nuclear reactors. Without adequate safeguards to protect the disposition of those byproducts, we cannot justify a policy which promotes the export of the means for nuclear reprocessing. Current adequate safeguards do not exist. Any nation which has access to plutonium is only a few days, if not hours, away from the ability to produce a nuclear weapon.

The effect of this provision would be to prohibit the U.S. export of reprocessing facilities and the reprocessing of U.S.-supplied fuel by foreign countries until tighter safeguards can be put into operation.

This provision will also serve to set a firm guideline for a more consistent U.S. nuclear export policy. We cannot expect other nuclear supplier nations to control the access to nuclear reprocessing if we do not set definite limits of our own.

Mr. Chairman, I repeat, we must adopt this provision.

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

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

Mr. FINDLEY. Mr. Chairman, I want to say forthrightly why I voted against the antiboycott measure approved by the House Committee on International Relations.

To begin with, the amendment offers no hope of actually terminating or materially reducing the impact of the existing boycott. Indeed, there is every likelihood that this legislation will simply serve to stiffen matters in this regard. None of us ought to ignore the practical consequences of legislative acts, however well intentioned those acts may on their surface appear.

Second, the policy of the U.S. Government on this issue has already been strong and unambiguous. Indeed, few countries, save Israel and the United States herself, have made such explicit

and public antiboycott pronouncements. Thus, the moral requirement of a firm U.S. declaratory policy has already been satisfied.

Third, persistent, behind the scenes efforts have already been somewhat successfull in moderating the effect and the intensity of the boycott.

Most importantly, however, this legislation is sure to aggravate improved but still delicate relations with Arab States. Certain of these states are of course instrumental to a long term and peaceful solution to the Middle East conflict. These states have already committed themselves—perhaps unwisely—to assuring that the boycott remains in at least formal effect until a comprehensive settlement has been achieved. Although regrettable, such tactics are not new in the affairs of states.

I very much fear that our action will not only aggravate the Arab States into taking harsher action, but that it may also undermine the moderate leadership in key Arab countries. Such results are sure to complicate if not retard our efforts for a final settlement.

The consequences of this well-intentioned amendment then can be seen to affect adversely the prospects for peace instead of war, for economic stability instead of continued poverty and ruin, for life instead of death. These are also moral considerations of the highest order. And to my mind they are compelling enough to outweigh the desirability of a confrontational intervention of the Congress—especially one that is sure to have only the most meager impact upon the boycott of Israel itself.

I continue to believe that my vote served the best interest of Israel because it served the best interest of peace.

Mr. MORGAN. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. ROSENTHAL).

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

I urge the passage of this bill which will make illegal American complicity in the Arab boycott. In 1965, the Congress thought it was ending American participation in the boycott of Israel when it made such participation against U.S. policy and it gave strong authority to the Commerce Department to enforce this policy.

As the years have passed, we in the Congress have waited vainly for the Commerce Department to take strong action. Instead we have seen the Commerce Department circulating to industry trade offers containing boycott conditions and counseling U.S. companies in ways to evade the requirements of the act. As recently as this March, Commerce Department officials were telling a select group of businessmen how to disregard even the weak civil rights prohibitions which the Department had been forced to enact only 4 months before.

As the Commerce Department procrastinated, boycott demands against American businesses multiplied. Discrimination among American businesses spread. The blacklist of American companies which refused to suffer foreign dictation in their commercial dealings swelled. Today the blacklist includes over 1,500 firms and individuals.

Recent figures released by the Commerce Department to the Government Operations Subcommittee on Commerce, Consumer and Monetary Affairs which I chair reveal how pervasive the pressures against American businesses have become. Banks are the principal enforcers of the boycott. They are the ones who exact compliance with the boycott as the price for payment by the Arab importer.

According to the Department, during the period from April 1 through June 30, 1976, 131 U.S. banks reported that they had engaged in 8,026 transactions involving 15,392 requests to enforce restrictive trade practices. The total amount involved in these transactions was $479 million. Equally troubling, the number of transactions conditioned on compliance with the boycott had grown by over 25 percent from the immediately preceding 4-month period.

Based upon statistics such as the above, the Los Angeles Times recently made a dire prediction:

> Not too many years in the future, the nation could have two kinds of auto companies, steel makers, trading firms and banks: those that deal with the Arabs, and those that don't. If that happened, the two groups would be hampered by the blacklist in their dealings with each other. Imagine the effects on the nation's economy, its sense of nationhood, its integrity.

FOCUS OF THE BOYCOTT

The Commerce, Consumer and Monetary Affairs Subcommittee held 2 days of hearings on the boycott in early June. Their inquiry focused on the pressures exerted on the American financial community and, through it, American industry, to comply with Arab boycott demands. Among the witnesses were Chairman Roderick Hills of the SEC; the General Counsel of the Federal Reserve Board; the head of the Commerce Department's Office of Export Administration, and officials of Chemical Bank and Morgan Guaranty. These hearings put the lie to one of the prime contentions of boycott apologists that the boycott is directed solely against Israel. As the top bank and Federal officials made clear, the Arab boycott, is largely a boycott of American business.

In its secondary aspect, the boycott seeks to prevent American industry from doing business with one of this Nation's principal trading partners—Israel—and precludes blacklisted American firms from doing business in the growing markets of the 20 states of the Arab League. In the boycott's so-called tertiary aspect, American companies are pressured into discriminating against other American companies; that is, those on the boycott list.

BOYCOTT BACKGROUND AND THEORY

It is important to understand how the boycott of American business operates. Virtually from the founding of Israel in 1948, Arab States ceased to do business with that state. While an unfortunate consequence of the hostilities in the Middle East, this severance of economic relations has precedents in international relations and resembles U.S. policy with respect to countries such as Cuba, Vietnam, and North Korea. But the Arab States carried this practice further and elected to include innocent third parties, including American businesses, not otherwise involved in the Middle East dispute. This escalation led to the development of a list of mostly American companies and individuals allegedly connected in some way with Israel or with Jews with which no Arab State or company could do business. This is the Arab blacklist which, in the 1970 Saudi Arabian version made public by the Senate Subcommittee on Multinational Corporations, contains the names of over 1,500 U.S. companies, financial institutions, and individuals.

The theory of the boycott is simple. No company on the blacklist should expect to do business with any Arab State or business. Conversely, any company doing business with an Arab State or business cannot do business with Israel. In practice, as a condition of doing business with Arab interests—

Exporters are asked to certify that they do not sell to Israel;

Shipping lines must confirm that vessels stopping at Arab ports have not stopped in Israel;

Manufacturers must stipulate that they have no Israeli operations and their products contain no Israel-made components; and

Banks honor certain letters of credit only for customers who certify they have no dealings with Israel.

This economic pressure by Arabs directly against U.S. firms has been called the secondary boycott.

But the reach of the boycott can be far wider to encompass not only doing business with Israel but also doing business with any company which does business with Israel. U.S. firms are thus put in the position of discriminating against other U.S. firms pursuant to the dictates of foreign governments. In any form it is equally repugnant in restricting the freedom of American concerns to do business with whom they wish.

BOYCOTT IMPACT

The Arab boycott has an enormous impact upon American business. The House Commerce Investigations Subcommittee reported in May that American firms are complying with over 90 percent of the boycott requests as the cost of doing business with Arab States. The subcommittee, headed by Representative Moss, also found that during 1974 and 1975, 637 U.S. exporters sold at least $352.9 million and as much as $781.5 million in goods and services under boycott conditions. The actual figure is unknown since many firms reporting to the Commerce Department on boycott pressures refused to admit whether they had given in. The Commerce Department has required information as to compliance only since late 1975.

In the hearings before my subcommittee, banks gave graphic evidence of the pervasiveness of boycott requests. The resident counsel of Morgan Guaranty testified that in the 4 months from December 1975 to April 1976, his bank had received 824 letters of credit in a total amount of $41,237,815 containing boycott clauses. These letters of credit were issued not only by Arab banks but also by banks in other Asian and African countries which have joined the boycott against American businesses. In each of these instances, Morgan Guaranty ex-

acted compliance with the boycott as a condition of payment to the American exported under the letter of credit.

Appearing on the boycott list can have a significant impact upon a U.S. company's business. RCA Corp. offers a typical example. Prior to being included on the blacklist, RCA did about $10 million worth of business annually with the Arab world. The company had every reason to believe, it has said, that its sales would have increased substantially over this figure. Today, as a consequence of being boycotted, RCA operations in Arab countries have shrunk to under $1 million, a direct loss of over $9 million.

The boycott not only is hurting American businesses which must choose between dong business with Arabs or Israelis, it is also having a dire impact upon Israel. This impact has been greatest in certain high technology areas where the compliance of a few American firms with the boycott precludes access to vital new developments. In the area of energy exploration, for example, Israel has been unable to draw upon the services of the American petroleum giants for assistance in finding new sources of oil. This has forced Israel into a partnership with a non-American company and has prompted strict secrecy as to the identity of this company for fear of reprisal. Communications technology is another area where Israel has had to look elsewhere at greater expense for the assistance which American companies could better provide.

This impact on both U.S. companies and Israel threatens to increase substantially unless strong action is taken to curb the domestic boycott. A Saudi Arabian minister was recently in the United States exploring American investment in a Saudi development plan. In an interview, he made it clear that investors would have to make boycott declarations and certifications, thereby excluding the 1,500 American companies on the blacklist and undoubtedly widening the number of companies which will feel constrained to avoid business with Israel. The Commerce Department estimates that Arab-American trade, which amounted to $5.5 billion in 1975, is likely to double by 1980. Action is urgently required before large segments of American industry are divided into two groups, each one excluded from the other's Mideast market.

BOYCOTT AS EXTORTION

It is important to point out that the Arab boycott is not an ironclad and impermeable structure. Indeed, the many leaks in the boycott create an evil of their own in that they have created a new cottage industry based on evading the boycott or getting off the boycott list.

There is no single boycott list. Although there is a coordinating body based in Damascus which has power to recommend addition or deletion from the blacklist each of 20 Arab countries and the Arab League itself has its own blacklist with its own wrinkles. The situation is further complicated by the length and complexity of the boycott regulations which contain 100 pages of detailed rules.

Finally, confusion is guaranteed by the secrecy surrounding the list and the regulations. The boycott office has refused to make available copies of either. The only published versions, dated 1970 and 1972 respectively, were first made public in February 1975 by the Senate Subcommittee on Multinational Corporations.

The nature of the boycott as a capricious and extortionist device is clear from the reactions of some American companies to the discovery that they were on the 1970 Saudi Arabia list. A spokesman for the Hertz system, which has licensed auto rental outlets in both Israel and Egypt, declared:

> We are puzzled to find ourselves listed. From time to time we get applications from parties in Arab lands for licenses.

The chairman of Lord & Taylor department store chain said that he first learned of the blacklist in 1971 when a shipment of goods was impounded in Saudi Arabia. He said:

> So we know we are on the list, but we don't know why, never having been told.

A Burlington Industries official noted:

> I did not know we were on any blacklist and don't know why we should be. We are shocked to hear it. We do business with both Israel and the Arab world—far more business in the Arab world, in fact.

The Republic Steel Corp. observed that it had been put on the list "although we have neither any investments or interest in the Mideast." American Electric Power Co. spokesmen were similarly bewildered as to their company's appearance on the list.

Those companies which could ascribe reasons to their being blacklisted disclosed a catalog of capricious and arbitrary actions by Arab boycott administrators. Xerox Corp. attributed blacklisting to a documentary on Israel sponsored in 1966. Coca-Cola was on because it granted a franchise to an Israeli bottling company in the mid-1960's. Sears, Roebuck & Co. said its inclusion was due to the mistaken impression that a British company, Sears Holding, Ltd., was in some way an affiliate. It is not. General Tire & Rubber appeared because a subsidiary, since sold, once had a service arrangement with an Israeli company.

Fortune magazine has noted that dozens of firms listed cannot be found and some no longer exist. A spokesman for Laurance Rockefeller speculated that Laurance Rockefeller Associates—which never existed—is mentioned because Rockefeller and a few colleagues once had a minor interest in Elron Electronics Industries, an Israel company, which they sold in 1967.

The experience of American companies in trying to get their names off or keeping their names off the blacklist throws a different cast upon the nature of the boycott. Instead of being a weapon in the war against Israel, the boycott appears more as a means of extorting bribes and additional business from U.S. concerns. Earlier this year, the SEC accused General Tire and Rubber Co. of failing to disclose that it had paid $150,000 to a Saudi Arabian to get its name off the boycott list. The alleged recipient was none other than Adnan Khashoggi, the same individual who has been implicated in other Mideast "commissions." General Tire subsequently agreed to a court injunction barring future violations.

Bulova had a similar experience. Despite having no dealings in the Middle East apart from its watches being on sale at duty free shops, Bulova was placed on the blacklist. Later a Syrian lawyer approached the company and offered for a retainer to get its name removed. Unfortunately, the lawyer was executed in a Damascus public hanging before he could fulfill his promise.

Undoubtedly other American companies have been forced to resort to similiar payoffs to get themselves off the blacklist. But the usual method of "negotiation" to expunge a name or keep it off is somewhat subtler. What appears to be required is a willingness to make an appropriate contribution to the economies of the Arab world. Sometimes the contribution reportedly can be a strict quid pro quo. Secretary Simon testified to this extortionist arrangement before the committee.

Hence, Xerox is "negotiating" to have its name stricken. The documentary film about Israel which prompted the blacklisting cost the company $230,000 to produce. Xerox has been told that an investment of a like amount in an Arab State would suffice for delisting. Ford Motor Co. is talking with the Egyptians about a similar arrangement—assembling in Egypt automobiles to offset the 5,000 Ford cars annually produced by an Israeli concern. The New York Times reported that Sony was approached with a like arrangement—an electronics enterprise in an Arab country to "compensate" for one in Israel.

Sometimes exceptions are made without explicit agreement due to the bargaining position of the American concern. Hence, defense contractors such as McDonnell Douglas, United Aircraft, General Electric, Hughes Aircraft, and Texaco do business in both Israel and the Arab States without any apparent boycott interference. This is also true of Hilton and IBM. But how many smaller American exporters or manufacturers can affort to enter into similar agreements with the Arabs? And why should they be forced to submit to such extortion which is a violation of express U.S. policy?

According to recent indications, this bribery may become even more widespread. An article by the Arab Press Service cites pressures on the Central Boycott Office being exerted by individual Arab States to allow multinational companies to buy their way off the blacklist by making investments twice the size of their investments in Israel. This would institutionalize the current informal extortion and bribery which characterizes the listing and delisting process.

TERTIARY BOYCOTT

Thus far I have dealt with the direct impact of the boycott on American firms—the so-called secondary boycott. I would like now to turn to an aspect of the boycott which has occasionally been called the tertiary boycott—the discrimination of certain American firms against other American and European firms under pressure from Arab States. This form of compliance with the boycott is illustrated by the following examples:

According to the testimony of SEC Chairman Hills before my subcommittee, a "$30 to $40 million American company" interested in receiving Arab investments felt compelled to end its sizable account with an American investment banking firm because of the latter firm's close relations with Israel.

A U.S. bus manufacturer had its contract to sell buses to an Arab State terminated when it was learned that the seats were to be made by an American company on the blacklist.

Two American investment banking firms were discliplined by the National Association of Security Dealers—NASD—for violating that organization's rules of fair practice in substituting nonblacklisted affiliates for blacklisted firms in underwritings with Arab participation.

Bechtel Corp. was sued by the Justice Department for violating the Sherman—antitrust—Act in refusing to deal with blacklisted American subcontractors and requiring American subcontractors to refuse to deal with blacklisted persons or entities.

As the last example makes clear, there are many who feel that this so-called tertiary boycott, that is, American firms discriminating against American firms, violates the antitrust laws which outlaw conspiracies in restraint of trade. President Ford apparently shares that opinion. In a thoughtful and innovative statement made on November 20, 1975, he clarified his administration's position on the boycott and modified agency practice to outlaw compliance with the religious and racial, but not economic, aspects of the boycott. As part of his address, he remarked:

> The Department of Justice advises me that the refusal of an American firm to deal with another American firm in order to comply with a restrictive trade practice by a foreign country raises serious questions under the U.S. antitrust laws.

Other commentators suggest that the antitrust laws extend even to the secondary boycott where an American firm refuses to deal with Israel in compliance with boycott pressures.

I welcome and commend the actions of the President and the Justice Department in this regard. I share their conclusions about the applicability of the antitrust laws at least to the tertiary boycott. But we all know that actions through the courts to enforce the antitrust laws can be extremely lengthy, time-consuming and unpredictable. Bechtel has raised numerous defenses to the lawsuit including the undisputed fact that the U.S. Government at times has encouraged trade with Arab League countries knowing that boycott compliance was a commercial requirement and that an alleged exemption from the antitrust laws for foreign acts of state may be applicable.

According to the San Francisco Examiner, Bechtel itself is apparently continuing to bow to blacklist pressures and has circulated letters to its subcontractors stating that Israeli goods or materials shipped on blacklisted vessels could not be used in a $20 billion seaport construction project in Saudi Arabia. Enforcement of the antitrust laws, while laudable, is therefore not the most expeditious or effective means of ending this boycott of American businesses.

UN-AMERICAN PRESSURES

I have so far addressed myself to the economic aspects of the boycott. There is another side. Few people seriously maintain that the boycott is not also anti-Jewish. Senate investigators and others have uncovered numerous instances where American individuals or companies were apparently denied business with Arab states solely because they or their officers, employees or shareholders were Jewish. Two colonels in the Army Corps of Engineers admitted to a Senate subcommittee that the corps had given in to Arab pressure to exclude Jewish personnel from projects in Saudi Arabia. They admitted that private U.S. companies were subject to the same anti-Jewish requirement.

I will not, however, dwell on this important aspect of the boycott because I feel it has been well-documented and is the subject of the executive memorandum dated November 20, 1976. I wish only to say that the illegality of such discrimination based on religion, national origin, sex, or race should be clarified and expanded to all American companies as this bill does.

DENUNCIATIONS OF THE ECONOMIC BOYCOTT

Many American businesses have joined in the denunciation of the Arab boycott which has put them in the unconscionable position of having to refuse to do business with an ally and major trading partner of the United States—Israel—in return for business from the Arab world. They urge the passage of legislation such as this which, once and for all, will enable, indeed require, them to turn down such requests. Among the American firms reported taking this position are General Mills, Bausch and Lomb, Pillsbury, First National Bank of Chicago, Northwestern National Bank of Minneapolis, Provident National Bank of Philadelphia and the Marine National Exchange Bank of Milwaukee. I think it is fair to say that these sentiments are shared by large segments of the American business community.

Important Federal officials have also urged strong Congressional action to end the discriminatory impact on American business of boycott compliance. Principal among these has been Chairman Arthur Burns of the Federal Reserve Board who in a letter to my subcommittee dated June 3 stated:

> The time has come for Congress to determine whether it is meaningful or sufficient merely to "encourage and request" U.S. banks not to give effect to the boycott. It is unjust, I believe, to expect some banks to suffer competitive penalties for responding affirmatively to the spirit of U.S. policy, while others profit by ignoring this policy. This inequity can be cured if Congress will act decisively on the subject.

CURRENT LAW

To place in perspective the changes embodied in this bill, let me summarize the present provisions of the Export Administration Act which pertain to the boycott and some other statutory weapons against the boycott which have unfortunately not proven wholly effective.

There are three sections of the current Export Administration Act relating to the boycott. The first, section 3(5), declares in effect that it is U.S. policy to oppose boycotts imposed by foreign countries against countries friendly to the United States. A second provision requires companies to report to the Commerce Department all requests for boycott compliance.

In December 1975, the Department announced it had fined four companies and warned 212 others for failure to report boycott requests properly. Tightened Department regulations now extend these reporting requirements to banks, insurers, freight forwarders, shipping companies and other businesses that serve exporters, and include the obligation to report whether or not they plan to go along with boycott requests.

Moreover, Department regulations outlaw compliance with boycott requests which involve discrimination against Americans based upon their race, color, religion, sex or national origin. These prohibitions are widely known.

There is, however, a third provision of the Export Administration Act which, if enforced, would obviate having to strengthen the act to protect American concerns from the boycott. This is section 4(b)(1) of the act which gives the President the power to "effectuate the policies set forth in section 3"—including the antiboycott policies—through limiting export privileges and imposing other unspecified sanctions against related service companies which act contrary to these stated policies.

In a letter to the Government Operations subcommittee, then Commerce Secretary Rogers Morton admitted that this language was the only authority he needed to outlaw all compliance with the boycott. Unfortunately, neither he nor his successor has seen fit to use this power despite the clear congressional intent that it be used.

Other laws or regulations which apply to the Arab boycott include the following:

The Sherman Act outlaws contracts, combinations or conspiracies in restraint of trade. According to the Justice Department—in the Bechtel suit—an agreement not to do business with American companies that deal with Israel would almost certainly be a violation. An American company's promise not to trade with Israel may also be a violation.

The Securities Exchange Act of 1934 requires the disclosure of information which could have a material impact upon a public company. SEC Chairman Hills in testimony before my subcommittee, suggested that compliance with the boycott might have to be disclosed where the company's business or the market value of its shares would be affected by such disclosure as where customers of a bank might be concerned that such bank was aiding the Arab cause.

In their duty to oversee the privileges and benefits of the banking community and to prevent unsafe or unsound practices, the Federal bank regulatory agencies have outlawed religious discrimina-

tion in accepting deposits, investing or lending. Chairman Burns of the Federal Reserve Board even suggested that processing letters of credit with boycott stipulations violated banks' Federal responsibilities.

Pursuant to the far-reaching Presidential statement of November 20, a number of departments and agencies have issued orders or regulations barring any boycott-related discrimination based upon religion, race or national origin.

Legislation embodying the principles of the Presidential directive has been passed in Illinois, New York, Maryland, and Massachusetts. These States, as well as Pennsylvania, where similar legislation is under active consideration, are bearing the burden of the belated, piecemeal and insufficient Federal action against the boycott.

Let me summarize the current legal status of the boycott. The Export Administration Act declares the furtherance or support of the Arab blacklist to be against U.S. policy. Companies must report all boycott requests. They are prohibited from complying with any boycott request which furthers or supports discrimination against U.S. citizens or firms on the bases of race, color, religion, sex, or national origin. They also may be forbidden from discriminating against other U.S. firms, although the Justice Department acknowledges that a foreign boycott has never been held to violate the Sherman Act.

Thus, U.S. law already appears to outlaw the anti-Jewish features of the boycott as well as the so-called tertiary economic aspects of the boycott. But these prohibitions are embodied in the first instance in regulations based solely on U.S. "policy" and in the second instance on an antitrust statute only first being applied in a test case.

Moreover, no U.S. law is addressed to the most pervasive, sinister and direct symptom of the boycott—the blacklisting of 1,500 American firms and individuals. It must be made clear, as this bill does, that no foreign nation can involve innocent American businesses in its warfare against a nation friendly to the United States.

PROJECTED IMPACT OF THIS BILL

Concern has been expressed in some quarters that outlawing compliance with the boycott may adversely affect U.S. trade and diplomatic relations with the Arab world. I would be naive if I did not admit some risk in the course of action pursued by this committee. There could be some short-term diversion of trade to other European countries or Japan as the Arabs express anger that their scheme no longer enjoys tacit, if not explicit, American support. But there are several grounds for optimism that the disruption of trade would be neither severe nor long-term.

First, the long-standing and generally amicable commercial relations between this country and the Arabs have survived earlier political vicissitudes. Iraq currently offers a fine example where radical rhetoric and divergent political philosophies have not interfered with a thriving American business relationship. The Arabs have become used to the high quality goods and services which only this Nation can provide in such abundance. Any major shift in commercial dealings would, I believe, work an unacceptable hardship upon the Arab business community and its customers.

Second, numerous Arab businessmen have expressed private misgivings about the operation of the boycott. They feel it unnecessarily restricts their dealings with blacklisted companies. It also alienates executives of other companies who resent being questioned about their company's business relations or who find it morally repugnant. No fewer than 22 larger American firms have recently pledged not to comply with Arab boycott demands. These include American Brands, Beatrice Foods, El Paso Natural Gas, General Motors, Greyhound, Kennecott Copper, G. D. Searle, Texaco, Textron, and U.S. Gypsum. Typical of this pledge was that of the chairman of General Motors, T. A. Murphy, who said:

> General Motors has received occasional requests from Arab countries that it agree not to participate in future dealings with Israel or with Israeli companies. . . . General Motors has made no such agreements and would not make any such agreements.

Third, Arab companies have demonstrated in past dealings that an objection to a boycott request would not necessarily lead to a termination of relations. When the Commerce Department in November 1975 outlawed compliance with requests involving discrimination on ethnic or religious grounds, banks were forced to reject letters of credit containing objectionable language. Morgan Guaranty testified before my subcommittee that in 23 of the 24 instances where the bank refused to process such letters of credit the offensive boycott language was voluntarily stricken by the Arab or other foreign banks involved. There is considerable reason to believe that Arab countries would waive boycott conditions rather than deprive themselves of vital American goods and services.

Fourth, it is by no means clear that all European and developed countries would welcome compliance with the Arab boycott as a price for additional Arab trade. Indeed, some developed countries appear to have taken a harder line against boycott compliance than the United States.

Germany offers a fine example. It is Israel's largest trading partner after the United States. It is also the principal competitor of the United States in the sale of high technology equipment and services to the Arabs. Yet German industry has vigorously opposed compliance with Arab boycott conditions. There are virtually no reported instances of German acquiescence in boycott demands.

Indeed as recently as March, the Hamburg Chamber of Commerce labelled the Arab boycott as a "particularly grotesque strain of discrimination against freedom of trade." Since 1965, West German chambers of commerce have refused to validate all so-called negative certificates of origin, and so forth, declarations that goods are not of Israeli origin. This position has the support of almost all German business organizations. This resolve has evidently been successful since Bonn's Economic Ministry claims to have no record of any export contract breach resulting from this refusal to validate boycott documents. Although there are reportedly 200 German firms on the Arab blacklist, many businesses maintain parallel links with the Israelis and the Arabs.

One highly publicized instance of German resistance to boycott pressures involves a recent license granted by Volkswagen to an Israeli firm for the production of the Wankel rotary engine. The Arab boycott committee had responded by threatening to place VW on the blacklist. VW refused to withdraw the license and to the best of my knowledge maintains its opposition to any Arab dictation related to its substantial Israeli trade.

The Common Market has also been outspoken in its opposition to the Arab boycott. Article 85 of the Treaty of Rome establishing the EEC prohibits "the conclusion of contracts subject to acceptance by other parties of supplementary obligations which have no connection with the subject of such contracts." In trade agreements concluded or being negotiated with Arab States, the EEC is insisting upon insertion of clauses outlawing discrimination among nationals, companies, or firms of the Common Market.

While the Arab signators, including Tunisia, Egypt, Lebanon, Morocco, and Algeria, have issued reservations against these clauses, the EEC has informed Egypt that it considers a proper respect for the nondiscrimination clause essential to the full implementation of the trade agreement. As one member of the EEC Commission put it:

> The Commission considers [that] Arab discriminatory boycott measures are contrary to the principles of cooperation which the community wishes to establish with the Arab countries.

The British position on the boycott was expressed in November 1975 by the then Secretary of State for Trade, Peter Shore, as follows:

> This Government deplores and is opposed to any boycott that lacks international support and authority.

In a celebrated case last winter, the British Foreign Office Race Relations Board required Gulf Oil Co. to award compensation and to reinstate a secretary whose promotion had been withdrawn when Gulf had discovered that she had married a Jew. British efforts directed against the boycott are coordinated by a committee composed of numerous influential businessmen and civic leaders. They are in the process of developing and promoting legislation which would outlaw all compliance with the boycott.

Other examples of European opposition to the boycott include the Dutch government's prohibiting notaries from validating boycott documents and the adoption of article 15 of the Convention establishing the European Free Trade Association, which prohibits "concerted practices between enterprises which have as their object or result in the prevention, restriction or distortion of competition within the area of the Associa-

tion." The former law has not prevented widespread and growing relations between Dutch industry and the Arabs.

According to press reports, Saudi Arabia has recently placed huge orders with Dutch firms for the construction of harbors in Damman and Jubail and for the expansion of the Saudi telephone system. Moreover, Egypt is expected to place an important order for the construction of ships in Dutch shipyards.

In Canada, the 1975 amendments to the Combines Investigation Act forbid conspiracies to restrict competition. Parties to an agreement which reduces competition in Canada are subject to criminal prosecution.

The impression I and my staff gather from numerous conversations with foreign diplomatic officials is that the Arab boycott is a matter of great concern to other developed countries. Representatives of countries which have not outlawed compliance with the boycott expressed considerable interest in the prospect that a strong American initiative might prompt their countries to do likewise.

The above analysis should lay to rest the speculations of those who fear that U.S. opposition to the boycott would send the Arabs into the arms of a welcome and compliant Europe. Indeed should some developed countries be slow to follow the American lead, the United States is not without recourse. The General Agreement on Tariffs and Trade—GATT—to which not only developed countries but even Egypt and Kuwait are parties almost certainly forbids the imposition of discriminatory boycotts such as the Arabs' against third parties to a conflict. As long as the United States submitted to boycott pressures, it was naturally reluctant to raise these prohibitions with other developed countries. This reluctance should end with the passage of strong domestic antiboycott legislation such as this.

While no one can predict to a certainty the impact on United States/Arab trade relations of antiboycott legislation, the evidence suggests any trade diversion would be small and short-lived. The Arabs are highly unlikely to allow enforcement of a secondary boycott to interfere with their long-term development plans, and they are not going to find that other developed countries are substantially more willing than the United States over the long run to tolerate such discriminatory and anticompetitive practices.

These views are long but I feel compelled to make the strongest possible case for the prompt and favorable consideration of this bill. Our Nation must no longer acquiesce in the shameful, extortionist pressures of the Arab blacklist which offend American principles of free trade and fair play and which are having a destructive, divisive, and anticompetitive effect upon American business.

Mr. MORGAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Chairman, I rise in support of H.R. 15377, extending the Export Administration Act.

Mr. Chairman, the time is short and my remarks will be brief. Primarily I take this time to speak in support of section 18, which deals exclusively with the issue of nuclear exports.

Mr. Chairman, more specifically, it is intended to help solve one of the most challenging problems facing us today—that of nuclear proliferation.

Let me say at the outset that I am proud to be associated with this amendment. Together with a bipartisan group of 14 cosponsors from the House International Relations Committee, I was pleased to sponsor it with our distinguished colleague from Illinois (Mr. FINDLEY).

Nuclear proliferation is a subject on which the Subcommittee on International Security and Scientific Affairs has held extensive hearings. One result of those hearings was House Concurrent Resolution 570, a resolution adopted by the House on May 3. What that resolution did was to urge certain specific courses of action aimed at stopping the rising worldwide spread of nuclear technology and the resulting increased threat of nuclear war.

One provision in the original version of House Concurrent Resolution 570 dealt with the reprocessing of nuclear fuel, an important aspect of the nuclear proliferation problem. During the extended course of our deliberations, however, serious questions arose regarding the wisdom and adequacy of that provision. Thus, rather than advocate an ill-advised or inadequate solution, the subcommittee decided to delete the provision in markup.

Since that time, several important developments have taken place. First, under the distinguished and able leadership of our esteemed chairman, Dr. MORGAN, the House International Relations Committee as well as the subcommittee have held additional hearings. Those hearings have concentrated chiefly on important new studies conducted by respected nuclear scholars. In addition, five separate GAO reports have been developed. The end result of this exhaustive and dedicated effort is the approach contained in section 18 of H.R. 15377.

I go into this somewhat lengthy background only by way of reflecting the care and seriousness with which the issue has been considered. Because nuclear proliferation is a complex issue, and because the failure to control proliferation could result in the extinction of civilization, it has demanded care and precision.

In effect, then, the committee amendment actually picks up where we prudently left off several months ago. On the basis of very careful and exhaustive review, I believe it is a sound, balanced, and effective legislative remedy to an extraordinarily complex and dangerous problem.

Evidence accumulated during our hearings points up the seriousness of the danger. For example, nuclear material from which nuclear explosives could ultimately be made now exist in approximately 30 countries. By 1985—9 short years from now—it is estimated that nearly 50 countries will have nuclear powerplants producing enough plutonium each year for at least several dozen nuclear explosives. By the year 2000, the annual rate of plutonium production worldwide will be nearly 1 million kilograms—enough to make 100,000 nuclear explosive devices.

Clearly, a spread of this magnitude will not only erode world stability but will also seriously degrade the effectiveness of our own nuclear forces as well.

It is this urgent and frightening prospect to which this amendment addresses itself. I believe the amendment achieves its goal prudently and without damage to our domestic nuclear industry.

In closing I would only observe that the time for responsible legislative initiative is short. Action is needed and it is needed now. I am convinced that this amendment is necessary and responsible. I urge my colleagues to vote for it.

Mr. MORGAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Maryland (Mr. LONG).

Mr. LONG of Maryland. Mr. Chairman, I rise in support of this legislation.

Mr. MORGAN. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Chairman, this bill improves and strengthens the export control program of the United States. It reaffirms the need for effective control of exports on national security grounds, and at the same time for maximum trade consistent with the national security in the interests of a healthy economy, fuller employment, and a strong balance-of-payments position. It also strengthens the ability of this country and its businesses to resist attempts by foreign countries to force us into compliance with boycotts of third countries friendly to the United States.

This bill has received extensive consideration at both the subcommittee and full committee levels. The Subcommittee on International Trade and Commerce, which I have the honor to chair, held 5 days of hearings this year on "Export Licensing of Advanced Technology," which everyone involved agrees constituted the most thorough scrutiny to which the export-licensing process has been subjected since the passage of the Export Administration Act in 1969.

Witnesses included administration officials, industry and trade association representatives, and specialists from the Congressional Research Service, the General Accounting Office, and major universities. We considered both general principles and specific cases. The subcommittee also held 4 days of hearings last year on the Arab boycott. The full International Relations Committee then held further hearings on all aspects of the bill.

Mr. Chairman, this bill is the product of full cooperation between the subcommittee and the full committee, and between the majority and minority. I am proud to have been a part of it, and I urge the support of my colleagues for the committee bill.

Mr. Chairman, sections 1 to 13 of H.R. 15377 are designed to continue and build on the improvements in the export-licensing process which were instituted

by the Committee on Banking and Currency, which previously had jurisdiction over the Export Administration Act. All but one of these sections grow out of five days of hearings before the Subcommittee on International Trade and Commerce, which I have the honor to chair, on "Export Licensing of Advanced Technology." The amendments had unanimous support in the full Committee and have broad support in the business community and are also responsive to the recommendations of experts on the export-licensing process in the Congressional Research Service and the General Accounting Office as well as the Nation's universities.

I hope these amendments will complement and stimulate the administration's own internal studies and reforms, under the leadership of the very able Deputy Assistant Secretary of Commerce, Mr. Arthur T. Downey.

It is clear from my subcommittee's hearings that there are major problems with the export-licensing system. It is true, as the administration is quick to point out, that the vast majority of the more than 50,000 export license applications submitted annually to the Department of Commerce are processed routinely, efficiently, and without major disagreement among the parties involved in the procedure. But the test of the system is not how well it processes the majority of the applications which present no problems, which are always approved. The test of the system is how well it processes those relatively few but vitally important applications which present the most severe analytical problems. Such applications are most typically for the export of advanced technology to communist destinations. The evidence is that, on these applications, the system does not produce rational decisions in a timely fashion.

The most immediate reason for this is the unwieldiness of the export-licensing system. The Office of Export Administration is inadequately staffed with technically competent personnel and backward in its administrative procedures. The system is top heavy with interagency review structures designed to compensate for inadequate personnel at the working levels and to avoid responsibility for licensing decisions. The interagency review process operates on the basis of an informal unanimity rule under which any interested agency can block an application. A system of interagency consultation which was designed to facilitate the balancing of all relevant considerations in licensing decisions has become a system where the most obstructionist agency can delay applications indefinitely.

The Department of Commerce, which is supposed to be the lead agency in the process, has been too content to rely on unanimity as a basis for decision, and has failed vigorously to exercise its leadership role to forge a consensus among the responsible agencies. My amendments address four underlying problems which contribute to the unwieldiness, inefficiency, and ineffectiveness of this system.

First, we in Congress have not done well enough at providing the administration with clear policy directives to guide it in making licensing decisions. As the Export Administration Act has been successively amended, inconsistent and even contradictory language has crept into the act. We have failed on occasion to state our intent with sufficient strength and clarity. My amendments seek to strengthen congressional intent and clarify policies.

Second, the administration has been unable to develop adequate criteria for determining which exports are most in need of control on national security grounds. It is apparent from my subcommittee's hearings that it is necessary to move away from the concept of controlling countries and toward the concept of controlling commodities. But this would require the development of better criteria for determining which commodities should be controlled. The process can never become significantly more efficient until the agencies involved learn to focus their resources more narrowly on the truly critical aspects of technology.

Third, we have to begin to reverse two related presumptions which underlie the licensing system. One is that we start by controlling everything, and that the burden of proof rests on those who seek removal of an item from the list. The other is that exporting is not a right which, like other rights, may be limited for specific and justifiable reasons, but rather a privilege which is granted by the State. These two presumptions, which are enshrined in the rules and the practice of the export-licensing system, contribute to the length of the commodity control list and the complexity of the Export Administration Regulations.

Fourth, for a quarter century the process has been closed to effective public scrutiny and congressional oversight. Most information about the functioning of the system has been deemed either security-classified or business-confidential. Secrecy is the atmosphere in which bureaucracy is most likely to feed on itself. A system so insulated will not reform. The national security and confidentiality arguments have been overdone in this field as in others. We have to open it up. For this purpose, the bill contains a number of "sunshine" amendments.

Mr. Chairman, section 1 of the bill extends the Export Administration Act for 1 year, to September 30, 1977. This short extension is necessary to give the committee, for which export controls are a new subject, an early opportunity to make such further changes in the act as may be indicated by further study. Some of my amendents call for detailed administration studies of particularly difficult aspects of the export administration program, and the committee hopes to have the benefit of these studies before providing a longer extension. And a 1-year extension will facilitate the close and continuing oversight of the program by the Committee that is necessary to stimulate the desired reforms.

Section 2, which increases the penalties for violations of the act, was offered by the distinguished chairman of the full committee at the request of the administration, and I am happy to have it included with my amendents. The penalties are unchanged since 1969 and need to be increased to take account of inflation, as well as to increase their deterrent value.

Section 3, like section 1, has the objective of facilitating congressional oversight of the export administration program—in this case by requiring specific authorization of appropriations for the program by the appropriate legislative committees. This amendment will also bring us into clear conformity with the House rules requiring prior authorization of appropriations. I am gratified that, in a previous exchange of correspondence, the gentleman from West Virginia (Mr. SLACK), the distinguished chairman of the Appropriations Subcommittee with jurisdiction over the program, indicated that he would welcome more adequate guidance by the committee with legislative jurisdiction.

Section 4 speaks to one of the most serious flaws in the export-licensing system, by providing that goods freely available from other countries shall not be controlled for export from the United States on national security grounds unless it is demonstrated by the President and justified to Congress that the absence of controls would damage the national security. There are disturbing indications that the administration's failure to adhere to such a policy is resulting in loss of business by American companies to their foreign competitors. The current language of the act is unclear as to what the policy on "foreign availability" should be. This amendment clarifies the language in a way which protects both the national security and commercial interests.

Section 5 contains a strengthened statement of congressional intent that license applications be decided up or down in a reasonable period of time, and provides applicants in certain cases with an opportunity to respond to objections to their applications. Although it is clear that Congress intends that applications be decided within 90 days except in unusual circumstances which are meaningfully explained to the applicant, applications still languish in the bureaucracy for months, as documented in the committee report and the subcommittee hearings, and the applicant cannot find out why.

Paragraph one requires issuance of a license for any application not decided within 90 days unless the agency raising an objection makes a positive finding that more time is needed and tells the applicant the specific reasons for the delay.

Paragraph two introduces an element of "due process" into the system by requiring that within the limitations of national security, an applicant for a license not decided within 90 days be informed of and given an opportunity to respond to questions or negative considerations raised in the interagency review process. This provision guards, for example,

against the possibility that the objection is based on a misunderstanding or misinterpretation of the documentation submitted by the applicant. Together, these two paragraphs seek to make the export-licensing process more expeditious and accountable, while fully protecting the national security.

Section six reaffirms the intent of Congress that the secrecy provisions of the act do not authorize the withholding of information from Congress, and provides for submission of any information obtained under the act to any committee or subcommittee of Congress, upon request, with appropriate safeguards for protecting confidentiality. Most of the information acquired under the act is deemed confidential by the administration, and Congress gets it, even in executive session, only by the grace of the administration and under conditions imposed by the administration. It is inconceivable that Congress intended by the secrecy provisions of the act to deny itself access to such information as it might later deem necessary for the effective exercise of its legislative and oversight responsibilities.

Section 7 requires reporting to Congress on the impact of the technical advisory committees. These industry-Government committees were authorized as part of the 1972 amendments to the act to advise the Department of Commerce on technical matters, foreign availability, and licensing procedures, and in general to facilitate communication between business and Government. Heretofore these committees have been unable to determine whether anyone in the bureaucracy takes their recommendations seriously. Since the technical advisory committees function pursuant to legislation, the administration should be accountable to Congress for the use made of them.

Section 8 requires simplification of the rules and regulations issued pursuant to the act, to make them more understandable to the average businessman and thereby to facilitate compliance. Mastery of these lengthy, complex, and constantly changing regulations is costly for any business and is particularly difficult for small businesses which cannot afford to maintain staffs of experts on export regulations. Testimony suggests that much noncompliance is probably inadvertent, the result of an inability to determine what the requirements are.

Section 9 amends sections 4(h) and 6(b) of the act to bring them into conformity with the basic purposes and policies of the act as a whole, thereby providing the administration with more coherent policy guidance. This is accomplished by removing specific references to communist countries, and by providing stricter guidelines for restricting exports on national security grounds. Section 4(h) of the act, added in 1974, gives the Secretary of Defense a special voice in reviewing exports on national security grounds. This amendment preserves that special voice, but it both broadens it and narrows it. The amendment broadens the authority of the Secretary to review exports on national security grounds, by authorizing him to do so for exports "to any nation to which exports are restricted for national security purposes," rather than just for Communist-country exports as under current law. And the amendment narrows the authority of the Secretary to recommend against exports on national security grounds, by requiring him to show not only that the export would increase the military potential of another country, as under current law, but also that such increase would be detrimental to the national security of the United States. In so doing, this amendment brings section 4(h) into conformity with the basic policies of the act, which are to control exports to any nation which would prove detrimental to the national security of the United States.

Finally, this section makes a conforming amendment to section 6(b) of the Act by providing that the felony penalties of the act apply to exports in willful violation of the act with knowledge that such exports will be used for the benefit of any "country to which exports are restricted for national security or foreign policy purposes", rather than of any "Communist-dominated nation" as in the current law.

Section 10 repeals title II of the Mutual Defense Assistance Control Act of 1951, which provides for multilateral controls on the export to Communist countries of nonmilitary strategic items. This title has been superseded by the Export Administration Act and is now obsolete.

Section 11 requires reporting to the Secretary of Commerce of any technology exchange agreement which may result in transfer of technical data from the United States and the monitoring of technology transfers under such agreements by the Secretary, and a study by the Secretary of the problem of the transfer of technical data in scientific publications. This amendment responds to concerns voiced in hearings and in the press that significant transfer of technology from the United States takes place by means not subject to the export-licensing process.

Section 12, in a further attempt to facilitate oversight of the act by Congress, specifies the information to be included in the semiannual reports to Congress already required by the act.

Section 13 requires the submission within 12 months of a special report on multilateral export controls. These controls are currently governed by an informal 15-nation group of advanced industrial democracies known as COCOM. There are disturbing indications that COCOM is inefficient, slow to reflect changes in technology, unable to promote uniform application of export controls by its members and to monitor compliance with end-use guarantees, and as a consequence ineffective in controlling the flow of technology and disadvantageous to American business. This amendment will provide Congress with a better informational basis for possible future legislation, and will stimulate the administration to think about how the system might be reformed.

Mr. Chairman, section 14 of this bill is an important provision which seeks to protect Americans and American firms from discrimination and to preserve the right of Americans to do business abroad without political pressure. The provision would prohibit Americans from intentionally complying with any foreign boycott of a country friendly to the United States.

As the committee report points out, this provision is aimed principally at American complicity in the Arab economic boycott of Israel. This boycott involves Americans in several respects. Arab nations may refuse to do business with any American person or firm that deals with Israel or that is owned or managed by Jewish Americans. This is the so-called "secondary" boycott.

Similarly, Arab nations or firms may refuse to do business with any American person or firm which does business with another American person or firm that is Jewish or that has dealings with Israel. This so-called "tertiary" boycott compels Americans to discriminate against other Americans in order to do business with Arab nations and firms.

The "primary" Arab boycott of Israel—under which Arab nations and firms refuse to do business directly with Israel and Israeli firms—is outside American jurisdiction and is not affected in any way by this legislation. Contrary to some press reports and the comments mostly of opponents of this measure, this bill is not intended to stop the direct Arab boycott of Israel. It would only end the secondary and tertiary aspects of that boycott insofar as American firms are concerned.

As far back as 1965, the Senate passed legislation similar to the provision in this bill banning all compliance with foreign boycotts. The House, however, was persuaded by executive branch arguments that the way to deal with this boycott was by quiet negotiation. So with that in mind, the Congress settled for a policy statement which is contained in the current Export Administration Act, which encourages American firms to refrain from complying with the terms of foreign boycotts but does not prohibit such compliance.

Diplomatic efforts to reduce the impact of the Arab boycott have not been successful after more than 10 years. With the growth of Arab economic strength, the boycott has grown. Investigations by my Subcommittee on International Trade and Commerce, by the Subcommittee on Investigations of the Interstate and Foreign Commerce Committee, and by the Subcommittee on Commerce, Consumer and Monetary Affairs of the Government Operations Committee have all found extensive evidence of boycott requests in business contracts and letters of credit. All have recommended and endorsed legislation along the lines contained in this bill to prohibit U.S. compliance with foreign boycotts.

In weighing the possible Arab response to this measure, two considerations should be kept in mind. First, considerable interdependence has developed in recent years between the United States and the Arab world. We are dependent upon the Arab nations for much of our oil. But the Arab nations have purchased billions of dollars in military equipment. They

will need technical assistance and spare parts for that equipment for many years, and will undoubtedly wish to continue to obtain more of this kind of equipment.

Second, sales to Arab countries by European nations that have taken the hardest line against compliance with the embargo, such as the Netherlands, have increased as fast or faster than the European nations that have generally complied with the boycott, such as France.

Mr. Chairman, a number of arguments have been raised by businesses and interest groups in this country, such as the National Association of Arab Americans, in opposition to this antiboycott provision to which I wish to respond.

The first such argument is that this provision would prohibit U.S. trade with Arab countries. It would do no such thing, nor is it intended to. Certainly there is nothing in this bill that prohibits United States-Arab trade. Its impact on trade will depend upon how the various Arab nations choose to respond to it. We know that a number of the Arab nations have little interest in continuing the embargo and have implemented it only very loosely in recent years.

Even the countries that implement it most rigorously do business with a number of large companies that have refused to comply with the embargo—companies that do business openly with both Israel and Arab countries.

Finally, the boycott is implemented mostly against trade involving U.S. investment. Much trade which does not involve investment is unaffected by the boycott. Presumably much of this trade—noninvestment trade, trade by companies which already refuse to comply with the embargo, and trade with Arab countries which are not deeply committed to continuing the embargo—would be unaffected by this provision. Many firms have existing contracts with Arab firms or governments—some of them long-term contracts. Since under international law contracts are generally entered into subject to any government restrictions, such existing contracts would remain valid and enforceable even if they contained boycott requirements with which the American parties could no longer comply.

A second argument, Mr. Chairman, is that this provision will cost American jobs—"up to 650,000 jobs in the United States" according to an ad appearing yesterday in the Washington Post and other newspapers under the sponsorship of the National Association of Arab Americans. That argument presumes that this provision would stop all trade with Arab countries which, of course, is not the case.

American business has long shown its ability to sell its superior products at home and abroad. The Arab nations need American products and technology. In my judgment they will accept the reality of the new situation and will continue to import American products and technology.

Even under existing conditions Arab countries have often ignored the black list when it was important to them to do so.

Also, if we continue to bow to the pressure of the Arab boycott, we open ourselves to similar blackmail and involvement in other foreign political disputes that would cost far more jobs than might be lost if we stand firm on principle now against compliance with or complicity in such foreign boycotts.

It is ironic, Mr. Chairman, that some of the American companies that have written me in opposition to the prohibition in this bill against compliance with foreign boycotts say they oppose that prohibition because they do not like the U.S. Government telling them who they can and cannot do business with. Consider the inconsistency of that argument.

In the first place, this provision as I have already pointed out, does not tell American businesses that they can not trade with the Arabs—only that they can not trade in compliance with boycott demands. More importantly, this argument puts American business in the position of rejecting restrictions imposed by the American government while accepting restrictions imposed by Arab governments.

Yet another argument that is made by opponents of this measure is that it will create a massive shift of Arab business to our foreign competitors. In the words of a Mobil Oil Co. advertisement printed in various newspapers such as the New York Times on September 16, this provision would "be the most gigantic subsidy for foreign business ever enacted by Congress—a Marshall Plan for America's competitors abroad." This is a most irresponsible charge. Most of the goods and services provided to Arab nations by the United States are available from two other sources—Japan and Europe. The Arabs have shown little inclination to do business with the Japanese.

With respect to Europe, it would be naive to suppose that there are not European firms that are more than ready to take any business they can away from American firms. But that may not be as easy as the Arabs and some American firms suppose.

In the first place, some products will not be available in Europe in quantities and quality equal to those available from the United States. Second, while some European governments permit compliance with Arab boycott demands, the European Economic Community is taking an increasingly strong stance against such compliance. The Treaty of Rome—the "constitution" of the European Economic Community—contains strong antidiscrimination provisions, and those provisions are being included in bilateral trade agreements which the EEC is presently in process of concluding with the Arab countries.

Article 85 of the Treaty of Rome proscribes any concerted practices which are likely to affect trade between the member states and which have as their object or result the prevention, restriction or distortion of competition within the Common Market.

Article 86 proscribes action by one or more enterprises to take improper advantage of a dominant position within the Common Market or within a substantial part of it. Both articles prohibit "making the conclusion of contracts subject to acceptance by other parties of supplementary obligations which by their nature or according to commercial usage, have no connection with the subject of such contracts."

Bilateral trade agreements concluded so far by the EEC with Algeria, Morocco, Tunisia, and Egypt prohibit business arrangements which "give rise to any discrimination between the member states—of the EEC—their nationals, or their companies or firms."

In view of these policies of the EEC, as well as the policies of some European national governments, against compliance with foreign boycotts, it may not be as easy as Arab leaders and some American firms think for the Arabs simply to shift their business to Europe and still maintain the secondary and tertiary aspects of their embargo.

Finally, Mr. Chairman, it is a mistake to speak of this legislation as being intended to hurt the Arab countries or to help Israel. Neither is the case. No American company would be forced in any way by this bill to do business with Israel. Indeed the bill specifically states that the fact that a company that does no business with Israel but does business with Arab nations does not itself constitute or indicate compliance with the embargo. The main injury this bill tries to remedy is the injury to American business that are forced to choose between doing business with Israel and doing business with the Arab nations.

I should like to add comments at this time on the Committee amendment which will be proposed as section 18, and which was offered in the Committee by Messrs. ZABLOCKI and FINDLEY.

While I share the concern of a number of my colleagues that this language does not go far enough toward strengthening our nonproliferation efforts. I am most confident that the amendment represents a positive first step in the right direction.

It tightens our control over reprocessing by foreign nations which import U.S. nuclear material. It improves IAEA inspection procedures. It strengthens the role of the State Department in assuring that detection systems designed to guard against diversion of special nuclear material overseas are adequate to prevent the development of nuclear weapons by still more nations. And the amendment includes a firm declaration of congressional policy regarding proliferation of reprocessing capabilities, as well.

Facts and figures which serve to dramatize the grave nature of what has rapidly become a proliferation crisis abound; I shall not belabor my colleagues here today with a complete recitation of the grim statistics. But I should like to stress one point at the outset of my remarks; the time for action on the proliferation crisis is now. We simply cannot afford to let Executive inaction or congressional infighting imperil our efforts to address the proliferation dilemma.

The proliferation of nuclear technology and nuclear weapons-capability endangers the security of the United States and threatens, indeed, the security of every human being on this planet. And

yet this spread of nuclear hardware and nuclear weaponry has continued unabated while the administrations of Richard Nixon and Gerald Ford have failed to address the crisis with any effective initiatives. This tail-dragging has continued through 7½ years of Republican maladministration; thus it has clearly become incumbent upon this Congress to seize the initiative in a policymaking area which has traditionally been left to the Executive branch and to formulate some strong nonproliferation objectives.

The Ford administration has long maintained that plodding agency reports and special study groups will suffice as a manner of dealing with the problem, and are in fact preferable to any legislative action. Evidently the President is just now preparing to make public a recent in-house study which might shed some light on what actually is this administration's nonproliferation policy, if it can even be said to have one.

Why must the President wait until years after the onset of this problem, until months after the issuance of a detailed and comprehensive statement on the matter by his Democratic opponent, to even get around to speaking to the issue, not to mention suggesting some hard solutions?

The present position of the Ford administration, or at least the position of its chief spokesman on the nonproliferation question, Robert Fri, is one of great timidity. "We no longer have any significant leverage over the international nuclear marketplace," Mr. Fri explained to me and a dozen colleagues at a recent breakfast meeting. This is the line we hear from other Ford spokesmen at ERDA and the NRC, that we only have 60 percent of the foreign reactor market, that our share of the enriched uranium market will decrease rapidly in the near future, that we have little significant influence with which to advance nonproliferation goals.

This weak position completely belies the fact that while we control but 60 percent of the foreign reactor market, those nations which supply the other 40 percent of reactor sales are almost totally reliant upon us for delivery of enriched reactor fuel. And while France and West Germany may have the potential to gain a small degree of our share of the free world market for enriched uranium sometime in the decades ahead, the United States still dominates this market today by a factor of 71 to 1. In short, the United States has any number of levers with which to address the proliferation crisis, should its Congress and its President choose to act.

I have heard the arguments advanced that it is not for the House International Relations Committee to address this issue, similarly that it is not proper for the Senate Committee on Goverment Operations and Foreign Relations to draft legislation aimed at easing the proliferation crisis, that all such initiatives must come from the membership of the Joint Committee on Atomic Energy. I reject this argument categorically. It is for all of us, all of us here in the Congress and the Government to address this momentous issue, without deference to intrabureaucratic squabbles.

Certain members of the Joint Committee on Atomic Energy have seen fit to denigrate the International Relations Committee amendment, calling it an "amateurish," "piecemeal" approach to the proliferation dilemma. The opponents of our amendment, including my colleague Mr. ANDERSON of the Joint Comittee, maintain that they "have the real answer to the proliferation problem," which will be forthcoming in their own proposals. H.R. 15419, which Mr. ANDERSON has, upon occasion, held up as "the professional approach," certainly is a more comprehensive statement of objectives. But I would submit that this Joint Committee proposal is far too little, far too late. Far too little, because H.R. 15419 completely emasculates the compromise nonproliferation bill worked out by the chairman of the JCAE, Senate Government Operations, and Senate Foreign Relations by watering down most of the compromise bill's substantive provisions. Far too late, because H.R. 15419 was not acted upon by the Joint Committee until after the Rules Committee deadline for considerationtion of legislation to be brought to the floor this session. Even then the bill was voted out of the JCAE without so much as a precursory reading of a host of amendments.

Frankly, I am forced to call into question the supposed good faith of those Joint Committee members who claim, as Mr. ANDERSON did before Rules last Wednesday, that "proliferation matters are being considered expeditiously elsewhere in Congress." These matters have not been considered in a thorough expeditious fashion by the Joint Committee. That committee is severely divided on the proliferation question. It has even seen fit to reject the wisdom of its own chairman, whose compromise bill could not get the votes to get out of his committee.

The record shows that Mr. ZABLOCKI's subcommittee or the full International Relations Committee held hearings on this problem for several days last October, and then again in November of 1975. The committee received several detailed reports on the proliferation question from the GAO. Testimony was again received by the full committee in June and August of 1976, making a total of 21 witnesses addressing the committee on proliferations questions and particularly on the advisability of the amendment before the House today. Meanwhile, the Senate Foreign Relations Committee worked strenuously on the proliferation problem and the Senate Government Operations Committee held a remarkable series of hearings, compiling a more than 2,000-page document supporting the passage of strong nonproliferation legislation.

Yet now the members of the International Relations Committee are charged with maliciously circumventing House rules by offering the amendment before us today as a committee amendment and not including it in the legislation we brought before the Rules Committee last week. If we had not followed this perfectly legitimate route, the bill would have routinely been referred to the JCAE where it would most certainly have languished and died, dashing any hope that this Congress might take even this small step in stemming nuclear proliferation.

When did the Joint Committee act on this crisis and report out a bill, any bill, even attempting to deal with the realities at hand? Not until last Tuesday, after the Rules Committee deadline, and only then, I suspect, to hold up its watered-down, paste-up legislation, H.R. 15419, as the answer to the proliferation crisis, even though the bill—upon which no real hearings were held by the Joint Committee—had no chance to reach the floor at such a late hour. The legislation emerging from all these political shenanigans is a poor excuse for forward-thinking policy and does not deserve to be held up as "THE answer" to the problem, and most certainly is not so meritorious as to warrant Congress to defer action on the well-considered amendment before us today.

As a final point, I would just reiterate that there is no single solution to the proliferation crisis. Congress and the executive branch must work relentlessly to make progress in this area. I have concluded, along with a number of my colleagues, that proceeding with one small constructive step today is far more desirable than rushing through a paste-up bill which purports to "solve" the problem—but is actually retrogressive—and then abandoning the topic. Thus I urge my colleagues to support the proposed committee amendment.

Mr. MORGAN. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. SCHEUER).

Mr. SCHEUER. Mr. Chairman, 2 weeks ago both Governor Carter and President Ford went before the national convention of B'nai B'rith in Washington to declare their opposition to the Arab economic boycott. Their support is welcomed both to overhaul administration implementation of the boycott, which is sloppy, fainthearted, and ineffectual, and even more important, to expedite new legislation making cooperation with the Arab boycott flatly illegal. The administration's decade-long record of nonfeasance and malfeasance shows that legislative action is necessary.

On September 7, the House Commerce Committee released a report on the Arab economic boycott which indicates that during 1974 and 1975 at least $4.5 billion worth of U.S. sales and proposed sales to Arab countries were subject to boycott requests.

For the past 11 years the Commerce Department has failed to execute vigorously our foreign policy as expressed by the Congress and by successive Presidents and Secretaries of State. The Commerce Department has also opposed every legislative attempt to strengthen our antiboycott stand. The report indicates that the Commerce Department at best, did a bare minimum to carry out the mandate of the foreign boycott provisions of the Export Administration Act. Actually they furthered the boycott by implicitly condoning activity declared against national policy, and overtly facilitated the boycott in several important respects:

Commerce Department forms on which companies receiving boycott requests

were to report such actions contained language which stated that, while it was against U.S. policy for corporations to comply with boycott requests it is not against U.S. law to do so, thereby sending out a clear signal for companies to do as they wished.

These same forms made it optional for companies to declare whether they were, or were not, complying with boycott requests, making it impossible for the Commerce Department even to measure, much less to evaluate, the impact of the boycott on our foreign commerce.

The Commerce Department itself distributed to U.S. businesses bid documents on Arab trade opportunities requiring compliance with boycott provisions. Last March, Commerce Department officials met with American businessmen to discuss ways in which U.S. export firms could evade the reporting requirements of antiboycott legislation by setting up foreign subsidiaries, thus making the Commerce Department an active agent of the Arab boycott office.

The Commerce Department's reporting system was so slipshod and inaccurate as to be misleading and to obfuscate the true effects of the boycott. Export forms were designed to make the compilation and computerization of data difficult, and analysis of 30,000 reporting forms virtually impossible.

Antiboycott legislation will not have a negative effect on Arab-American trade because the Arabs have repeatedly stated that they will not allow the boycott to interfere with their own economic development. The report documents that since 1973 Arab trade with staunchly antiboycott nations has increased substantially—Holland, 83 percent; Sweden, 93 percent; West Germany, 100 percent; and the United States, 109 percent—while Arab trade with a nation like France which supinely acquiesces to boycott threats, increased by less than 50 percent.

Indeed, the United States which—at least theoretically—has the most clearly enunciated antiboycott policy, currently enjoys only 18 percent of the world export market, but nevertheless provides 40 percent of the goods and services purchased by the Arabs in the world market.

Quite clearly, there is absolutely no hard evidence that defying the Arab boycott has any adverse impact on a country's ability to do business, and indeed, increase trade with the Arab nations. IBM, Hilton, and TWA are all doing major business with Israel and the Arab world. General Electric, which provides the jet engine for the K'fir jet fighter—Israel's first military jet—does extensive business throughout the Arab world. Clearly, the Arabs will buy goods and services where they can be found at the most favorable prices and the most favorable terms, and they have made clear that they will not let boycott operations interfere with their own economic development.

Therefore, I urge all my colleagues to support section 14 of Export Administration Act extension which would effectively end the immoral and demeaning Arab economic boycott in America.

Mr. MORGAN. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. REES).

Mr. REES. Mr. Chairman, I would like to ask the distinguished chairman of the subcommittee several questions on specific sections of the bill that we were just discussing.

On page 16, which is section (2)(A) it says that no United States person shall take any action with intent to comply with or to further or to support any trade boycott fostered or imposed by any foreign country, et cetera. If a person signs a boycott form, and I have never seen one, but merely states that they do not have any business at the present time in Israel, would the signing of this statement be intent?

This refers also back to page 17, section (IV), line 8, which says it is illegal to furnish information about any past, present, or proposed business relationship; so that if a person merely signed a form saying that they did not do business in Israel and sent that back to the intended purchaser of equipment, say Egypt, they would then, it seems to me in reading this, be in violation of the act.

Mr. BINGHAM. Mr. Chairman, if the gentleman will yield, let me respond to the gentleman in this way.

The committee was very careful to prohibit only actions taken with intent to comply with or further the boycott. Obviously, it was not the intention of the committee to require any business concern to do business with Israel. We so stated on lines 6 to 8 on page 16 of the bill, that the mere absence of a business relationship with a boycott country does not indicate the existence of the intent required by the preceding sentence.

So it is perfectly clear that a company is free to do business or not to do business with Israel, as it sees fit.

The question of intent, which is a question that is frequently found in criminal statutes as to whether an act is prohibited by law or not, the matter of intent is often a key consideration and that is a question of proof that must be adduced in a court of law if the person is to be punished.

In the case the gentleman raises, I believe that the supplying of a statement such as the gentleman has in mind—that the concern does not do business with Israel—would presumptively disclose the intent constituting a violation of law.

Mr. REES. Mr. Chairman, it concerns me, because it seems to me if one signs a statement that represents intent and if the statement merely states they do not have any business with Israel, it would be in violation of section IV.

I might ask the gentleman further what would happen with those American firms doing business in the Middle East?

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

Mr. MORGAN. Mr. Chairman, I yield 2 additional minutes to the gentleman from California.

Mr. REES. Mr. Chairman, to continue my question, how would this affect U.S. firms now doing business in the Middle East who have already signed a form stating that they have not been doing business with Israel?

Mr. BINGHAM. Mr. Chairman, if the gentleman will yield further, there are many statutes which are passed which affect existing contracts. We recognize there may be some time required to adjust to the provisions of this legislation if it is enacted into law; but existing business relationships which depend on a continuation of compliance with a boycott would be affected, yes.

Mr. REES. So if a company had signed the form say 4 years ago upon enactment of this act, would they then be in violation of the act?

Mr. BINGHAM. Not by the fact of the signing of the form 4 years ago. We are certainly not engaging in ex post facto legislation here. What would be determinative would be the behavior of that company following the enactment of the law.

Mr. REES. If the company merely fulfilled its contract it already had and was not asked to sign any boycott form by the Arab country involved, then the gentleman is saying that they would not come under this act in terms of intent?

Mr. BINGHAM. Again, that would be a matter of proof to be brought in court.

Mr. REES. The gentleman does not know the nature of the proof?

Mr. BINGHAM. It would be composed of other communications, I suppose, if there were other communications indicating that the business was going to continue to comply with the boycott; the kind of proof that is offered in, let us say, antitrust cases, where intent is a very important aspect of the problem.

Mr. REES. I thank the gentleman.

Mr. BROOMFIELD. Mr. Chairman, I yield as much time as he may consume to the gentleman from Pennsylvania (Mr. BIESTER).

Mr. BIESTER. Mr. Chairman, I rise in support of H.R. 15377, the Export Administration Act Amendments of 1976

The bulk of this bill is aimed at improving the export licensing process. That it must be improved has not been disputed by any witnesses who have testified before the House International Relations Committee or its Subcommittee on International Trade and Commerce, of which I am the ranking minority member. Some of the problems arise from lack of clarity in the Export Administration Act itself. Past and periodic amendment of the act has compounded the contradictions of policy language, prompting the committee to make a start in this new area of its jurisdiction to begin the task of making more consistent the policies and procedures of the act.

The first area of broad concern of our amendments is the fundamental right to export. In a free enterprise economy such as ours which has repeatedly pledged its commitment to free trade among nations, the right to export is a basic presumption, and it should be abridged only for specific and overriding national security reasons. However, the current act, taking its cue from the days

of 1949 when practically all trade with Communist countries was curtailed, operates with the assumption that everything is controlled, even though current policy focuses on control of only those items which might contribute to another country's military potential to the detriment of U.S. national security.

Several of our amendments clarify this focus including, for example, section 9, which deals with the special role of the Defense Department in the licensing process, and section 4, which directs the President to remove unilateral export controls on goods freely available elsewhere unless he can demonstrate that the absence of those controls would damage the national security. Our amendments also highlight the fundamental right to export in, for example, section 5, which provides that any export license application not decided within 90 days is deemed to be approved and the license shall be issued unless the applicant is notified in writing of the specific reasons for a delayed decision.

Another area of broad concern to us is the traditional focus of export control in law and practice on country destinations—particularly Communist ones—rather than the intrinsic nature of the commodity itself. Our bill recognizes that Communist countries may vary in the extent to which they constitute a threat to the national security of the United States, and that non-Communist countries—and therefore, exports to them—may also constitute such a threat, direct or indirect. We expect that increased efforts to identify the commodities most likely to contribute to foreign threats would lead to increased efficiency and effectiveness in the export control process.

A third aim of our amendments was to provide for more accountability in the export control process. We extended the act for 1 year—section 1—modifying the administration's request for 3 years, because we felt the need for close and continuing congressional oversight. For this reason among others we require specific authorization in section 3 for funds to carry out functions prescribed by the act. In other sections we reaffirm the right of Congress to obtain information acquired under the act, we give license applicants certain opportunities to respond to objections raised by officials, we call for a simplification of the export control regulations, and we require various reports to be submitted to the Congress. However, throughout all of these provisions we have taken care to safeguard the legitimate need for confidentiality so that proprietary trade secrets and national security information are duly protected.

Sections 1 to 13 of this bill represent a bipartisan effort at remedying some of the shortcomings of the export control system. This effort was spearheaded by Congressman BINGHAM whom I wish to commend for his receptivity to modifying suggestions offered by both his colleagues and administration officials. In conclusion, Mr. Chairman, I urge my fellow House Members to vote for this bill.

Mr. BROOMFIELD. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Chairman, I rise in support of the legislation before us today, H.R. 15377, a bill to amend the Export Administration Act of 1969.

This legislation seeks to clarify and make more consistent the policies and procedures of the Export Administration Act. In addition, it represents a bold step forward by the Congress to help define and direct United States export policy in such areas as foreign trade boycotts and nuclear exports.

The majority of the recommended changes to the existing law as represented in this bill have evolved from extensive and meticulous consultation with the executive branch of the Government and other public and private concerns. These changes, for the most part, have broad support from all parties concerned and are basically designed to strengthen and simplify procedures for export control programs. In addition, the authority of the act is extended for a 1-year period, reflecting the desire to maintain a close and continuing congressional oversight.

One of the major features of H.R. 15377 is section 14, to end compliance with the discriminatory practices of foreign boycotts. These not so subtle attacks on U.S. foreign policy pit one American against another because of his racial, ethnic or religious background. Such forms of economic blackmail must not be allowed to continue.

Current policy statements in the Export Administration Act state our opposition to such restrictive practices. However, we need not only to oppose and discourage such acts, but to prohibit them. With the adoption of section 14, the same principles of freedom from repression, nondiscrimination and rights of religious tolerance upon which this great Nation was founded would be applied to the conduct of commerce.

Another important feature of this legislation, section 18 concerns nuclear exports. Current safeguards applied to nuclear equipment and materials are designed to detect diversion of from peaceful to nonpeaceful uses. The safeguards do not, however, work to prevent such diversions.

The effectiveness of such safeguards, however, can be greatly enhanced when applied to the nuclear reactors that we export. In this manner, we can insure that other countries will not be able to circumvent current United States and international controls and use the spent fuel from a non-U.S. source to obtain plutonium. It is this plutonium, a byproduct of spent reactor fuel, that can be diverted for the purpose of making a nuclear bomb.

By requiring that the United States retain control over all nuclear materials from reactors we have exported and by prohibiting the reprocessing of American supplied fuel by foreign countries, we can better control the equipment and material needed to produce a nuclear weapon.

While the adoption of this amendment by itself will not stop the proliferation of nuclear material and nuclear weapons, it will be a significant step forward in that direction. Had such safeguards been part of our past policies, American material might not have been used to detonate India's first bomb.

The United States has led the way in seeking new and more effective safeguards. We must continue to set the example by establishing these needed controls over the reprocessing stages. Section 18 will continue this tradition.

As an initial cosponsor of both the proposed amendments on foreign boycotts and nuclear exports, I strongly urge their passage. As a cosponsor of H.R. 15377 itself, I believe it represents responsible legislative leadership and deserves the consideration and support of my colleagues. I urge its adoption.

Mr. Chairman, I would like to take this opportunity to commend our distinguished chairman, the gentleman from Pennsylvania (Mr. MORGAN), not only for his leadership in bringing this measure to the floor, but I would also like to take this opportunity to note that this may be our distinguished chairman's last debate on the House floor as the chairman of the Committee on International Relations.

While we all regret that Chairman MORGAN has seen fit to bring to an end his distinguished 30-year career of public service in the House of Representatives, we recognize his outstanding 18 years of leadership as chairman of our Committee on International Relations; a tenure of leadership that has spanned five Presidencies and many severe international crises.

To Chairman MORGAN go our heartfelt wishes for many years of health and happiness in his deserving retirement.

Mr. BROOMFIELD. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. WHALEN).

Mr. WHALEN. Mr. Chairman, I rise in support of H.R. 15377, the Export Administration Act Amendments of 1976.

This bill contains a variety of provisions, including sections with conditions attached to nuclear exports, antiboycott language, and specific exemptions from controls—such as for petroleum products refined in U.S. foreign trade zones under carefully delimited circumstances.

However, the major subject addressed by this legislation is the overall framework of export controls. This is a very complicated subject, both in a technical and a policy sense. To start with, the Congress has enunciated two contradictory policy objectives: To promote trade, and to restrict it when necessary. This creates an inevitable dilemma: In the grey area that exists between proposed trade that has clearly dangerous national security risks and proposed trade which as clearly entails no such risks, which objective should receive top priority? As in many other areas of foreign economic policy, such as the Trade Reform Act of 1974, the Congress has seen fit to stand on the fence and has given no guidance one way or the other.

This policy dilemma has been further complicated by numerous accretions to

the act over the years, and the thrust of many of the committee's proposals in this bill is to resolve the inconsistencies as best as can be done.

Second, on the practical side, there were a set of common threads of discontent running throughout the testimony of many witnesses we heard during subcommittee and committee hearings. These related particularly to the operation of the informal coordinating committee known as COCOM, the international body that meets to discuss common rules on categories of export restriction and exceptions to the categories established. These discontents were five in number:

First. The charge was made that there is old technology or dated technology on COCOM's list;

Second. The charge was made that there is technology on the list which has no substantial security impact;

Third. It was charged that there is a lack of manufacturer input, both domestically in the decisionmaking process as well as at COCOM meetings.

Fourth. It was claimed that there is undue delay in the decisions made domestically; and

Fifth. It was alleged that there is unequal enforcement by other COCOM countries, to the detriment of the U.S. firms.

The various and sundry proposals of H.R. 15377 have attempted to deal conscientiously with these core problems, perhaps not in a definitive manner, but to jog the system in the direction of greater efficiency and effectiveness, as well as greater equity.

Mr. Chairman, this bill before us has been carefully worked over in a bipartisan effort and I would like to urge my colleagues to support its final passage.

Mr. BROOMFIELD. Mr. Chairman, I yield such time as he may consume to the gentleman from Kansas (Mr. WINN).

Mr. WINN. Mr. Chairman, that the spread of reprocessing facilities vastly increases the danger of nuclear proliferation is an accepted fact. Exactly what to do to restrict the acquisition of reprocessing technology is, however, unfortunately still in dispute. While Congress continues to mandate studies and to legislate wishful thinking rather than solutions, nuclear proliferation becomes more certain.

This amendment is a positive step toward reinforcing U.S. efforts to stem nuclear spread. It would restrict the reprocessing of U.S.-supplied fuel by recipient states until such time as effective safeguards can be applied. This is little enough to ask.

U.S. agreements for cooperation give us a veto over the reprocessing of U.S. fuel by recipient nations. Our agreements stipulate that we will not permit reprocessing to occur unless effective safeguards can be applied. But we have never defined what we mean by effective safeguards. This amendment defines what should be our safeguard standard for reprocessing. It sets a standard in terms of time—warning time. This is a minimum condition and not necessarily the only one our Government may want to apply.

This standard of reliable warning time must apply to reprocessing, no matter where it is located, in national or international centers. To suggest that international centers solve the problem of proliferation is to obscure what is really at stake. A country that receives reprocessed fuel from an international center has available to it about 50 bombs worth of plutonium per reactor. It is not simply the reprocessing that is dangerous, it is also the fuel itself. Plutonium fuel is convertible—overnight—into nuclear explosive devices.

If the United States encourages international reprocessing centers, it should only do so with the secure knowledge that effective safeguards can be applied to reprocessing and reprocessed fuel. With the stimulus this amendment gives to safeguards research, international reprocessing can be made safeguardable by the time it is economic, which it currently is not.

Until the United States can be assured that its safeguards, when applied to reprocessing and reprocessed fuel, can provide timely warning of diversion, it should not aid or permit nations or groups of nations to reprocess U.S.-supplied fuel.

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

Mr. WINN. I yield to the gentleman from California (Mr. BROWN).

Mr. BROWN of California. Mr. Chairman, I want to compliment the gentleman on his statement. I think it was an excellent description of the situation. However, there was one point that the gentleman made that I would appreciate if he could clarify.

I think the gentleman referred to the language of the amendment as prohibiting the reprocessing of American-supplied fuel for use as nuclear weapons. My reading of the language of the amendment is that it would also prohibit the reprocessing of any fuel, regardless of source, if the reactor was supplied by the United States. Am I in error on that?

Mr. WINN. No. The gentleman is correct.

Mr. BROWN of California. I thank the gentleman for clarifying that point.

Mr. BROOMFIELD. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Chairman, I would like to take a moment or two to ask a question of the gentleman from New York, the author of the amendment here that I find so repulsive in this legislation.

If the gentleman will recall my remarks during consideration of the rule, I mentioned the multinational corporation in my district, Caterpillar Tractor Co., the largest returner of dollars to this country in export trade. They have plants around the globe, in France, Belgium, England, Australia, and elsewhere. There are, for example, components of Caterpillar's equipment which are made in France, which are made in Belgium, which are made in England, and which are shipped to the Arab countries. None of those countries have the same feeling about this issue as this country is about willing to express if the gentleman's amendment is adopted. Having this differing view toward the Arab countries, what effect does that have on equipment that is built in those countries in Caterpillar's subsidiaries, married up with the equipment in this country, and then shipped to the Arab countries? Are they barred? We have no right to bar shipment of those component parts or machines of companies over whom we have no control, who are free to negotiate, free to trade with Arab countries, as they choose.

Does this amendment, by any stretch of the imagination, have any effect on those transactions?

Mr. BINGHAM. Let me say, first of all, to the gentleman, if he will yield, that it is clearly not the intent of the committee to attempt to prohibit the application of the primary boycott. A primary boycott is something which we ourselves engage in, with respect to various countries.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. MICHEL) has expired.

Mr. BROOMFIELD. Mr. Chairman, I yield 2 additional minutes to the gentleman from Illinois (Mr. MICHEL).

Mr. BINGHAM. If the gentleman from Illinois will yield further, we are, therefore, not intending to prohibit the application of the primary boycott which the Arabs impose on products coming from Israel and which contain Israeli components.

However, the gentleman's question could also be directed to his own legislature in Illinois which has adopted legislation very similar to this and which prohibits compliance with the boycott. One of the reasons we need Federal legislation is that States like Illinois, New York, and Maryland have adopted antiboycott legislation. Pennsylvania has a bill pending, and these States have adopted legislation prohibiting compliance with the boycott. So we need a uniform approach.

Of course, the interpretation of the legislation would have to be an intelligent interpretation. As I indicated in my colloquy with the gentleman from California (Mr. REES), we must show an intent to cooperate with the boycott before one can be found to have violated it.

Mr. MICHEL. Mr. Chairman, would it be possible to avoid the provisions of this antiboycott legislation by transshipment from the parent company to a subsidiary and then have the material sold to one of the Arab countries through one of the company's subsidiaries, even though the normal channel of the transaction would not take that course?

Mr. BINGHAM. If the intent of that transaction would amount to an intent by the American company to further the boycott and comply with it, then I would say, yes, that would be a violation.

Mr. MICHEL. Mr. Chairman, it may be that during the consideration of the bill and the reading of the bill under the 5-minute rule we will have further questions to propound. I do not want to delay the Committee's moving into the amendment stage.

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

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

Mr. DRINAN. Mr. Chairman, I wish to commend the committee for this very important bill, and I wish to commend particularly the distinguished gentleman from New York (Mr. BINGHAM), who has developed this legislation.

If I may, I will say parenthetically to the gentleman from New York (Mr. BINGHAM) that there is another State involved here; namely, Massachusetts, that has also passed a State antiboycott law. I agree completely with the gentleman from New York (Mr. BINGHAM) that the existence of these five laws in these five States adds one more reason why we need a national law.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield momentarily?

Mr. DRINAN. I am happy to yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman from Massachusetts (Mr. DRINAN) for his comments, but I would like to say that this is a joint product of a number of members of the committee, including particularly my colleague, the gentleman from New York (Mr. ROSENTHAL) and the gentleman from New York (Mr. SOLARZ). A number of the members of the committee contributed to the formulation of this legislation. I am glad to know that Massachusetts has also adopted it.

Mr. DRINAN. Mr. Chairman, I thank the gentleman very much.

Mr. Chairman, I am pleased to rise in support of H.R. 15377 which would bring to an end American complicity in the insidious Arab economic boycott of Israel. Our Nation's policy of opposing restrictive trade practices is established by statute. While section 4(b)(1) of the Export Administration Act gives the Secretary of Commerce the authority to prohibit compliance with boycott demands, Secretary Richardson and his predecessor, Rogers Morton, have refused to exercise that power.

In the midst of this executive branch paralysis, the boycott has continued to grow in size and strength. The tremendous expansion of American trade with Middle Eastern nations has transformed the boycott from a minor nuisance into a festering cancer within the American economy. We have all received a copy of the excellent report issued by the Interstate and Foreign Commerce Subcommittee on Oversight and Investigations. That report stated that American firms were acquiescing to boycott demands in more than 90 percent of all cases. Thus, in the absence of sanctions imposed by the administration to enforce American policy, it is apparent that the vast majority of companies doing business in the Middle East have succumbed to economic blackmail and are actively participating in the strangulation of our ally, Israel.

The impact of the boycott on the Israeli economy is readily apparent. Numerous American firms are also adversely affected by domestic compliance with boycott demands. More than 1,500 American companies appearing on the Arab blacklist are unable to do business with Arab countries or with other American firms which have agreed to comply with the regulations of the Arab Boycott Office. Such regulations prohibit doing business with a blacklisted firm. Thus, American companies are presently faced with the choice of succumbing to Arab demands or suffering a loss of business to other American firms. A uniform prohibition on compliance with boycott demands would end this dilemma and place all firms on an equal competitive standing in seeking business in the Middle East and elsewhere.

It is apparent that the only effective remedy of this intolerable situation lies in the enactment of appropriate legislation to carry out the policy set forth in the Export Administration Act. Section 14 of the legislation before us today constitutes such a remedy. The bill would prohibit all forms of compliance with boycott demands, including the furnishing of information and the refusal to do business with Israel or with American companies blacklisted by the Arab League. Stringent civil and criminal penalties are authorized to be imposed for violations of the act. Moreover, reports submitted concerning boycott requests, currently kept confidential by the Department of Commerce, would be disclosed to the public.

I am pleased to note that this antiboycott section of the bill, authored by the gentleman from New York (Mr. BINGHAM) incorporates to a great extent the provisions of H.R. 5913 which I introduced in April 1975, along with 28 cosponsors in the House. That bill, like the legislation before us today, prohibited all forms of boycott compliance and established civil and criminal penalties for noncompliance. One significant characteristic of H.R. 5913, also contained in the bill before us, is the inclusion of foreign subsidiaries and affiliates of domestic firms within its scope. Thus, American companies will not be able to evade the provisions of the act by channeling their Arab business through subsidiary firms. This bill would thus prohibit ARAMCO, as well as the major oil companies themselves, from complying with boycott demands.

The overwhelming margin of 27 to 1 by which the Committee on International Relations approved this section indicates that Congress will no longer tolerate American involvement in the Arab boycott. The committee wisely rejected administration contentions that the proposed legislation would jeopardize American trade in the Middle East and interfere with diplomatic efforts to achieve a lasting solution to the Arab-Israeli conflict. As the committee report states—

> The current legislation does not abandon or preclude continued use of diplomatic pressures and efforts to end boycott demands on American businesses. Indeed, the Committee encourages such efforts. . . . But the proposed legislation would back up such efforts with a clear and uniform ban on compliance.

Mr. Chairman, I am proud that the House is taking action today to solve a problem which the Ford administration has preferred to ignore. The entire world is watching us today to see whether the Congress will be true to the principles which we espouse as a nation. I am confident that we will stand firm in support of economic freedom and nondiscrimination should the President unwisely veto this bill.

Mr. MORGAN. Mr. Chairman, I yield such time as he may consume to the gentleman from North Carolina (Mr. FOUNTAIN).

Mr. FOUNTAIN. Mr. Chairman, I rise in support of H.R. 15377, but I have serious reservations about the Bingham antiboycott provisions in it. Apparently no attempt will be made today to strike or to moderate those provisions.

It is my sincere hope, however, that the conference committee from the House and the Senate will take a careful new look at it in an effort to so moderate the language as to prevent many of the serious consequences which may well result from its passage into law.

As I stated in committee I am sympathetic with BINGHAM's amendment objectives.

Mr. Chairman, certainly, all of us are opposed to discrimination of any kind based on a person's religion or his ethnic heritage, and none of us want American firms involved in carrying out the Arab boycott against Israel.

However, I do not believe this particular antiboycott provision will accomplish what its sponsors hope for.

To the contrary, we have had substantial testimony before the International Relations Committee indicating that the provision will have a harmful effect—not only on our diplomatic efforts toward a Middle East settlement, but also on employment in the United States.

For example, Mr. Chairman, we had testimony from Mr. Edwin L. Jones, Jr., representing the Associated General Contractors of America. This association represents 8,100 general contracting firms, in every State of the Union.

The AGC opposed such legislation on grounds—and I quote—that it "would prevent American construction companies from working abroad in certain countries, and would have a serious effect on the domestic employment situation for U.S. suppliers and construction companies which are now experiencing the highest unemployment rate of any industry in this Nation."

The AGC estimated that American firms over the next 5 years are expected to participate in at least $30 billion worth of construction programs in the oil-rich nations.

But this American trade association at the same time warned us—and again I quote: "It has been estimated that the adoption of legislation requiring all U.S. industry to refuse to adhere to the boycott provisions would result in the loss of 800,000 jobs throughout the United States."

I am certainly opposed to the Arab boycott, whether at its primary level against Israel or in its second—and third-level impact on American firms. I support efforts to resist and counter that boycott, most particularly those aspects of it which seek to prevent one American firm or individual from doing business with another American firm or individual.

I think we all agree on the objective. But I have great doubts about the ability

of the legislation before us to achieve our goals. Why?

Because we are trying to deal with a complex issue by striking a noble pose. The dramatic gesture certainly has its place in affairs of state. It also has its consequences, and we owe it to the American people who elected us to reflect on the consequences before we adopt the kind of policy embraced in the Bingham amendment.

Let me be more specific about some additional likely consequences of our adopting the language proposed by the distinguished gentleman from New York (Mr. BINGHAM).

The measure is aimed at the Arab countries and is intended to make them either abandon their boycott or lose access to American goods and services. There is a possibility that this kind of confrontation will succeed. But we must recognize that we are challenging Arab pride in a very public form, and we should not be surprised if pride alone causes the Arabs to respond with anger.

That anger could take various forms. Certainly a tightening of the boycott is one possibility.

Restrictions on oil exports to this country are another possibility. And we are now importing 40 to 45 percent of the oil we use, much of it from Arab lands.

Perhaps most serious of all is the likelihood that the gradual reduction of tension in the Middle East which has occurred over the past several years will abruptly end. Our role as a mediator will no longer be credible to the Arabs, who will see our action as tantamount to a counterboycott.

Finally, the amendment is drafted so broadly that it will force foreign subsidiaries of U.S. firms to cease selling to Arab countries as long as the Arab boycott remains in effect. Take a look at the language on page 18, lines 14 and 15, which reads: "and any foreign subsidiary or affiliate of any domestic business concern." We will be telling firms in France, in Japan, in Belgium—firms affiliated with American companies—that they must stop selling to the Arabs, that they must lay off workers and forego foreign exchange earnings.

The governments of some of our closest allies and business partners unfortunately do not share all of our views with regard to the Arab-Israeli situation. How will they react when they find that we are trying to force companies in their countries to comply with our views, which they see as in conflict with their own interests?

The more I read this amendment, the more it appears to me that we are guaranteeing that the Arabs will be supported by some of our own closest friends in reacting strongly and loudly. We must continue to resist the Arab boycott; we must do more to protect American firms from tertiary boycotts. But we must not let zeal run ahead of wisdom. I urge you to vote against this amendment.

Therefore, Mr. Chairman, not only because the antiboycott proposal will fail to achieve its intended goal, but also because of its harmful effect on jobs for American workers if enacted into law, I urge the House and the Senate to reject this provision as now contained in the bill before us.

I include the following:

[From U.S. News & World Report, Sept. 27 1976]

FIGHTING THE ARAB BOYCOTT—A MOVE THAT COULD BACKFIRE ON UNITED STATES

Fears are growing that an attempt by Congress to crack down on American firms that go along with the Arab boycott of Israel will boomerang against the United States.

Already, there are signs that the Arabs are likely to retaliate with these steps:

An increase of $1.50 or more per barrel in the price of oil produced by the Organization of Petroleum Exporting Countries (OPEC) cartel of which the Arabs are key members. That would mean a boost in what U.S. motorists pay for gasoline—as much as 2 cents a gallon.

A cutback in production from Arab wells just as economic recovery has caused an upswing in worldwide demand for oil—a move that could imperil the business rebound, especially in European nations that are heavily dependent on oil imports.

Loss of business for American firms that have been cashing in on the billions of petrodollars that Arab nations are spending on vast development plans.

White House officials, as well as U.S. business leaders, say that the steps taken by Congress will prove of little help to Israel in its conflict with the Arabs and will hamper U.S. peace efforts in the Middle East.

At issue are two bills—almost certain to become law in a matter of days—that seek to prevent American firms from participating in the boycott.

Under the boycott, Arab nations refuse to do business with companies on their blacklist, which includes 1,500 American firms. The list is made up of firms that deal with Israel, assist its economic development or refuse to fill out questionnaires on such matters.

One of the antiboycott measures is contained in the new tax-reform bill. As outlined in the box on page 30, any U.S. company found to have agreed to terms of the Arab boycott will be stripped of certain tax benefits.

The second part of the congressional crackdown, an amendment to a bill extending the Export Administration Act, is even stronger. The House version of the bill forbids American companies, under the threat of criminal penalties, to participate in the boycott.

Insiders say the tough House measure probably will be passed rather than the milder Senate version, which would permit companies to refuse to do business with Israel but would ban them from agreeing not to deal with firms blacklisted by the Arabs. The final bill probably will require firms to reveal whether they will bow to boycott demands.

American business leaders are upset with the new measures. Robert Norris, director of the Foreign Trade Council, argues that the nation's tax laws should not be used to deal with complicated foreign-policy issues.

Officers of the Mobil Oil Corporation contend that the new legislation will result in a loss of business for American firms in the Mideast and that U.S. export trade will suffer as Arabs shift their business to other nations.

POTENTIAL LOSERS

The oil firms stand to lose the most from the tax-penalty measure, since they have huge fixed investments in Arab lands. It is probable that they would accept the loss of the tax breaks rather than risk angering the Arabs with a tough antiboycott stand.

In recent weeks, Arab leaders such as Shiek Hisham Nazer, Saudi Arabia's Minister of Planning, have let it be known that they will take their business elsewhere if the U.S. adopts the antiboycott measures.

Many American business executives assert that there are few, if any, products and services now supplied by U.S. firms that could not be purchased from other countries.

Ruddick Lawrence of Continental Oil, the president of the U.S.-Arab Chamber of Commerce, an American group that fosters Mideast trade, observes that the Arabs are already stepping up their trade with the Japanese, Germans and even Communist nations such as Rumania and Poland.

Supporters of the new antiboycott measures counter that the Arabs are bluffing and are too dependent on American products and know-how to turn to other nations.

Roger Majak, staff counsel for the House International Relations subcommittee on trade, thinks that at worst there might be a few temporary reprisals. He believes: "The Arabs might kill a big U.S. contract or go to the Japanese or Germans on a major deal, but in the end they'll swallow it and come back to U.S. firms."

Ze'ev Sher, the economic minister of the Israeli Embassy in Washington and a strong force behind the new legislation, also contends that the Saudi Arabian development plan is "totally dependent" on the U.S.

Last year, U.S. firms did 5.5 billion dollars' worth of trade with the Arab countries that observe the boycott, and this year's business could total more than 7 billion dollars' worth. The U.S. Army Corps of Engineers is in charge of Saudi Arabian construction projects valued at nearly 18 billion dollars.

ACHILLES' HEEL

In addition to the potential loss of billions in trade, the U.S. is vulnerable to retaliation because of its increasing reliance on oil from the Arab nations of the Mideast and Africa.

Since the 1973–74 Arab oil embargo, the U.S. has more than doubled its imports from the Arab world. Saudi Arabia, the staunchest defender of the boycott, is now the No. 1 supplier of oil imported by this country.

In recent days, Saudi Arabian spokesmen have hinted that the oil-rich Kingdom will not try to stop other members of OPEC from seeking oil-price increases of 10 to 20 per cent above the current basic price of about $11.50 a barrel. Saudi leaders have said they may cut oil production from 8.2 million barrels a day to 5 million—a step that would assure that the cartel could make the price boost stick.

The only current U.S. law specifically dealing with the boycott is one that requires American companies to report any Arab demands to the Commerce Department and to report whether they intend to go along with them.

Commerce, however, keeps this information confidential, and its handling of the reports has upset many lawmakers. A study just released by the House Interstate and Foreign Commerce Committee's investigations subcommittee contends that the Department's regulations contain many loopholes that allow firms to evade their reporting obligation. In some cases, the study said, Commerce has actually promoted business opportunities with the Arabs, knowing that the potential deals had boycott provisions attached to them.

The study also shows that in 1974 and 1975 combined, at least 4.5 billion dollars' worth of U.S. sales and proposed sales to Arab countries were subject to boycott requests.

Says Senator Abraham Ribicoff (Dem.), of Connecticut, chief sponsor of the tax-penalty measure: "It is intolerable to have Americans discriminate against their fellow countrymen at the behest of any foreign nation. Amer-

icans must be free to trade with Americans, with Arabs and with Israelis."

The White House, though strongly protesting the boycott, argues that no new legislation is needed to curb it.

The thinking of the Ford Administration is that laws already on the books, such as those dealing with civil rights and unfair business practices, are sufficient to deal with the boycott problem. One example cited is the antitrust suit that the Justice Department brought early this year against Bechtel Corporation. The giant construction company is accused of refusing to deal with subcontractors on the Arab boycott list.

"One thing's for sure—these new laws won't end the boycott," says Assistant Treasury Secretary Gerald Parsky, "and they'll add fuel to the arguments of those in the Arab world who are against the United States."

Administration officials claim there is evidence that the Arabs have been taking steps to soften the boycott themselves. They cite the fact that earlier this year Saudi Arabia removed from its visa applications a request for information on religion.

There are also reports, according to Treasury Secretary William Simon, that the Arabs may exempt firms that make as significant a contribution to their countries as they do to Israel.

GRANDSTAND PLAY

What is happening, say critics of the new legislation, is that lawmakers are attempting to make political points in an election year by portraying the boycott as a vehicle for religious discrimintaion against those of the Jewish faith. However, the House Commerce subcommittee's study found that only 15 of 4,000 boycott requests examined had clauses of a religious or ethnic nature.

Arab leaders justify their boycott as an economic sanction against Israel applied in the same way that the U.S. has curbed trade with Cuba.

Representative Paul Findley (Rep.), of Illinois, the only member of the International Relations Committee to vote against the extension of the Export Administration Act and its antiboycott provision, says he has received "furious" letters accusing him of religious bigotry. Mr. Findley asserts that he voted against the measure because it would harm U.S. peace efforts in the Mideast.

That is a minority view in Congress, where the antiboycott measures have won overwhelming support and have been attached to bills that President Ford may find virtually impossible to veto.

If he signs the measures, the months ahead will reveal whether the Arabs will actually carry out their threats against the U.S.

Mr. MORGAN. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. SOLARZ), a member of the committee.

Mr. SOLARZ. Mr. Chairman, I had planned to deliver an impassioned plea in defense of the antiboycott provisions of this bill, but in deference to the masterful management of the chairman of the committee and of my good friend, the gentleman from Florida (Mr. FASCELL), a member of the committee, who are interested in expediting the debate on this bill, I will be consent to revise and extend my remarks.

Mr. MORGAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan (Mr. BLANCHARD).

Mr. BLANCHARD. Mr. Chairman, I rise in support for H.R. 15377, the Export Administration Act amendments. Among the measures in this bill are the Bingham-Rosenthal provisions which considerably strengthen U.S. policy with respect to foreign boycotts. It is vital that we enact these provisions if we wish to end Arab blackmail in this country.

It has been the policy of the United States to oppose restrictive trade practices and boycotts with countries friendly to the United States. However, while firms were supposedly discouraged from participating or complying with boycott requests, the law did not prohibit it.

Evidence from the House Commerce Committee and from other sources clearly demonstrates the need for this legislation. According to the Commerce Committee report, during 1974–75 U.S. companies complied with Arab boycott requests about 90 percent of the time and at least $4.55 billion was involved in these transactions. It is also evident that the Commerce Department was extremely lax in using its power to stop these abuses.

This situation cannot continue. We cannot and we will not shy away from our commitment to religious freedom. We cannot and we will not condone discrimination because we fear losing Arab dollars.

Earlier this year, in anticipation of this legislation, I offered an amendment to H.R. 13876, the International Banking Act of 1976 which banned discrimination by foreign banks and bank holding companies on the basis of "race, color, religion, sex, or national origin." This amendment was specifically aimed at stopping discrimination against persons of the Jewish faith or heritage.

This measure, too, will be effective in halting discrimination. It will make it clear that compliance with the Arab boycott is prohibited and it will set penalties for violators. I wholeheartedly support this measure and urge all my colleagues to do so.

Mr. BRODHEAD. Mr. Chairman, the retention of antiboycott language in this bill is essential. Voluntary action by the U.S. Commerce Department has clearly been a failure—it is time and long past time that Congress acted on this matter. We must firmly establish the principle that foreign powers cannot be allowed to dictate commercial practices in this country. We must firmly reject the Ford administration's position on this matter and stand up and be counted for what we know is right.

Ms. ABZUG. Mr. Chairman, I strongly support the provisions of H.R. 15377 which makes illegal American complicity in the Arab boycott. I have strongly supported such a change as a sponsor of various bills that would accomplish it, as a witness before the International Relations Committee, and on many occasions in and out of the Congress.

As my colleagues are aware, Congress previously tried in 1965, by adopting amendments to the Export Control Act of 1949, to encourage U.S. companies to refuse to cooperate with the boycott. This provision has proven to be ineffective in attempting to deal with this problem and it is quite clear that stronger measures against the boycott are now required. Section 14 of this bill sponsored by my colleague Mr. BINGHAM, provides such a stronger stance by prohibiting U.S. citizens and companies from complying with either a secondary or tertiary boycott request. I compliment Mr. BINGHAM for his work on this measure.

Although it has been U.S. policy since 1965 to encourage U.S. companies to refuse to cooperate with the Arab boycott, the effect of the boycott has deepened and widened, primarily as a result of Commerce Department unwillingness to enforce the law. In fact, the Commerce Department has counseled U.S. companies in ways to evade the requirements of the Act and the blacklist has swelled until it today includes over 1,500 firms and individuals.

The impact of the boycott is enormous. The House Interstate and Foreign Commerce Investigation Subcommittee found that during 1974 and 1975, 637 U.S. exporters sold at least $352.9 million and as much as $781.5 million in goods and services under boycott conditions. And one bank, Morgan Guaranty Trust Co., testified before the Government Operations' Subcommittee on Commerce, Consumer and Monetary Affairs Subcommittee that in one 4-month period the bank received 824 letters of credit, in a total amount of over $41 million, containing boycott clauses.

The Arab boycott has various aspects. It involves the primary boycott by Arab countries and companies refusing to do business with Israel and Israeli companies; the secondary boycott seeking to prevent American industry from doing business with Israel by precluding blacklisted American firms from doing business with Arab countries; and in its tertiary aspect, it involves American companies which are pressured into refusing to deal with other American companies which are on the boycott list. The bill before us would go far to eliminate these boycotts.

Other aspects of the boycott have come to my attention in my capacity as chairwoman of the Subcommittee on Government Information and Individual Rights. Over the past year this subcommittee has heard testimony on discriminatory assignment policies overseas by Federal agencies. These hearings spurred the White House to issue in November 1975, a "Memorandum to the Heads of Executive Departments and Agencies," stating that exclusionary policies of the country to which a potential assignment is being considered "must not be a factor in any part of the selection process of a Federal agency." In my opinion, President Ford's directive did not go far enough, in that it does not flatly prohibit Federal employees from providing information on their race, religion, or national origin when traveling abroad on official business. Accordingly, I have continued to urge the administration to refuse to accede to discrimination by Arab countries in the assignment of U.S. personnel abroad.

Another effect of the boycott is the impact on U.S. investors of company involvement in the Arab boycott. In this connection, I recently inquired of SEC Chairman Roderick Hills as to whether

American companies participating in the Arab boycott are required to disclose information about such involvement. I am pleased to report that in response to my letter, Chairman Hills stated that American companies participating in the boycott are required to disclose such information where there is a "material adverse effect upon corporate income, assets—including good will—or profits." I maintain that any participation, no matter how small the monetary amount, is of vital interest to investors and the public, and I have asked that the SEC disclose all information it possesses regarding actual participating by American companies and that it require all companies subject to the securities laws to make public disclosure of any participation in the Arab boycott on their part.

Mr. Chairman, it is time to put teeth into the Export Administration Act by amending the act to forbid any American or entity doing business here from participating in any boycott based wholly or in part upon race, religion, or national origin, or a boycott fostered or imposed by any foreign country against another country friendly to the United States, and to require reporting and public disclosure of any such participation.

It is time to face the invidious nature of foreign boycotts based upon such arbitrary factors as religious association. They have no place in this great country and we must enact this legislation to make it clear that they have no place here.

Mr. FRENZEL. Mr. Chairman, because of the interest in the anti-boycott provision and in the sections relating to nuclear exports, the main provisions of the Export Administration Act have been getting less attention.

I believe the improvements in the licensing procedures, and the change in standards as to what material may be shipped to Communist countries, are a welcome reversal of standards and procedures which have crept into the law, and into regulations, over the past several years.

Unwisely, the Congress especially on the 1974 version of the Export Administration Act, set up obstacles to trade expansion which reduced the ability of American firms to compete abroad, those restrictions, which are being reduced by this bill, only exacerbated our balance-of-payments problems, and limited our ability to develop more U.S. jobs.

Therefore, Mr. Chairman, I support the bill as an enormous improvement over existing law. I congratulate the committee for its wisdom, and urge that the bill be promptly passed.

Mr. DERWINSKI. Mr. Chairman, I rise in support of H.R. 15377, the Export Administration Act Amendments of 1976.

The major area of concern in this bill is the overall framework of export controls. The Committee on International Relations heard testimony that expressed concern with the administration of these controls, and much of the bill is designed to deal with these complaints. The President is directed, for example, to further limit unilateral export controls, to simplify export regulations, and to take other measures which will expedite the processing of license applications.

Furthermore, the committee has added various report requirements which will assist us in our oversight responsibilities. For instance, the Secretary of Commerce will be required to include in his semiannual report to Congress an accounting and analysis of the consultations undertaken with the technical advisory committees, the use made of their advice, and their contributions to carrying out the purposes of the act.

Finally, there are various special provisions which have been added to the bill. The most notable are specific exemptions from controls, such as for petroleum products refined in U.S. foreign trade zones under carefully delimited circumstances, and conditions attached to certain nuclear exports with a view to stemming the spread of nuclear weapon proliferation. I support the anti-boycott section.

In conclusion, Mr. Chairman, I support this legislation and urge my colleagues to do the same. I make these points since most of the debate centers around amendments unrelated to the original bill.

Mr. KOCH. Mr. Chairman, I rise in support of H.R. 15377, the Export Administration Act Extension of 1976. I commend the committee for this piece of legislation which contains an amendment to prohibit any American company from participating in the boycott of any other American company or any country friendly to the United States in response to a foreign boycott demand. This amendment, sponsored by Congressmen JONATHAN BINGHAM, STEPHEN SOLARZ, and BENJAMIN ROSENTHAL, closely parallels the language and intent of the bill introduced earlier this year by Congressman JAMES H. SCHEUER and myself. Our bill, H.R. 11463, also sought to end American complicity in the Arab boycott of Israel or of any other nation friendly to the United States, and it was cosponsored by 76 other Members of Congress. That bill has been passed by the U.S. Senate as S. 3084, and its sponsor in the Senate was Senator ADLAI STEVENSON, JR.

I also want to commend the able leadership of Chairman THOMAS MORGAN of the International Relations Committee for his assistance in conducting an excellent set of hearings and for supporting this language which deals with the Arab boycott. We will all miss him when he retires from the Congress at the end of this session.

The bill we are considering today would explicitly outlaw both the boycott of another American company and the boycott of Israel or any Israeli company in response to a foreign country's boycott request. In addition, it provides that a company or person who loses business as a result of another company's participation in the boycott may institute a civil action in a U.S. District Court for three times actual damages and attorneys' fees. This provision, which was not contained in the Koch-Scheuer-Stevenson proposal, is an innovative and effective addition to the legislation. No longer will an aggrieved American citizen have to rely on the sporadic and unenthusiastic enforcement of the Export Administration Act prohibitions by the Commerce Department. In the future, an injured party may bring his own action and recover treble damages. This will be an effective deterrent to complicity in the boycott.

In certain other respects the bill under consideration today is not as strong as the bill I proposed. The Koch-Scheuer-Stevenson bill would have required disclosure to the public of all boycott demands and the companies' reactions to them. From my reading of this bill it apparently does not require such public disclosure, but I nevertheless feel it is a significant and effective piece of legislation which will prevent compliance with the boycott, particularly in light of the private treble damage actions which can be brought. This bill prohibits boycott compliance by prohibiting bills of lading or other commercial, shipping, insurance, sale, purchase, or legal documents from including information which would facilitate boycott compliance. I am sure the drafters of the legislation intend to embrace bank letters of credit within these prohibitions, and I would hope that any language excepting them from the scope of these prohibitions, which may have been added in the Senate consideration of S. 3084, would be deleted in conference.

The boycott provisions deal with the three-tiered boycott, instituted by the Arab League and their member Arab countries against—

First. Israeli goods and services;

Second. Blacklisted companies, defined as those doing business with or having investments in Israel, or as being a Zionist firm; and

Third. Companies supplied by blacklisted companies.

The Arab boycott is particularly pernicious and intolerable, because it requires that one American company not do business with another American company simply because the latter is engaged in commercial dealings with Israel or because some of its officers are Jewish. The Arabs claim that their boycott is not a religious matter, and instead an economic extension of their war against Israel. But, firms are blacklisted for their Jewish or Zionist identities as much as any other reason. In fact, a firm will be blacklisted without any reason being given, and one can only guess at the real reason.

We may not be able to force Arab countries to deal with Israeli firms, but the United States can surely respond strongly to any attempt to gain cooperation or participation by U.S. companies in any aspect of the boycott.

Last fall the President directed that new regulations be issued dealing with this subject. But they are not adequate. Those regulations prohibit an American firm from acceding to a boycott demand that would cause discrimination on the basis of race, religion, sex, or national origin by virtue of either the information they provide or the refusal to do business with a particular company. The Commerce Department also requires that a company report any request that it provide boycott related information or that it participate in the boycott. But, as I read the regulations, this still allows

a company to discriminate against Israeli firms or against a fellow Amercian company which the Arabs have labeled as being "Zionist" or a firm which is doing business with Israel. Furthermore, the Commerce Department's regulations do not require a company to report whether or not it intends to comply with a boycott demand, only whether it has been asked to provide boycott related information or to participate in a boycott of a company or country.

All reports received by the Commerce Department are held in confidence by the Commerce Department so that the public does not know whether the Department is enforcing the law. The Department has announced recently that it will make public any "charging letters"—letters charging illegal boycott practices—it issues against companies, but it has not issued any such "letters" to date. And the five companies that have been found in violation of the reporting requirements — AGIP-USA of New York; Inter-Equipment Co. of New York; Continental EMSCO of Houston; National Cash Register of New York; and Getty Oil of Los Angeles—have been fined only $1,000 each and not suffered the possible revocation of their export license.

The tertiary boycott is particularly hideous because it requires an American company such as General Motors wanting to sell buses to Saudi Arabia, not to buy any parts from another American company whose officers may be Jewish, or which may have been labeled as Zionist, or which has commercial ties with Israel. The President's Executive order simply prohibits an American company from furnishing information to any country or to participate in a boycott where such action would lead to discrimination against an American citizen on the basis of race, religion, sex, or national origin.

This, of course, is inadequate because the Arabs, being as smart as anyone else, do not blacklist a company on the grounds that the firm has a Jew in their operations. They will simply say the firm is "Zionist." In effect, the Arab boycott officials have picked up the Soviet Union's anti-Semitic line. There, too, the Russians never slander Jews as Jews; they cloak their slander by using the word "Zionist." This legislation would effectively end this disguised discrimination and would give American companies the legal backbone to refuse to comply with Arab boycott demands.

The administration takes the position that it can end tertiary boycotts by the use of the antitrust laws, and it has brought one suit against the Bechtel Co. I suspect that, if we see the end of that antitrust lawsuit within the next two decades, we will have a unique situation. Such antitrust litigation generally drags on in the courts for years. The lawsuit also does not attempt to outlaw a secondary boycott—requiring a company to refuse to deal with Israel, if the company wants to do business with the Arabs. If the administration were sincere in its desire to end both the secondary and tertiary boycotts, it would support this legislation.

Mr. Chairman, there is a fundamental question of morality which transcends everything else in this matter. There are some who will say, "If we do what KOCH and others want, won't it affect business?" Perhaps it will in the short run. Even if it does, there are some instances in which principle and morality must prevail. This is one of them.

This situation is similar to the question of whether we should sell arms to bloodthirsty dictators. Some argue that they do not want to lose the business and if we do not supply the arms, others will. I respond that, indeed, there is something more important than money: our morality and conscience.

Who will dare defend the practice of one American businessman discriminating against another American businessman at the behest of a foreign power?

There is another reason that a comprehensive national policy is needed to deal with the boycott. A national policy is needed against the boycott, because those States like New York who attempt to take action against discriminatory practices have been losing business as a result. Since January of this year, when the New York State "Lisa law," which bans commercial discrimination based upon a person's race, color, creed, national origin, or sex, went into effect, the Port of New York has experienced a loss in traffic to other ports that may be as high as 10 percent this year. Even though this new law does nothing that is not done by existing Commerce Department regulations that already outlaw discrimination on the basis of race, religion, sex, or nationality by exporters, shippers, banks, and insurance companies, New York State has apparently been identified as taking a strong stand against the boycott, and it is being penalized for this courageous stand. We need national legislation that explicitly outlaws participation in the boycott by American companies and we need strong enforcement by the Commerce and Justice Departments so that courageous acts by our local governments will not be penalized.

Mr. Chairman, all of us interested in this subject had hoped that the administration would act to protect not only American businessmen from foreign extortion, but also to preserve America's conscience and morality. It has failed to do that, and so this Congress must do it by enacting this legislation.

I want again to commend my colleagues Congressmen BINGHAM, ROSENTHAL, and SOLARZ for having made the case so clearly that in their committee these antiboycott provisions were adopted 27 to 1.

Mr. ANDERSON of California. Mr. Chairman, I rise in vigorous support of H.R. 15377, the bill to extend and amend the Export Administration Act of 1969. This bill merits the House's unanimous approval inasmuch as it calls attention to two potentially explosive issues—the increasingly imminent threat of nuclear proliferation and the foreign manipulation of America's domestic business behavior.

International sales of nuclear material and technology have multiplied at an alarming rate over the last decade, a trend unfortunately evidenced by India's and Israel's recent acquisition of a nuclear capability. The ominous consequence of these sales becomes magnified when viewed in terms of the ease in which countries, such as India, have been able to transform nuclear material designated for peaceful use into military weaponry.

The past policy of the United States regarding nuclear sales has emphasized selectivity in determining which allies should be granted access to radioactive materials and the technology required to exploit its potential. The report on H.R. 15377 points out significant flaws in our policy which adoption of the bill would alleviate. First, it exposes the ineffectiveness of present safeguards in precluding the possible diversion of reprocessed nuclear waste for strategic use. Inasmuch as scientists have yet to devise a formula which could accurately determine the amount of plutonium produced from reprocessed waste, auditing techniques which represent the primary safeguard against misuse are incapable of detecting diversions of this type of fuel.

The bill proposes to freeze the sales of reprocessing plants until adequate safeguards can be developed to effectively account for and control the use of plutonium.

A second flaw exists in our supervision of U.S. manufactured reactors using material originating outside of the United States. Current policy doesn't require inspectors to oversee the use of fuel acquired from foreign countries in spite of the obvious fact that this material can as easily be used to develop nuclear explosive devices as U.S. supplied material.

The amendment would require the United States to retain control over all nuclear material processed by the reactors we export. This would preclude any attempts by a foreign country to circumvent stringent U.S. controls insuring the peaceful use of nuclear energy.

H.R. 15377 insists that it is the responsibility of the United States, as the Nation which pioneered the development of nuclear energy, to set an instructive example for other nuclear-exporting countries—an example characterized by caution and inspired by a sense of moral obligation. Is it not only fair that a country which expects other nations, that is, France, to abstain from nuclear sales adopt a similar, if not more restrictive policy regulating the exportation of our Nation's nuclear technology. We certainly have little to lose, and literally a world to gain.

The second part of the bill addresses the anti-Israel Arab-sponsored boycott which has, in effect, attempted to impose an economic stranglehold upon U.S. businesses which deal with Israel. My dismay over these findings became even more intense after discovering that over 90 percent of the companies faced with the Arab requests willingly complied. U.S. companies with the assistance of the Arab governments compiled lists, including the names of U.S. corporations and individuals which

were currently or had previously engaged in business dealings with Israel. According to the committee report, the total amount involved in the transactions between Arab governments and the compliant businesses came to a staggering $479 million, a figure which is likely to grow since the number of firms supporting the boycott had increased 25 percent during the previous 4-month period.

A superficial examination of the Arab embargo might produce the conclusion that it is perfectly legitimate, inasmuch as the United States has imposed similar boycotts against Cuba, Vietnam, and North Korea. The Arab embargo, however, is much more pervasive, passing into the stages of secondary and tertiary boycotts-terms undoubtedly coined by the global economists to confuse the layman. The secondary boycott forbids Arab governments from conducting business with U.S. corporations dealing with Israel. The tertiary boycott essentially amounts to a demand by Arab states that U.S. corporations which desire to do business with the Arab nations, terminate their business activities with other U.S. corporations or individuals financially linked with Israel.

The destructive consequence of this boycott has not only been felt by its target, Israel, but also by U.S. businesses which refuse to submit to the Arab's unreasonable demands. RCA, a corporation whose name appeared on the blacklist, experienced a $9 million dollar cut in profits after a year in which most indicators had predicted an increase.

A third harm attributed to the embargo is the obvious moral implication of Arab requests demanding that client corporations remove Jews from their list of officers, employees, and shareholders. In response to these requisites, the bill offers a section which expressly prohibits discrimination based on religion, national origin, sex, or racial background.

In light of the Secretary of Commerce's unwillingness to act against these injustices, and the lengthy deliberations of, and frequently arbitrary results obtained through antitrust proceedings, a need for this remedial legislation becomes apparent. H.R. 15377 explicitly requires all American businesses and individuals to file public reports with the Secretary of Commerce on all "informations or actions received pursuant to a foreign boycott." Any compliance or promotion of boycott activities by U.S. corporations is punishable by strict criminal and civil penalties.

Unfortunately, those U.S. companies and individuals which have been victimized by past boycott practices will never be able to reclaim their losses. It is my hope, however, that the passage of this bill will restore brilliance to the tarnished principles of free trade and equitable treatment which have guided, and which should continue to guide the free flow of America's business.

Ms. HOLTZMAN. Mr. Speaker, I strongly support the reauthorization of the Export Administration Act (H.R. 15377) which includes provisions designed to protect Americans from the effects of the Arab boycott. Specifically, this bill, if enacted, would help stop American complicity in the Arab boycott of Israel and end boycott-inspired discrimination against American Jews.

In 1965, the Export Administration Act was amended to state that the United States opposes boycotts fostered by foreign countries against countries friendly to the United States. The Commerce Department, however, failed to enforce this policy and virtually conspired with businesses to evade it. I support this present effort to put real teeth into the Export Administration Act—to identify specifically which boycott-type actions are illegal and to stiffen penalties for violation.

Staggering oil revenues have permitted Arab countries to dictate business practices to American companies. Arab countries not only attempt to prevent American companies from doing business with Israel, they also try to prevent American companies from doing business with other American companies that do business with Israel.

It is intolerable for foreign countries to interfere with lawful business practices of Americans. Even worse is the foreign pressure that has been put on American companies to exclude American Jews from their partnerships or boards of directors and to discriminate against Jews in hiring and promotion.

Under the Constitution, the Federal Government is given the right to regulate commerce with foreign governments. It, therefore, has the responsibility to protect Americans from religious discrimination and boycotts instigated by foreign countries.

This bill goes a long way toward remedying the problems caused by the Arab boycott. As the author of another bill (H.R. 12383) dealing with this problem, I can attest to the soundness and the effectiveness of the provisions in this bill.

Particularly, the bill prohibits U.S. companies from first, discriminating against Americans on the basis of religion; second, boycotting any American company on account of that company's lawful trade with any foreign country; third, furnishing information about the religion of owners or partners of U.S. companies; and fourth, furnishing information about past or future proposed business relationships by any U.S. company with a foreign country.

It is incredible that the present administration sees only the lure of Arab petrodollars and is willing to sacrifice the rights of Americans and the freedom of lawful foreign trade to those dollars. The administration's position on this issue is contemptible. I hope, therefore, that this bill is enacted promptly.

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

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 15377

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

EXTENSION OF EXPORT ADMINISTRATION ACT

SECTION 1. The Export Administration Act of 1969 (50 U.S.C. App. 2401 et seq.) is amended in section 14 by striking out "September 30, 1976" and inserting in lieu thereof "September 30, 1977".

PENALTIES FOR VIOLATIONS

SEC. 2. (a) Section 6(a) of the Export Administration Act of 1969 is amended—

(1) in the first sentence, by striking out "$10,000" and inserting in lieu thereof "$25,000"; and

(2) in the second sentence, by striking out "$20,000" and inserting in lieu thereof "$50,000".

(b) Section 6(b) of such Act is amended by striking out "$20,000" and inserting in lieu thereof "$50,000".

(c) Section 6(c) of such Act is amended by striking out "$1,000" and inserting in lieu thereof "$10,000".

(d) Section 6(d) of such Act is amended by adding at the end thereof the following new sentences: "Further, the payment of any penalty imposed pursuant to subsection (c) may be deferred or suspended in whole or in part for a time equal to or less than any probation period (which may exceed one year) that may be imposed upon such person. Such deferral or suspension shall not operate as a bar to the collection of the penalty in the event that the conditions of the suspension, deferral, or probation are not fulfilled.".

Mr. MORGAN (during the reading). Mr. Chairman, I ask unanimous consent that section 2 be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

The CHAIRMAN. Are there any amendments to section 2?

If not, the Clerk will read.

The Clerk read as follows:

AUTHORIZATION OF APPROPRIATIONS

SEC. 3. The Export Administration Act of 1969 is amended by inserting after section 12 the following new section 13 and redesignating existing sections 13 and 14 as sections 14 and 15, respectively:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 13. Notwithstanding any other provision of law, no appropriation shall be made under any law to the Department of Commerce for expenses to carry out the purposes of this Act for any fiscal year commencing on or after October 1, 1977, unless previously and specifically authorized by legislation enacted after the enactment of this section.".

FOREIGN AVAILABILITY

SEC. 4. Section 4(b) of the Export Administration Act of 1969 is amended—

(1) by striking out paragraphs (2) through (4) and redesignating section 4(b)(1) as section 4(b); and

(2) by striking out ", regardless" and all that follows thereafter in the third sentence of such section 4(b) and inserting in lieu thereof a period and the following: "The President shall not impose export controls for national security purposes on the export from the United States of articles, materials, or supplies, including technical data or other information, which he determines are available without restriction from sources outside the United States in significant quantities and comparable in quality to those produced in the United States, unless the President determines that adequate evidence has been presented to him demonstrating that the absence of such a control would prove detrimental to the national security of the United States. The nature of such evidence shall be included in the semiannual report required by section 10 of this Act. Where in accordance with this subsection, export

controls are imposed for national security purposes notwithstanding foreign availability, the President shall take steps to initiate negotiations with the governments of the appropriate foreign countries for the purpose of eliminating such availability.".

Mr. MORGAN (during the reading). Mr. Chairman, I ask unanimous consent that section 4 be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

The CHAIRMAN. Are there any amendments to section 4?

If not, the Clerk will read.

The Clerk read as follows:

PERIOD FOR ACTION ON EXPORT LICENSE APPLICATIONS

SEC. 5. Section 4(g) of the Export Administration Act of 1969 is amended to read as follows:

"(g)(1) It is the intent of Congress that any export license application required under this Act shall be approved or disapproved within 90 days of its receipt. Upon the expiration of the 90-day period beginning on the date of its receipt, any export license application required under this Act which has not been approved or disapproved shall be deemed to be approved and the license shall be issued unless the Secretary of Commerce or other official exercising authority under this Act finds that additional time is required and notifies the applicant in writing of the specific circumstances requiring such additional time and the estimated date when the decision will be made.

"(2) With respect to any export license application not finally approved or disapproved within 90 days of its receipt as provided in paragraph (1) of this subsection, the applicant shall, to the maximum extent consistent with the national security of the United States, be specifically informed in writing of questions raised and negative considerations or recommendations made by any agency or department of the Government with respect to such license application, and shall be accorded an opportunity to respond to such questions, considerations, or recommendations in writing prior to final approval or disapproval by the Secretary of Commerce or other official exercising authority under this Act. In making such final approval or disapproval, the Secretary of Commerce or other official exercising authority under this Act shall take fully into account the applicant's response.".

Mr. MORGAN (during the reading). Mr. Chairman, I ask unanimous consent that section 5 be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

The CHAIRMAN. Are there any amendments to section 5?

If not, the Clerk will read.

The Clerk read as follows:

AVAILABILITY OF INFORMATION TO CONGRESS

SEC. 6. (a) Section 7(c) of the Export Administration Act of 1969 is amended by adding at the end thereof the following new sentences: "Nothing in this Act shall be construed as authorizing the withholding of information from Congress, and any information obtained under this Act, including any report or license application required under section 4(b) and any information required under section 4(j)(1), shall be made available upon request to any committee of Congress or any subcommittee thereof. No such committee or subcommittee shall disclose any information obtained under this Act which is submitted on a confidential basis unless such committee or subcommittee determines that the withholding thereof is contrary to the national interest.".

(b) Section 4(c)(1) of such Act is amended by inserting immediately before the period at the end of the last sentence thereof "and in the last two sentences of section 7(c) of this Act".

Mr. MORGAN (during the reading). Mr. Chairman, I ask unanimous consent that section 6 be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

The CHAIRMAN. Are there any amendments to section 6?

If not, the Clerk will read.

The Clerk read as follows:

TECHNICAL ADVISORY COMMITTEES

SEC. 7. Section 5(c)(2) of the Export Administration Act of 1969 is amended by striking out the third sentence and inserting in lieu thereof the following: "The Secretary shall include in each semiannual report required by section 10 of this Act an accounting of the consultations undertaken pursuant to this paragraph, the use made of the advice rendered by the technical advisory committees pursuant to this paragraph, and the contributions of the technical advisory committees to carrying out the policies of this Act.".

SIMPLIFICATION OF EXPORT REGULATIONS

SEC. 8. Section 7 of the Export Administration Act of 1969 is amended by adding at the end thereof the following new subsection (e):

"(e) The Secretary of Commerce, in consultation with appropriate United States Government departments and agencies and with appropriate technical advisory committees established under section 5(c), shall review the rules and regulations issued under this Act in order to determine how compliance with the provisions of this Act can be facilitated by simplifying such rules and regulations or by any other means. Not later than six months after the enactment of this subsection, the Secretary of Commerce shall report to Congress on the actions taken on the basis of such review to simplify such rules and regulations. Such report may be included in the semiannual report required by section 10 of this Act.".

Mr. MORGAN (during the reading). Mr. Chairman, I ask unanimous consent that section 8 be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

The CHAIRMAN. Are there any amendments to Section 8?

If not, the Clerk will read.

The Clerk read as follows:

CONTROL OF EXPORTS FOR NATIONAL SECURITY PURPOSES

SEC. 9. (a) Section 4(h)(1) of the Export Administration Act of 1969 is amended—

(1) by striking out "to a controlled country" in the first sentence;

(2) by striking out "significantly increase the military capability of such country" in the first sentence and inserting in lieu thereof "make a significant contribution to the military potential of any other nation or nations which would prove detrimental to the national security of the United States";

(3) by striking out "such country" in the second sentence and inserting in lieu thereof "nation to which exports are restricted for national security purposes"; and

(4) by striking out "significantly increase the military capability of such country" in the second sentence and inserting in lieu thereof "make a significant contribution to the military potential of any other nation or nations which would prove detrimental to the national security of the United States".

(b) The second sentence of section 4(h)(2) of such Act is amended to read as follows: "The appropriate export control office or agency to whom a request which falls within such types and categories is made shall notify the Secretary of Defense of such requests, and such office may not issue any license or other authority pursuant to such request prior to the expiration of the period within which the President may disapprove such export.".

(c) Section 4(h)(2)(A) of such Act is amended to read as follows:

"(A) recommend to the President that he disapprove a request for the export of any goods or technology which he determines will make a significant contribution to the military potential of any nation or nations which would prove detrimental to the national security of the United States;".

(d) Section 4(h)(2)(C) of such Act is amended by striking out "export of such goods or technology" and inserting in lieu thereof "request".

(e) Section 4(h)(2) of such Act is amended by striking out "the export of such goods or technology to such country" in the last sentence and inserting in lieu thereof "such export".

(f) Section 4(h)(4) of such Act is amended—

(1) by inserting "and" at the end of subparagraph (A); and

(2) by striking out the semicolon at the end of subparagraph (B) and all that follows thereafter through "1961" at the end of subparagraph (C).

(g) Section 6(b) of such Act is amended by striking out "Communist-dominated nation" and inserting in lieu thereof "country to which exports are restricted for national security or foreign policy purposes".

Mr. MORGAN (during the reading). Mr. Chairman, I ask unanimous consent that section 9 be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

The CHAIRMAN. Are there any amendments to section 9?

If not, the Clerk will read.

The Clerk read as follows:

REPEAL OF TITLE II OF THE MUTUAL DEFENSE ASSISTANCE CONTROL ACT

SEC. 10. (a) Title II of the Mutual Defense Assistance Control Act of 1951 (22 U.S.C. 1612–1612b) is repealed.

(b) Section 301 of such Act (22 U.S.C. 1613) is amended by striking out "and title II".

Mr. MORGAN (during the reading). Mr. Chairman, I ask unanimous consent that section 10 be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

The CHAIRMAN. Are there any amendments to section 10?

If not, the Clerk will read.

The Clerk read as follows:

EXPORTS OF TECHNICAL INFORMATION

SEC. 11. Section 4 of the Export Administration Act of 1969 is amended by adding at the end thereof the following new subsection (j):

"(j)(1) Any person (including any college, university, or other educational institution) who enters into any agreement for, or which may result in, the transfer from the United States of technical data or other information to any nation to which exports are restricted for national security or foreign policy purposes shall furnish to the Secretary of Commerce such information with respect to such agreement as the Secretary shall by regulation require in order to enable him to monitor the effects of such transfers on the national security and foreign policy of the United States.

"(2) The Secretary of Commerce shall conduct a study of the problem of the export, by publications or any other means of public dissemination, of technical data or other information from the United States, the export of which might prove detrimental to the national security or foreign policy of the United States. Not later than 6 months after the enactment of this subsection, the Secretary shall report to the Congress his assessment of the impact of the export of such technical data or other information by such means on the national security and foreign policy of the United States and his recommendations for monitoring such exports without impairing freedom of speech, freedom of press, or the freedom of scientific exchange. Such report may be included in the semiannual report required by section 10 of this Act.".

Mr. MORGAN (during the readings). Mr. Chairman, I ask unanimous consent that section 11 be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

The CHAIRMAN. Are there any amendments to section 11?

If not, the Clerk will read.

The Clerk read as follows:

SEMIANNUAL REPORTS

SEC. 12. (a) Section 10 of the Export Administration Act of 1969 is amended by adding at the end the following new subsection (c):

"(c) Each semiannual report shall include an accounting of—

"(1) any organizational and procedural changes instituted, any reviews undertaken, and any means used to keep the business sector of the Nation informed, pursuant to section 4(a) of this Act;

"(2) any changes in the exercise of the authorities of section 4(b) of this Act;

"(3) any delegations of authority under section 4(e) of this Act;

"(4) the disposition of export license applications pursuant to sections 4(g) and 4(h) of this Act;

"(5) the effects on the national security and foreign policy of the United States of transfers from the United States of technical data or other information which are reported to the Secretary of Commerce pursuant to to section 4(j) of this Act;

"(6) consultations undertaken with technical advisory committees pursuant to section 5(c) of this Act; and

"(7) violations of the provisions of this Act and penalties imposed pursuant to section 6 of this Act.".

(b)(1) The section heading of such section 10 is amended by striking out "QUARTERLY".

(2) Subsection (b) of such section is amended—

(A) by striking out "quarterly" each time it appears; and

(B) by striking out "second" in the first sentence of paragraph (1).

Mr. MORGAN (during the reading). Mr. Chairman, I ask unanimous consent that section 12 be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

The CHAIRMAN. Are there any amendments to section 12?

If not, the Clerk will read.

The Clerk read as follows:

SPECIAL REPORT

SEC. 13. The Export Administration Act of 1969, as amended by section 3 of this Act, is further amended by inserting after section 10 the following new section 11 and redesignating existing sections 11 through 15 as sections 12 through 16, respectively:

"SPECIAL REPORT

"SEC. 11. Not later than 12 months after the enactment of this section, the President shall submit to the Congress a special report on multilateral export controls in which the United States participates pursuant to this Act and pursuant to the Mutual Defense Assistance Control Act of 1951. The purpose of such special report shall be to assess the effectiveness of such multilateral export controls and to formulate specific proposals for increasing the effectiveness of such controls. That special report shall include—

"(1) the current list of commodities controlled for export by agreement of the group known as the Coordinating Committee of the Consultative Group (hereafter in this section referred to as the 'Committee') and an analysis of the process of reviewing such list and of the changes which result from such review;

"(2) data on and analysis of requests for exceptions to such list;

"(3) a description and an analysis of the process by which decisions are made by the Committee on whether or not to grant such requests;

"(4) an analysis of the uniformity of interpretation and enforcement by the participating countries of the export controls agreed to by the Committee (including controls over the re-export of such commodities from countries not participating in the Committee), and information on each case where such participating countries have acted contrary to the United States interpretation of the policy of the Committee, including United States representations to such countries and the response of such countries;

"(5) an analysis of the problem of exports of advanced technology by countries not participating in the Committee, including such exports by subsidiaries or affiliates of United States businesses in such countries;

"(6) an analysis of the effectiveness of any procedures employed, in cases in which an exception for a listed commodity is granted by the Committee, to determine whether there has been compliance with any conditions on the use of the excepted commodity which were a basis for the exception; and

"(7) detailed recommendations for improving, through formalization or other means, the effectiveness of multilateral export controls, including specific recommendations for the development of more precise criteria and procedures for collective export decisions and for the development of more detailed and formal enforcement mechanisms to assure more uniform interpretation of and compliance with such criteria, procedures, and decisions by all countries participating in such multilateral export controls.".

Mr. MORGAN (during the reading. Mr. Chairman, I ask unanimous consent that section 13 be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

The CHAIRMAN. Are there amendments to section 13? If not, the Clerk will read.

The Clerk read as follows:

FOREIGN BOYCOTTS

SEC. 14. (a) Section 3(5) of the Export Administration Act of 1969 is amended in subparagraph (B)—

(1) by striking out "encourage and request" and inserting in lieu thereof "require"; and

(2) by striking out "the furnishing of information or the signing of agreements" and inserting in lieu thereof "furnishing information or entering into or implementing agreements".

(b) Section 4 of such Act is amended—

(1) by striking out the next to the last sentence of subsection (b), as so redesignated by section 4 of this Act; and

(2) by adding the following new subsection (k) immediately after subsection (j), as added by section 11 of this Act:

"(k)(1)(A) Rules and regulations prescribed under subsection (b) shall implement the provisions of section 3(5) of this Act and shall require that any United States person receiving a request for furnishing information or entering into agreement as specified in that section must report this fact to the Secretary of Commerce for such action as the Secretary may deem appropriate to carry out the policy of that section.

"(B) Any report filed under subparagraph (A) after the enactment of this subsection shall be made available promptly for public inspection and copying. The Secretary of Commerce shall transmit copies of such reports to the Secretary of State for such action as the Secretary of State, in consultation with the Secretary of Commerce, may deem appropriate for carrying out the policy set forth in section 3(5). The provisions of section 7(c) shall not apply to reports filed under subparagraph (A) of this paragraph.

"(2)(A) In furtherance of the policy set forth in sections 3(5) (A) and (B), no United States person shall take any action with intent to comply with or to further or support any trade boycott fostered or imposed by any foreign country against a country which is friendly to the United States and which is not itself the object of any form of embargo by the United States. The mere absence of a business relationship with a boycotted country does not indicate the existence of the intent required by the preceding sentence.

"(B) For the purpose of enforcing the prohibition contained in subparagraph (A) of this paragraph, the Secretary of Commerce shall issue rules and regulations prohibiting any United States person from taking any action with the required intent, including the following actions:

"(i) Discriminating against any United States person, including any officer, employee, agent, director, or stockholder or other owner of any United States person, on the basis of race, color, religion, sex, nationality, or national origin.

"(ii) Boycotting or refraining from doing

business with any United States person, with the boycotted country, with any business concern in or of the boycotted country with any national or resident of the boycotted country, or with any business concern or other person which has done, does, or proposes to do business with the boycotted country, with any business concern in or of the boycotted country, or any national or resident of the boycotted country.

"(iii) Furnishing information with respect to the race, color, religion, sex, nationality, or national origin of any past, present, or proposed officer, employee, agent, director, or stockholder or other owner of any United States person.

"(iv) Furnishing information about any past, present, or proposed business relationship, including a relationship by way of sale, purchase, legal or commercial representation, shipping or other transport, insurance, investment, or supply, with any United States person, with the boycotted country, with any business concern in or of the boycotted country, with any national or resident of the boycotted country, or with any business concern or other person which has done, does, or proposes to do business with the boycotted country, with any business concern in or of the boycotted country, or any national or resident of the boycotted country.".

(c)(1) Section 6 of such Act is amended by redesignating subsection (g) as subsection (h) and by inserting immediately after subsection (f) the following new subsection (g):

"(g) Any United States person aggrieved by action taken as a result of a violation of section 4(k)(2) of this Act may institute a civil action in an appropriate United States district court, without regard to the amount in controversy, and may recover threefold actual damages, reasonable attorney's fees, and other litigation costs reasonably incurred, and obtain other appropriate relief.".

(2) Section 6(h) of such Act, as so redesignated by paragraph (1) of this subsection, is amended by striking out "or (f)" and inserting in lieu thereof "(f), or (g)".

(d) Section 12 of such Act, as so redesignated by section 13 of this Act, is amended by adding at the end thereof the following: "The term 'United States person' includes any United States resident or national, any domestic business concern (including any domestic subsidiary or affiliate of any foreign business concern), and any foreign subsidiary or affiliate of any domestic business concern.".

Mr. MORGAN (during the reading). Mr. Chairman, I ask unanimous consent that section 14 be considered as read, printed in the RECORD and open to amendment at any point.

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

There was no objection.

The CHAIRMAN. Are there amendments to section 14?

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

I take this time to pose several questions to the gentleman from New York (Mr. BINGHAM). I have in my hand here a rather lengthy document that would indicate the contents of certification of a number of countries. Let me pick out one, Yemen.

Going back again to my hometown industry, the Caterpillar Tractor Co., if they wish to do business with the Republic of Yemen and are asked to sign a certificate that says that the goods are not of Israeli origin and do not contain any Israeli materials, and if the Caterpillar Tractor officials sign that certificate, do they come within the purview of the Bingham amendment in prohibiting the shipment of any Caterpillar equipment then to the Republic of Yemen?

Mr. BINGHAM. Mr. Chairman, if the gentleman will yield, I would say, first, that the intent of the amendment is with regard to the imposition of a secondary boycott, not a primary boycott.

Mr. MICHEL. Whose intent are we talking about? When we speak about intent, exactly whose intent are we talking about here?

Mr. BINGHAM. We are speaking of the intent of the amendment. If the intent of a company is to comply with the boycott then that, of course, is prohibited. If a certificate of origin, for example, were to state that the products are manufactured in the United States; that is, if there were a positive certificate of origin, then presumably, it would be difficult to claim any intent to comply with the boycott. If the statement is framed negatively, as the gentleman suggests it would be, then I think intent would be presumed.

Mr. MICHEL. Second, with respect to insurance covering shipment, if there is an insurance company's certificate that reads that to the best of their knowledge and belief their company is not blacklisted by the Arab League, what effect does the amendment have on that kind of a statement?

Mr. BINGHAM. The effect of that kind of a statement would certainly raise a presumption of intent to comply with the boycott.

The matter of blacklisting is the key to the whole operation of the boycott. It has been operated in a capricious and arbitrary way. I might say at this point that one of the reasons why I for one, and many others feel that the Arabs will react realistically, if this legislation should become law—that those who are dealing with American businesses will continue to deal with these American businesses—is that they have done that time and time again in the operation of the boycott up to now. Firms that have been on the blacklist have, nevertheless, been able to deal with Arab countries when the Arab countries want to do business with them. But a firm's statement—to respond to the gentleman's question—that it is not on the blacklist, would, I think, create a presumption of intent.

Mr. MICHEL. Finally, if they require a steamship company certificate, that the steamship is not an Israeli ship and is not going to any Israeli port during the voyage.

Mr. BINGHAM. I can tell the gentleman from Illinois that again the matter of intent would be crucial. Certainly they are not required to use Israeli vessels and the type of certificates that is normally attached to shipments of that kind will not necessarily be a violation or prohibition. It would again be a matter of the intent with which the shipper provides the information.

Mr. MICHEL. I just want to say further to the gentleman that as large a company as we have been talking about, with no discrimination practiced in their employment and hiring practices, there are obviously people of many nationalities and religious faiths building the kind of machines we are talking about here that eventually get sold and shipped to an Arab country. But there is nothing, so far as the Arabs are concerned, as I read their requirements and certification, that none of the products here have been in any way manufactured by those of the Jewish faith.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. MICHEL was allowed to proceed for 3 additional minutes.)

Mr. BINGHAM. Let me reiterate to the gentleman the last thing that the committer wants to do is to stop American concerns from exporting to Arab nations. That is the last thing we want to do. But we are hopeful that based on the pattern of Arab behavior in the past, when they have ignored blacklisting and they chose to do it, that they will accept an American law that is going to treat all businesses alike.

One of the problems that has existed up to now is that some companies have refused on principle to allow themselves to be told whom they can do business with and whom they cannot do business with. This bill will put everybody in the same category. Companies operating in Illinois will be in the same category with companies operating elsewhere. It may be that there has not been discrimination against Jewish members of the Caterpillar firm, but let me read to the gentleman from the report of the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce, chaired by the gentleman from California (Mr. Moss). The reports that were filed "included requests by Arab importers that U.S. exporters certify that there are no persons employed in senior management who are of the Jewish faith, Zionists," and so forth.

Mr. MICHEL. Let me ask the gentleman one final matter. Earlier we were talking about the question of subsidiary plants abroad over which this amendment would have no control, even though they are a subsidiary of a parent company in this country. Would that not tend, if the gentleman's amendment holds fast, to really encourage the flight of American capital to build the same kind of plants in these foreign countries to which I have alluded who do not have this kind of restriction but have the ability to produce the kind of machines that the Arab countries want?

Mr. BINGHAM. Let me point out to the gentleman that it is not true that other countries do not have restrictions. The Netherlands, for example, does have restrictions on providing documents that prohibit, as I understand it, the notarization of documents that are in compliance with the boycott. Yet the Netherlands is doing very well in its trade with Arab countries. I think the gentleman raises an unrealistic fear.

Mr. ROSENTHAL. Mr. Chairman, as a coauthor of section 14 of the bill, I wish to offer my response to the question

raised by the gentleman from Illinois, (Mr. MICHEL). I agree with my colleague from New York (Mr. BINGHAM) that the actions prohibited are those taken with an "intent to comply with or to further or support" a boycott of a friendly state.

I would only add that in certain cases such an intent undoubtedly can be presumed from the act itself. In the hypothetical case set forth by my distinguished colleague from Illinois, the action of the company in certifying to an Arab importer that the goods are not of Israel origin or do not contain Israel components is such a case. There seems little doubt that such a certification would be a clear violation of this section.

This interpretation is supported by subparagraph (B) of this section where certain forms of prohibited conduct are set forth. One such form in (iv) includes furnishing information about a business relationship with the boycotted country. The hypothetical case offered entails the furnishing of such information.

As to the hypothetical case presented where the certification is to the U.S. origin of the goods or question, I feel this also could fit within the prohibition expressed in the same subparagraph although this is admittedly a gray area and would depend upon the intent of the company.

I agree with my colleague from New York that a certification that the goods to an Arab port are not being shipped on ships not under Israel flag would not be a violation.

The CHAIRMAN. The time of the gentleman has expired.

Are there any amendments to section 14? If not, the Clerk will read.

The Clerk read as follows:

CERTAIN PETROLEUM EXPORTS

SEC. 15. Section 4 of the Export Administration Act of 1969, as amended by section 11 and 14 of this Act, is further amended by adding at the end thereof the following new subsection (l):

"(l) Petroleum products refined in United States Foreign-Trade Zones from foreign crude oil shall be excluded from any quantitative restrictions imposed pursuant to section 3(2)(A) of this Act, except that, if the Secretary of Commerce finds that a product is in short supply, the Secretary of Commerce is authorized to issue such rules and regulations as may be necessary to limit exports.".

Mr. MORGAN (during the reading). Mr. Chairman, I ask unanimous consent that section 15 be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

AMENDMENT OFFERED BY MR. ZABLOCKI

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

The Clerk read as follows:

Amendment offered by Mr. ZABLOCKI: On page 18, line 22, insert the following after the word "Zones", "or in the United States Territory of Guam."

Mr. ZABLOCKI. Mr. Chairman, all this amendment does is to include the Territory of Guam in the exclusion. The committee's attention has been called to the fact that, after we provided exclusion for the U.S. foreign trade zones, only one State, Hawaii, would be affected and would be discriminatory if Guam were not given equal treatment. Therefore, in equity we believe that the U.S. Territory of Guam should be included.

Mr. MORGAN. Mr. Chairman, the gentleman from Wisconsin has consulted both the minority member and myself about this amendment, and I certainly feel there is no reason why Guam should not have been included when the bill was marked up. I have no objection to the amendment.

Mr. WON PAT. Mr. Chairman, I move to strike the requisite number of words, and on behalf of the people of Guam, I rise in support of the amendment offered by the distinguished gentleman from Wisconsin (Mr. ZABLOCKI). This amendment will include the territory of Guam in the limited exemption that is provided by section 15 to the foreign trade zones of the United States. This amendment will be of significant benefit to the severely depressed economy of Guam which lies over 5,500 miles west of the U.S. mainland, and only 1,500 miles from Japan.

The small business refinery on Guam exclusively uses foreign crude oil, but at present has a capacity of only 29,500 barrels a day. Virtually all of its products are sold to the Defense Fuel Supply Center, mostly diesel fuel marine and JP-4, and to the Guam Power Authority for electricity generation. To the extent that it has surplus products, they are exported to foreign entities. Although the Export Control Administration has allowed the refinery to sell its small surplus abroad, the export licenses are issued on a quarterly basis. This dependency on a laborious quarterly renewal of their export license prevents the refinery from making the long-term contracts necessary for economically viable exportation of the surplus. The passage of this amendment will provide the opportunity for the refinery on Guam to increase its capacity to up to 50,000 barrels a day, as a result of the improved export situation. This multimillion dollar expansion would provide a large number of jobs in the disastrously depressed construction industry on Guam. The expansion will also provide new jobs for Guamanians in the refinery.

The U.S. balance of payments posture will be improved by this amendment because of the increased export sales of foreign imported oil refined in the United States. Thus, there will be a marginal increase in foreign sales without affecting valuable domestic supplies of petroleum.

The U.S. defense posture will be enhanced by the growth of our westernmost refinery. Having a larger refinery in the strategic outpost of Guam will help insure that the United States will have additional petroleum supplies in times of national emergency. The refinery on Guam supplied most of the aviation fuel to the U.S. military on Guam during the periods of intense air activity over Vietnam.

I would respectfully remind my colleagues that this exemption from the Export Control Act applies only to products refined from foreign crude oil, and that export controls would still be an option on such products as are deemed by the Secretary of Commerce to be in short supply.

For the foregoing reasons, I strongly urge my colleagues to vote favorably on this committee amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. ZABLOCKI).

The amendment was agreed to.

The CHAIRMAN. The clerk will read.

The clerk read as follows:

EXEMPTION FOR CERTAIN AGRICULTURAL COMMODITIES FROM CERTAIN EXPORT LIMITATIONS

SEC. 16. Section 4(f) of the Export Administration Act of 1969 is amended—

(1) by redesignating such section as section 4(f)(1); and

(2) by adding at the end thereof the following new paragraph:

"(2) Upon approval of the Secretary of Commerce, in consultation with the Secretary of Agriculture, agricultural commodities purchased by or for use in a foreign country may remain in the United States for export at a later date free from any quantitative limitations on export which may be imposed pursuant to section 3(2)(A) of this Act subsequent to such approval. The Secretary of Commerce may not grant approval hereunder unless he receives adequate assurance and, in conjunction with the Secretary of Agriculture, so finds that such commodities will eventually be exported, that neither the sale nor export thereof will result in an excessive drain of scarce materials and have a serious domestic inflationary impact, that storage of such commodities in the United States will not unduly limit the space available for storage of domestically owned commodities, and that the purpose of such storage is to establish a reserve of such commodities for later use, not including resale to or use by another country. The Secretary of Commerce is authorized to issue such rules and regulations as may be necessary to implement this paragraph.".

Mr. MORGAN (during the reading). Mr. Chairman, I ask unanimous consent that section 16 be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

AMENDMENT OFFERED BY MR. FINDLEY

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

The clerk read as follows:

Amendment offered by Mr. FINDLEY: Page 20, immediately after line 5, insert the following new section:

SEC. 19. Section 4(f) of the Export Administration Act of 1969, as amended by section 16 of this Act, is amended by adding at the end thereof the following new paragraph:

"If the Secretary of Commerce shall prohibit or curtail the exportation of any commodity pursuant to this section, he shall immediately report such prohibition or curtailment to the Speaker of the House and the President pro tempore of the Senate setting forth his reasons therefore in detail. If the Congress shall by concurrent resolution disapprove of such prohibition or curtailment, it shall cease with the passage of said resolution."

Mr. FINDLEY. Mr. Chairman, many people in the United States have anxiety over the possibility that the President in the future may utilize the au-

thority in the Export Administration Act to impose restrictions or an embargo on the export of certain food products. This anxiety is reflected I think in the Presidential campaign. Both candidates have expressed in their own way their opposition to such imposition, but nevertheless the anxiety continues.

My amendment would provide to the Congress the right to pass judgment should the President at any future time utilize the authority in the act to establish a curtailment or prohibition on the export of food products. The Congress would pass judgment by means of the concurrent resolution approach, not a single House veto but a concurrent resolution approach.

I am sure the presence of this language in the act would provide a reassurance to the American people that the President will use due care in examining conditions which might impel him to use the authority in this act to exercise such curtailment or prohibition.

Such a course of action can do great harm of course to the income of farmers but even more broadly it can do great harm to the interest of the people of the United States because farm products have become the greatest and the most dependable source of earnings of foreign exchange which are vital to the functioning of our economy.

I am not aware of opposition to this amendment and I do hope that the committee will accept it.

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

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

Mr. MORGAN. Mr. Chairman, I am sure the administration, I will say to the gentleman from Illinois (Mr. FINDLEY), would veto this on constitutional grounds, because a concurrent resolution seems to be a nasty word downtown. I am sure we possibly would have a Presidential veto on this bill. I am sure there would be opposition from the administration.

I am worried about the amendment of the gentleman from Illinois, because the gentleman has made it much broader than the amendment that the gentleman offered in the committee. The former amendment was limited to agricultural products. Now the gentleman has made it to cover all exports and products.

The amendment is much broader than the amendment Senator HUDDLESTON offered in the Senate. I am afraid if we adopt the gentleman's amendment we will be locked in—that it would be necessary to bring back a concurrent resolution from the conference.

The gentleman from Illinois offered the Huddleston amendment in the committee, where it was defeated. I am reluctant to take this amendment to conference, where it would require agreement to concurrent resolution; so I oppose the amendment.

Mr. FINDLEY. Mr. Chairman, I recognize, of course, that the executive branch always opposes the legislative veto approach. This does differ from the legislative veto issue which was resolved on the House floor a couple days ago. This requires majority concurrence of both Houses.

Mr. MORGAN. Mr. Chairman, if the gentleman will yield further, I have reread the gentleman's amendment. I ask the gentleman to withdraw the amendment. We can go to conference—the gentleman will be a conferee because of his position as the third ranking member of the committee—without the amendment, I am sure with what we have in the Senate bill, with the Huddleston amendment, we will be able to work out a compromise with the gentleman from Illinois.

Mr. FINDLEY. On the gentleman's assurance, I ask unanimous consent to withdraw my amendment.

Mr. FINDLEY. Mr. Chairman, on that assurance, I ask unanimous consent to withdraw my amendment.

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

There was no objection.

The CHAIRMAN. Are there further amendments to section 16? If not, the Clerk will read.

The Clerk read as follows:

NUCLEAR POWERPLANTS

SEC. 17. None of the funds authorized by the Foreign Assistance Act of 1961 may be used to finance the construction of, the operation or maintenance of, or the supply of fuel for, any nuclear powerplant under an agreement for cooperation between the United States and any other country.

The CHAIRMAN. Are there amendments to section 17?

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

Mr. Chairman, the legislation before us today, the Export Administration Act amendments, will at last complete the effort many of us renewed in this Congress 18 months ago: the passage of a law which makes compliance with the Arab boycott illegal.

In so doing, we are bringing the rules which govern our international trading relationships into conformity with our principles as a nation.

More than 10 years ago, the Congress explicitly stated in an amendment to this same law that it is the policy of the United States to oppose restrictive trade practices and foreign-imposed boycotts and to refuse to take any action which encouraged these activities.

The Congress enunciated this policy, because it clearly recognized that the existence of boycotts, such as the Arab boycott, are repugnant to many of our basic values. The Arab boycott in particular not only works to erode the operation of a free market, but also systematically denies any of our citizens basic protections against discrimination.

Responsibility for implementing this clear policy direction was given to the Department of Commerce. Since 1965, however, its record has been one of acquiescence to and encouragement of the Arab boycott in the United States. On September 7, 1976, the Commerce Subcommittee on Oversight and Investigations, of which I am a member, released its report, "The Arab Boycott and American Business." This study—the most comprehensive review ever of the boycott's impact on the United States—is a damning indictment of the Commerce Department's response to the boycott. Our report documented—

That for more than a decade, the Commerce Department circulated trade offerings from Arab League countries which contained boycott demands;

That for more than a decade, the Commerce Department formally advised American exporters that they were not prohibited from complying with the boycott's demands;

That since 1965, the Department refused to require American firms from reporting whether or not they had complied with the boycott; and

That until December 1975, banks, freight forwarders, and insurers were excluded from even the Department's minimal boycott regulations.

These policies had the direct and significant effect of greatly expanding the impact of the Arab boycott on our economy. More than 1,500 American corporations are currently blacklisted by the Arab League. In 1974 and 1975 alone, more than $4.5 billion in goods were subject to boycott restrictions. More than 90 percent of all trade agreements with the Arab League are currently in compliance with the boycott's provisions. Almost all the letters of credit issued by banks in order to underwrite exports to the Arab League contain discriminatory demands.

It is, therefore, painfully apparent that instead of promoting policies which would work to limit the boycott's effect on the United States, the Department of Commerce consistently subverted and obstructed the implementation of our Nation's antiboycott policy.

What is also clear is that all these trends have been accelerated in response to the shift of economic and political power to the OPEC nations since the 1973 quadrupling of oil prices.

In effect, the boycott has driven a wedge into the American business community, separating those who are prepared to comply with the boycott's demands in order to enjoy the growing trading opportunities with the Arab League from those who would reject its demands, because of their discriminatory and anticompetitive nature.

Only by making compliance with the boycott illegal can the American business community and the American people be protected against its pernicious influence. Only by removing the boycott as a condition of trade with the Arab League can there be removed the competitive advantage secured by complying with it.

The heart of this issue is whether the United States will allow itself to be blackmailed—politically and economically—as a condition of furthering our relationships within the Arab world. By passing this amendment, we will be making it clear that there are basic principles which must be respected, and which must form the framework of future ties.

I believe the mutual desire for each other's goods and services will overcome any potential this legislation might have to jeopardize our trade with the Arab

world. Even today, the boycott is suspended for firms whose products are needed in the OPEC countries—precisely because it is more to their advantage to ignore it than enforce it. By prohibiting compliance with the boycott, we can only encourage this trend.

Mr. Chairman, if the policy of the Congress had been enforced a decade ago, we would not now be confronted with the dilemma posed by the boycott, nor would we need this legislation today.

It is long past the time for this amendment to be law. I urge my colleagues to adopt this provision, and attach, for their further consideration, my additional views to our subcommittee's report on "The Arab Boycott and American Business":

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE, SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS, REPORT, "THE ARAB BOYCOTT AND AMERICAN BUSINESS"

ADDITIONAL VIEWS OF REPRESENTATIVES HENRY A. WAXMAN, JOHN E. MOSS, ANTHONY TOBY MOFFETT, JAMES H. SCHEUER, RICHARD OTTINGER, ANDREW MAGUIRE

The subcommittee's report, "The Arab Boycott and American Business," is the most comprehensive congressional review of the nature, scope, and impact of the Arab boycott on the United States since anti-boycott provisions were added to the Export Administration Act in 1965.

This subcommittee's investigation has opened the wall of secrecy which has surrounded much of the Arab boycott. The barest outlines of the scope of the boycott, and its gross economic impact on the United States, are now available. Billions of dollars in trade have been subjected to the boycott's discriminatory trade practices. But strikingly absent from this report—and obscured even today by Commerce Department policies—is the answer to the question of how many businesses have changed their business practices in order to comply with the boycott's restrictions and have in effect become tools in the Arab's economic warfare against the State of Israel. Specifically: To what extent have businesses agreed to terminate their direct relationships with Israel in order to obtain contracts in the Arab world? To what extent have businesses agreed to refuse to deal with other American companies which have relationships with or are otherwise sympathetic to Israel? These questions remain unanswered because the Commerce Department has refused to prohibit compliance with these so-called secondary and tertiary aspects of the Arab boycott—even though there is a greater awareness of these activities, and even though their frequency and intensity is growing, and not diminishing.

Despite this inevitable shortcoming, this report is a damning chronicle of evasion and subversion by several administrations and, to a lesser extent, by the business community of the clear Congressional mandate opposing boycotts and restrictive trade practices. At the same time, this report repeatedly emphasizes that the profound issues raised by the Arab boycott—legal, political, economic, moral—remain unresolved to this day. It is our hope that this document will serve as a major impetus toward the passage of legislation which would at last prohibit business in the United States from complying with the Arab boycott.

Such a desire surely embraces the spirit of the law. As the Export Administration Act unequivocally states,

"It is the policy of the United States (A) to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries * * * and (B) to encourage and request domestic concerns engaged in * * * export * * * to refuse to take any action, including the furnishing of information or the signing of agreements, which has the effect of furthering or supporting the restrictive trade practices or boycotts * * *"

The Congress' meaning in establishing this policy in 1965 was clear. It reflected the judgment that compliance with the Arab boycott was repugnant to cherished American principles regarding freedom from discrimination and the operation of a free market. It sought to assure that this Nation would not compromise its basic values in the search for expanded trade opportunities throughout the world.

Nevertheless, the subcommittee's report has documented that the Department of Commerce, which was charged with enforcing this mandate, consistently undermined this policy to the extent that, over the years, the Arab boycott has been allowed to proceed with the full acquiescence and indeed the tacit encouragement of the U.S. Government. In particular:

For more than ten years, the Commerce Department's reporting forms of boycott requests explicitly stated that U.S. exporters are "not legally prohibited from taking any action" in support of the Arab boycott. Such a statement represented a clear signal to all U.S. exporters that compliance with the boycott carried no sanctions whatsoever.

Again, for more than ten years, the Commerce Department circulated to American businesses notices of trade opportunities which contained boycott demands. The Commerce Department circulates such notices in order to encourage trade with other countries. By promoting trade opportunities which were contingent upon compliance with the boycott, however, the Commerce Department played an active, and central, role in promoting the Arab boycott in the United States.

Although the Export Administration Act requires all boycott requests, including the furnishing of information or the signing of agreements, to be reported to the Commerce Department, for over ten years the Department chose not to require U.S. exporters to report whether or not they had complied with such requests—even though the Department had the clear statutory authority to compel such information. Such a policy prevented the Department and anyone else from ascertaining the boycott's scope and its impact on the American economy.

Although the operations of banks, freight forwarders, and insurance companies are essential components of all export transactions, it was not until December 1975 that the Department's boycott regulations were broadened to encompass these concerns. For over a decade, in other words, letters of credit, insurance policies, and transportation arrangements for billions of dollars in exports were not subject to even minimal antiboycott requirements.

A distressingly clear pattern of passivity to, promotion of, and disinterest in enforcing the antiboycott policy of the United States by the Department of Commerce over a ten-year period is therefore plainly evident. Indeed, the four policies which are mentioned above were terminated only after vigorous initiatives were undertaken by members of this Subcommittee, and others in the Congress, with former Commerce Secretary Rogers Morton.

Even then, our efforts were vigorously rebuffed at first. In order to effectively ascertain the nature, scope, and impact of the Arab boycott on the United States, this Subcommittee subpoenaed from the Commerce Department boycott requests which exporters received from Arab League countries—and which were required by law to be reported to the Department. For months, this Subcommittee was forced into contesting an unfounded claim of statutory privilege which Secretary Morton sought to exercise over these reports, which this Subcommittee urgently needed if it were to fulfill its oversight responsibilities. Renowned scholars came before the Subcommittee and testified that Secretary Morton's position had no legal basis whatsoever under the statutes he cited or the Constitution.

But more importantly, Commerce Secretary Rogers Morton's four-month refusal to provide documents was consistent with the Administration's decade-long policy of acquiescence in and promotion of the Arab boycott. As the Subcommittee's report shows, the subpoenaed materials reveal that the Department exercised virtually no control over attempts by the Arab League to enforce boycott provisions against American business—although it had both the Congressional policy mandate and the statutory authority to implement it. Rather than correct these shortcomings over time, the Department failed to take any remedial steps.

We are forced to conclude that Secretary Morton's refusal for five months to comply with the Subcommittee's subpoena for Arab boycott information was nothing less than an attempt to cover up the Department's grave abdication of its responsibilities under the Export Administration Act.

There is therefore no question in our minds, after reviewing the entire record which the Subcommittee has developed, that the Commerce Department, with the approval of the highest levels of several Administrations, obstructed over a ten-year period the effective implementation of the antiboycott provisions of the Export Administration Act as expressed by both the Congress and by successive Presidents and Secretaries of State. Second, in that the Commerce Department has failed to move against the secondary and tertiary aspects of the Arab boycott, it may be fairly stated that such an obstruction is continuing unto this day.

This is, in our judgment, a matter of the most serious concern to the Congress and the American people.

The business community has exhibited an ambivalent response to the competing pressures which the existence of the boycott evokes. On the one hand, the pressure to comply with the boycott is enormous. The records indicate that upwards of 90 percent of all transactions subject to boycott demands were ultimately in compliance with them. Only in 2–3 percent of all cases has the boycott been deliberately evaded. Nevertheless, in coordination with the American Jewish Congress, more than two dozen corporations have publicly pledged to refrain from complying with the boycott.

On the other hand, in the absence of an express prohibition of compliance with the Arab boycott, and in the presence of government policies which actively encourage compliance with it in order to improve our balance-of-payments with the Arab oil-producing states, noncompliance with the boycott can only place those who adhere to such a policy at a competitive disadvantage. As Federal Reserve Chairman Arthur Burns has stated.

"The time has come for the Congress to determine whether it is meaningful or sufficient merely to "encourage and request" U.S. banks not to give effect to the boycott. It is unjust, I believe, to expect some banks to suffer competitive penalties for responding affirmatively to the spirit of U.S. policy, while others profit by ignoring this policy. This inequity can be cured if Congress will act decisively on this subject." (Letter to Rep. Benjamin Rosenthal, June 3, 1976.)

This dilemma, however, extends beyond the choices faced by the business community. The Subcommittee's report documents that at least $4.5 billion in trade with the Arab League in 1974 and 1975—and probably much more—has been held hostage to the Arab

boycott. The Subcommittee staff further indicates that nearly half if not more of all trade with the Arab League—involving billions more—is currently being subject to boycott demands. It is clear that despite the increased attention which has been focused on the boycott, its influence appears to be growing and not diminishing.

The higher level of scrutiny has also revealed that the boycott is not monolithic or impermeable; rather, it has consistently been applied in an arbitrary and capricious manner. Ostensibly, the boycott's blacklist contains those firms who have contributed to Israel's economic growth or have an affiliation with another blacklisted firm. Since 1948, the Chase Manhattan Bank has served as Israel's agent in handling government bonds in the United States. General Electric supplies the Israeli Air Force with jet engines for the Kfir aircraft—Israel's first military jet. Despite the crucial role these two corporations play in Israel's economic and military security, both firms are not blacklisted and do extensive business in the Arab world. TWA, Myles Laboratories, and IBM are among the firms which do substantial amounts of business with both Israel and the Arab nations. Moreover, experience since the Arab oil embargo has been that obeisance to restrictive trade practices neither ensures improved trade relationships nor guarantees immunity from further economic reprisals. France, which went to extraordinary lengths to accomodate OPEC demands after the Yom Kippur War, has not had as great an increase in trade with the OPEC nations as the Netherlands and West Germany, which pointedly refused to alter their relationship with Israel.

It is therefore apparent that these corporations and countries, and others like them, are able to operate in such a manner precisely because their services are as indispensable to Arab needs as they are to Israel.

Therein, we believe, lies the key to breaking the Arab boycott's influence on our economy and society. American goods and services are the most sought after in the world. We currently account for 18 percent of all world trade. The Arab nations, who so desperately want to develop their societies, are increasingly relying on American resources. The United States now accounts for 40 percent of the additional trade which the OPEC nations have undertaken since the quadrupling of oil prices in 1973. This relationship, instead of being characterized by discriminatory demands that are alien to our traditions and law, should instead dictate that, as a condition of its continuance, no such demands will be tolerated.

It remains that compliance with the Arab boycott is still not prohibited by law. We therefore urge that the Export Administration Act be amended to prohibit all agreements to refrain from doing business (1) with a foreign country friendly to the United States, and (2) with a company or supplier boycotted by a foreign concern, thereby furthering a foreign-imposed boycott or restrictive trade practice. We also urge the Congress to amend the Export Administration Act to prohibit business from furnishing the information the Arab League uses to enforce its boycott demands. Both of these recommendations are contained in the Subcommittee's report.

Whether the Congress will finally declare these practices illegal is another facet of the long-standing debate over whether the conduct of our foreign policy—in which economic relationships are the substructure—will be consistent with our ideals. It does little good—indeed it does much harm—to voice opposition to the boycott while winking at compliance with its demands. Both our credibility and our true intentions are called into question. Rather than mortgage our principles—both domestically and in our support for the State of Israel—it is time that we exercise the leverage and suasion we command in the Persian Gulf. Rather than succumb to discriminatory demands imposed by foreign governments against American citizens, it is time this Nation repudiate them once and for all.

This is our hope, and the policy to which we are committed.

HENRY A. WAXMAN,
JOHN E. MOSS,
ANTHONY TOBY MOFFETT,
JAMES H. SCHEUER,
RICHARD OTTINGER,
ANDREW MAGUIRE.

The CHAIRMAN. If there are no amendments to section 17, the Clerk will read.

The Clerk read as follows:

NUCLEAR EXPORTS

SEC. 18. The Export Administration Act of 1969 is amended by adding at the end thereof the following new section:

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment:

Page 20, immediately after line 12, add the following new section:

NUCLEAR EXPORTS

SEC. 18. The Export Administration Act of 1969 is amended by adding at the end thereof the following new section:

"NUCLEAR EXPORTS

"SEC. 17. (a) (1) The Congress finds that the export by the United States of nuclear material, equipment, and devices, if not properly regulated, could allow countries to come unacceptably close to a nuclear weapon capability, thereby adversely affecting international stability, the foreign policy objectives of the United States, and undermining the principle of nuclear nonproliferation agreed to by the United States as a signatory to the Treaty on the Non-Proliferation of Nuclear Weapons.

"(2) The Congress finds that nuclear export activities which enable countries to possess strategically significant quantities of unirradiated, readily fissionable material are inherently unsafe.

"(3) It is, therefore, the purpose of this section to implement the policies stated in paragraphs (1) and (2) of section 3 of this Act by regulating the export of nuclear material, equipment, and devices which could prove detrimental to United States national security and foreign policy objectives.

"(b) (1) No agreement for cooperation providing for the export of any nuclear material, equipment, or devices for civil uses may be entered into with any foreign country, group of countries, or international organization, and no amendment to or renewal of any such agreement may be agreed to, unless—

"(A) the provisions of the agreement concerning the reprocessing of special nuclear material supplied by the United States will apply equally to all special nuclear material produced through the use of any nuclear reactor transferred under such agreement; and

"(B) the recipient country, group of countries, or international organization, has agreed to permit the International Atomic Energy Agency to report to the United States, upon a request by the United States, on the status of all inventories of plutonium, uranium 233, and highly enriched uranium possessed by that country, group of countries, or international organization and subject to International Atomic Energy Agency safeguards.

"(2 The Secretary of State shall undertake consultations with all parties to agreements for cooperation existing on the date of enactment of this section in order to seek inclusion in such agreements of the provisions described in paragraphs (1) (A) and (1) (B) of this subsection.

"(3) (A) No license may be issued for the export of any nuclear material, equipment, or devices pursuant to an agreement for cooperation unless the recipient country, group of countries, or international organization, has agreed that the material, equipment, and devices subject to that agreement will not be used for any nuclear explosive device, regardless of how the device itself is intended to be used.

"(B) Subparagraph (A) of this paragraph shall take effect at the end of the one year period beginning on the date of enactment of this section.

"(4) In any case in which a party to any agreement for cooperation seeks to reprocess special nuclear material produced through the use of any nuclear material, equipment, or devices supplied by the United States, the Secretary of State may only determine that safeguards can be applied effectively to such reprocessing if he finds that the reliable detection of any diversion and the timely warning to the United States of such diversion will occur well in advance of the time at which that party could transform strategic quantities of diverted nuclear material into explosive nuclear devices.".

Mr. MORGAN (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment be considered as read and open to amendment. This amendment has been printed in the RECORD.

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

There was no objection.

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

Mr. Chairman, this would be an appropriate point during our consideration of this legislation under the 5-minute rule to offer motion to strike section 18 of this legislation under the 5-minute erous invitations that were extended to me during the earlier debate on the rule to offer such a motion and that, indeed, was one of the justifications that was given for offering an open rule, that we would have an opportunity to do so.

I am under no illusions, in view of the lateness of the hour and the fact that the Members are now, I am sure, tired after their arduous labors throughout the day—I am under no illusions as to what the success, or I should perhaps say the lack of success, would be for such an effort. Frankly, that is the only reason, a very pragmatic reason, that deters me from offering a motion to strike this section from the bill because, very frankly, I am disappointed; deeply disappointed that the rule was adopted and that we proceeded with the consideration of this legislation in its present form.

Mr. Chairman, I hold in my hand a copy of H.R. 15419, which is the bill which was cosponsored by the gentleman from Illinois (Mr. PRICE), the distingushed vice chairman of the Joint Committee on Atomic Energy, and myself, which was introduced in the House on the 2d of September of this year. It was reported with an amendment and reported to the Committee of the Whole House on the State of the Union and ordered to be printed on September 18.

Members, and particularly the members of the Committee on International Relations, have not had an opportunity to consult that bill or even read it, but in it, if they had been able to do so, they

would have found that on pages 32 through 63—for more than 30 pages—we undertake in most detailed, specific, concrete manner, to deal in comprehensive fashion with the very real and important problem of nonproliferation. In contrast to that, as Dr. Seamans, the head of ERDA, pointed out in the letter which I read earlier in the debate under the rule, the Energy Research and Development Administration was not given an opportunity to testify on the committee amendment now incorporated in section 18 of the bill. He went on to suggest that this kind of piecemeal approach was not the best remedy for this important problem.

We have talked also with the Assistant Secretary of State, Mr. Kratzer, to clear up with him what input the State Department had in this whole process. I am informed that Mr. Kratzer, the Assistant Secretary of State, met informally with the staff of the subcommittee chaired by my friend and colleague from Wisconsin (Mr. ZABLOCKI) for about one-half hour; that no members were present; no formal statement was presented for inclusion in any committee proceedings as a result of this meeting.

No further communication was received from the committee until the hearings were scheduled for the committee amendment on nuclear export. At that time, Mr. Kratzer requested to be added to the witness list, and that request was granted. But, no written or prepared statement was submitted, and at the last minute a new draft of the amendment was presented to the witnesses for their comments, and he did the best he could, but had problems with that draft and promised to provide comments on it in writing to the committee.

But, 48 hours after that hearing, the bill was marked up, it was reported, and the views of our own U.S. Department of State were never formally presented or considered by the committee on this very, very important issue. This, I suggest, is a very cavalier and a very faulty way in which to deal with an important question of this kind.

I tried to make it clear during the debate we had earlier on the rule, that it is not simply a question of having our jurisdictional feathers ruffled as a result of this obvious invasion of the jurisdiction of another committee, but that there are several substantive defects in the language of section 18. Let me very briefly point out what I think they are.

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

(On request of Mr. MORGAN and by unanimous consent Mr. ANDERSON of Illinois was allowed to proceed for 3 additional minutes.)

Mr. ANDERSON of Illinois. I am grateful to the distinguished chairman of the committee, who is and shall remain my friend notwithstanding our disagreement on this matter.

Mr. Chairman, the finding contained in section 17(a)(1), that nuclear export, if not properly regulated, can undermine the policy of encouraging nations to sign the nonproliferation treaty is inconsistent—inconsistent with the requirement that appears later in section (b)(1)(B), in which countries disclose to the United States inventories of special nuclear material that is under IAEA safeguards.

If a country wants to avoid disclosure, it is this section, as I read it, which encourages bringing those facilities under safeguards, and the only way to do that is to refuse to sign the nonproliferation treaty. With the very definition of the language contained here, they cannot comply with the requirements for disclosing inventories that are required.

I can scarcely ask the House to indulge me in any further extension of time, but I want to point out very quickly that section 4, which is the last subsection of the committee amendment, that particular subsection which appears in the bill on line 24 at the bottom of page 22 and continues through the balance of the bill, if that section were implemented it would preclude the U.S. involvement in any reprocessing activities overseas, activities that could very well, under the right kinds of conditions and the right circumstances, be very productive in encouraging nations to forego national reprocessing facilities, to encourage them instead to cooperate in multinational facilities under strong safeguards, with multinational investment, control, management, and so on.

I do not have the time to go into some of the other detailed provisions of that section. Again, the intention of the authors is unbounded in its goodness, but the unfortunate part of it is that they simply were not sufficiently conversant with the background of the Atomic Energy Act of 1954, the Nuclear Regulatory Commission process by which exports are licensed, and as a result they have included language which, in my judgment, is actually counterproductive to the goal of nonproliferation.

In words as strong as I possibly can muster, I must protest this particular means of dealing with the problem.

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

Mr. ANDERSON of Illinois. I yield to the gentleman from California (Mr. BROWN).

Mr. BROWN of California. Mr. Chairman, I want to compliment the gentleman on his statement and pay tribute to the work he has done in trying to draft the proper kind of agreement.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. ANDERSON) has expired.

(On request of Mr. MORGAN. and by unanimous consent, Mr. ANDERSON of Illinois was allowed to proceed for 2 additional minutes.)

Mr. BROWN of California. If the gentleman will yield further, I was complimenting the gentleman for the fine work he has done in drafting the legislation which has been reported out by the joint committee.

Mr. Chairman, I want to pose this question to the gentleman, as an indication of the possible weakness of the provision within the current bill.

Is it not true that if we enact in legislation restrictive conditions which another country feels it cannot meet, and if there is available the nuclear plants and nuclear materials from other countries, would that not drive them to take their nuclear business to these other countries?

Mr. ANDERSON of Illinois. The gentleman is so correct in his point he made, and that is why the very heart and core of the legislation the gentleman from Illinois (Mr. PRICE) and I introduced, and which the gentleman voted for in the joint committee, is so important. The heart and core of that legislation, in section 15, which is the section which refers to the criteria, is based on mutual undertaking.

Some people have the wholly fallacious idea that the United States has some great monopoly today on the supply of nuclear technology and equipment. We may have had that once, and indeed we did; but we have lost it and, as a result, the mere promulgation of a unilateral basis of safeguards on criteria governing and controlling export is not going to do any good in a world that is already nuclear. We have to go the route of encouraging mutual international cooperation and mutual undertakings to curb this horrible proliferation.

Mr. BROWN of California. If the gentleman will yield further, in an attempt to solve this problem we might actually exacerbate it unless we create conditions which allow incentives for control of proliferation as long as there are the kinds of standards that are in the bill.

Mr. ANDERSON of Illinois. Mr. Chairman, once again the gentleman from California (Mr. BROWN) demonstrates his complete understanding of why this section is wrong.

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

Mr. Chairman, the gentleman from Illinois (Mr. ANDERSON) has argued that we do not need the "Nuclear Exports" section of H.R. 15377 of U.S. nuclear fuel because the House will soon consider H.R. 15419, the nuclear proliferation bill reported on September 18 by the Joint Committee on Atomic Energy.

But what the gentleman from Illinois does not say and what I must point out is that the Joint Committee bill, in its present version, is worse than no bill at all. The administration, in the last stages of the committee markup on the bill, succeeded in including numerous amendments that have greatly reduced the potential of the bill to reform and strengthen our nonproliferation policies.

The Joint Committee bill, as reported, would allow nuclear deals such as those between Germany and Brazil and between France and Pakistan, because all that would be required under the current version of the bill would be "a judgment on the part of the exporting nation" that a nuclear deal would not contribute to the spread of nuclear weapons.

Remember that Germany and France have always contended that their nuclear deals with Brazil and Pakistan, respectively, had sufficient safeguards to prevent diversion of nuclear material for nuclear weapons. Therefore, Germany and France could be expected to make a judgment that their nuclear deals with other countries would not contribute to nuclear weapons proliferation.

Any bill that would allow nuclear deals such as the German-Brazilian deal can

scarcely be said to improve radically the prospects of curbing nuclear proliferation.

The current version of the Joint Committee bill effectively removes any possibility that the many loopholes in existing nuclear agreements between the United States and other countries will be tightened up.

Further, another last-minute administration amendment to H.R. 15419 removed the requirement that the administration inform the Congress as to which nuclear agreements for cooperation should be modified or tightened up.

The principal point here is that most of our nuclear exports occur under the authority of existing nuclear agreements for cooperation, a majority of which do not expire until after 1990.

If the Joint Committee bill, which Mr. ANDERSON would have us rely on instead of the nuclear exports provision in the Export Administration Act, does not allow the renegotiation and tightening up of existing nuclear agreements, the bill is basically window dressing.

The third major problem of the Joint Committee bill is that the supposedly strengthened system for control of nuclear exports would not go into effect until all the nations of the world agreed to these additional measures.

Such agreement by all the nations of the world obviously could not happen for many years, if ever. Obtaining agreement by the relatively small number of nuclear supplier nations is in the realm of possibility; obtaining agreement by all the nations of the world is totally unrealistic.

Finally, the Joint Committee bill allows the President to overturn a ruling by the Nuclear Regulatory Commission against a nuclear export license with little or no possibility of effective congressional scrutiny of this decision. Why? Because the President is not required to give Congress any notice of his decision before it goes into effect or any detailed explanation of his decision.

Summary: Therefore, I urge you to support the "Nuclear Exports" section of the Export Administration Act which has been so carefully drafted by the International Relations Committee and by the gentleman from Wisconsin (Mr. ZABLOCKI) and the gentleman from Illinois (Mr. FINDLEY). The Zablocki-Findley provision is a solid step forward in combating nuclear proliferation and in preventing the spread of nuclear reprocessing that could lead to nuclear weapons.

AGREEMENTS FOR COOPERATION IN THE CIVIL USES OF ATOMIC ENERGY

A. *Bilaterals with Individual Countries:*

COUNTRY, SCOPE, EFFECTIVE DATE, AND TERMINATION DATE:

Argentina: Research and Power; July 25, 1969; July 24, 1999.

Australia: Research and Power; May 28, 1957; May 27, 1997.

Austria: Research and Power, Jan. 24, 1970; Jan. 23, 2014.

Brazil: Research and Power; Sept. 20, 1972; Sept. 19, 2002.

Canada: Research and Power; July 21, 1955; July 13, 1980.

China, Rep. of: Research and Power; June 22, 1972; June 21, 2014.

Colombia: Research; March 29, 1963; March 28, 1977.

Finland: Research and Power; July 7, 1970; July 6, 2000.

* Greece: Research; Aug. 4, 1955; Aug. 3, 1974.

India: Power (Tarapur); Oct. 25, 1963; Oct. 24, 1993.

Indonesia: Research; Sept. 21, 1960; Sept. 20, 1980.

Iran: Research; April 27, 1959; April 26, 1979.

Ireland: Research; July 9, 1958; July 8, 1978.

Israel: Research; July 12, 1955; April 11, 1977.

Italy: Research and Power; April 15, 1958; April 14, 1978.

Japan: Research and Power; July 10, 1968; July 9, 2003.

Korea: Research and Power; March 19, 1973; March 18, 2014.

Norway: Research and Power; June 8, 1967; June 7, 1997.

Philippines: Research and Power; July 19, 1968; July 18, 1998.

Portugal: Research and Power; June 26, 1974; June 25, 2014.

South Africa: Research and Power; Aug. 22, 1957; Aug. 21, 2007.

Spain: Research and Power; June 28, 1974; June 27, 2014.

Sweden: Research and Power; Sept. 15, 1966; Sept. 14, 1996.

Switzerland: Research and Power; Aug. 8, 1966; Aug. 7, 1996.

Thailand: Research and Power; June 27, 1974; June 26, 2014.

Turkey: Research; June 10, 1955; June 9, 1981.

United Kingdom: Research and Power; July 21, 1955; July 20, 1976.

United Kingdom: Power; July 15, 1966; July 14, 1976.

Venezuela: Research and Power; Feb. 9, 1960; Feb. 8, 1980.

Vietnam (Republic of): Research; July 1, 1959; June 30, 1979.

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

Mrs. LLOYD of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. DU PONT. I yield to the gentlewoman from Tennessee.

Mrs. LLOYD of Tennessee. Mr. Chairman, it is most unfortunate when a Member of this body is constrained to oppose what is fundamentally a commendable and sound legislative remedy to a very real problem. But I find myself in that position in connection with the bill before us, the Export Administration Act amendments.

The unfortunate action by the Committee on International Relations in section 18 of this bill has left me no alternative but to oppose the enactment of H.R. 15377.

In opposing the rule on this measure, it was my contention that the language of this section is clearly under the jurisdiction of the Joint Committee on Atomic Energy. This section, section 18, is ostensibly aimed at eliminating the proliferation of nuclear weapons by banning U.S. approval of any arrangements whereby fuel used in a U.S.-applied reactor could be reprocessed in a foreign facility. This veto power over foreign reprocessing will result in a de facto moratorium in nuclear reactor sales by the United States. Unilateral action in this field by the United States, which does not include other supplier nations, will only result in the loss of U.S. exports, and the substitution of competitor nuclear systems for U.S. technology by consumer nations.

The time has arrived when the United States cannot claim a monopoly on the development of nuclear technology. West Germany, Britain, France, and soon Japan, will be eagerly seeking to supplant U.S.-produced nuclear systems with their own. By restricting the right of domestic firms to compete in the international marketplace, we may even be risking the eventual decline of the U.S. industry to a point where we will be dependent upon foreign suppliers to meet our domestic needs. Beyond this, I believe that a reasonable argument can be made that, by forcing consumer nations to rely on technology which is inferior to our own, we actually increase the risk of nuclear accidents, and reduce the effectiveness of safeguards against the conversion of nuclear fuels into nuclear weaponry.

The adoption of this legislation effectively ties the hands of the United States insofar as we could participate in the development of a sound nonproliferation policy, developed in concert with all producer nations and taking into consideration the complex nature of the international agreements already in existence or under consideration. This bill will certainly have a negative impact on our balance of payments, employment, tax revenues and most importantly, the development of a viable nuclear industry and technology sufficient to meet the needs of our own country and the world in the energy scarce decades ahead.

I am most sympathetic to the major provisions of the bill, to prohibit Americans and American firms from intentionally furthering or complying with, on any grounds, and in any way, a boycott by a foreign nation which is friendly with the United States.

Mr. Chairman, I find it personally distasteful to know that any American firm would willingly participate in discriminatory actions against the customers, agents, or employees of other firms as a result of the pressure exerted by a foreign power. Such action not only contravenes the basic tenets of the very free enterprise system which underlies the growth and prosperity of all American business.

In order to protect the ability of this country to establish a substantive and workable policy regulating the proliferation of nuclear weapons, and in order to assure the continued safe development of our domestic nuclear industry, I must reluctantly oppose the enactment of the Export Administration Act amendments.

Ms. ABZUG. Mr. Chairman, will the gentleman yield?

Mr. DU PONT. I yield to the gentlewoman from New York.

Ms. ABZUG. Mr. Chairman, I rise in support of the committee amendment, section 18.

Nuclear proliferation is one of the most critical issues on the international agenda at this time. India recently joined the nuclear club, and reports indicate

* Superseding, research and power agreement in abeyance; U.S. material covered by IAEA (NPT) safeguards and Greek "peaceful uses" guarantee.

that perhaps a dozen countries now possess the technological base required to produce atomic devices. As one who has worked both in Congress and in the peace movement against the nuclear threat, I look upon these developments with great alarm.

The basic problem is that the nuclear technology and nuclear fuel used for civilian energy projects provide the basis for the production of the special nuclear material—plutonium—which is the essential ingredient of nuclear weapons. Our Government has simply been too lax and too unconcerned to bring effective safeguards into existence through administrative or diplomatic procedures.

We know that India, which has refused to ratify the Non-Proliferation Treaty, utilized American-supplied materials to produce the nuclear device it exploded in 1974. No scheduled fuel shipment to India was ever subsequently held up as a result of this explosion, described by India as "peaceful."

Intelligence reports indicate that Taiwan has been secretly reprocessing spent fuel from a research reactor—which, if confirmed, would comprise the first known violation of the nonproliferation treaty by a signatory. Over 700 Taiwanese, according to the ERDA, have studied nuclear technology in the United States.

American diplomatic efforts are being conducted on an ad hoc basis without any overall, coherent nuclear policy. We may have pressured South Korea enough to force an end to its plans to purchase a reprocessing plant from France, but last year Brazil successfully purchased an entire nuclear package from West Germany. Will we succeed in pressuring Pakistan? Instead of rushing around to plug holes in the nuclear dike, we should be exerting world leadership to bring both supplier countries and purchaser countries to their senses.

The committee amendment in this bill is an absolutely necessary first step toward responsible management of the nuclear peril. It would extend export controls over the reprocessing of fuel in any American-supplied reactor, in addition to the current controls on American-supplied fuel. It would strengthen the role of the international atomic energy agency in undertaking inventories of nuclear materials. And it would prohibit licensing of exports of nuclear technology or materials to any country which fails to agree that it will not use the export for the development or manufacture of an explosive nuclear device of any kind, even so-called peaceful ones, thus closing a major loophole in existing regulations.

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

Mr. Chairman, the intent of section 16 is good. It would encourage foreign countries to buy American, especially when prices are low and it would allow nations with a shortage of storage facilities to store their purchases here.

I am concerned, however, with the language on page 19, lines 21–23, "that neither the sale nor export thereof will result in an excessive drain of scarce materials and have a serious domestic inflationary impact," at some future date, might be interpreted as giving the Secretary of Commerce the authority to impose selective export embargos.

I interpret the language above as meaning that if a foreign country—such as Japan, Russia, et cetera—goes to the Department of Commerce and asks to store a grain purchase, and the Department determines that the purchase could be inflationary or cause a scarcity, that the purchase can be stopped. In effect, by not allowing a purchase, an embargo is put into effect. And, in fact, if only the storage is disallowed, a country may be discouraged from making a purchase it has planned.

In addition, the phrase "nor export" suggests that if a country wants to buy and store, or else goes ahead and buys and stores—with the Secretary's approval—the Secretary might later disallow the export of the purchased grain. Naturally, if this interpretation is correct, no country will want to buy and store.

There are today three conditions under which an embargo can be imposed. These include domestic short supplies of food stuffs—which would cause inflation—foreign policy considerations, and national defense.

In the first instance, the Secretary of Agriculture must certify to the President that a short supply of a particular item is in existence, and that its export could be inflationary. The President then decides what action, if any, is to be taken.

In the second two instances, the President sets down guidelines which his administrators follow or implement, so that if a particular problem arises, he is made aware of it.

However, in none of these cases does the Department of Commerce have the authority to forbid a sale because of a potential short supply or potential rise in inflation. I do not believe it would be responsible of us to give the Secretary that authority now. Only the President, if any one is to have the authority to embargo, should have such authority.

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

Mr. Chairman, I know of few amendments that have involved as much work, study, and consultation as the one before us at this moment.

This amendment corrects a fundamental defect in our national antiproliferation policy. It sets a minimum standard for reprocessing safeguards. No longer can these critical safeguard standards be left undefined and unguided by responsible criteria.

This amendment recognizes the threat not only of secret theft by terrorists but of outright appropriation of large quantities of bomb material by states themselves—states who may agree to promises now but who might—at some future date—find themselves desperately in need of nuclear weapons. It will be painfully clear at that moment that paper assurances and safeguards which were no more than alarm bells—not locks—will not have been enough. I do not want the Congress of the United States to bear the responsibility for that kind of safeguard soft spot.

Safeguards today are said to deter theft by working early enough to provide time for action by the international community or by supplier states themselves once things have gone wrong. At present, we could not obtain such warning in the case of reprocessed reactor fuel or stockpiled plutonium. The reason is very simple: such material can be transformed into nuclear weapons overnight. It is clear then that special precautions need to be taken. With such material, our safeguards must in effect be locks and not merely weak warning bells. We currently take such a view with respect to our bombs stored abroad. And separated or easily separable plutonium is, of course, no more than a few hours from itself being a nuclear weapon.

The warning and security requirements mandated by my amendment can be met by the proper exploitation of new technologies. The time to take such action is now, before reprocessing is a necessary part of commercial nuclear power. To avoid taking this step will only lead to disaster.

Let me say just a word about the extent of effort in formulating this amendment. We held many hearings. We did extensive research. We authorized field trips to look at safeguard research. We talked to industry representatives, and top independent experts. We did not just closet ourselves with the one Government agency now working most frantically to rationalize past mistakes and current failures. We did not just say: "Come on in fellas and write a bill for us that will take the heat off for a while." Instead, we worked with both the administration—all elements of it—and with others of great independent judgment and stature.

For instance, we worked with persons like Albert Wohlstetter, whose previous studies saved our defense establishment over $2 billion and led to the creation of the fail-safe warning system, locks on nuclear weapons, the idea of an airborne alert for SAC, and the emplacement of missiles in underground silos in order to protect them against incoming attack.

Surely all of us can agree on one fact. Nuclear exports ought to help countries to satisfy legitimate energy needs. These needs do not require at this time exotic, uneconomic technologies, the principal purpose of which is the speedy acquisition of nuclear weaponry. Let us begin to separate the wheat from the chaff. There are ways to provide for nuclear energy without in the process placing countries to within a day's reach of a nuclear weapon. That is what this amendment is really all about. My good friend, MEL PRICE, who watches so responsibly over our Nation's defense, would I think be able to support our efforts in this regard. Indeed, Assistant Defense Secretary Cotter found our safeguard technology ideas to be very imaginative and much to his liking.

Some will of course urge that our

amendment be dropped in favor of language proposed by the Joint Committee. We think some of those various bills—and there seem to be a hundred different versions of them, continually being amended by ERDA—contain some useful provisions. But our own legislation gets at a problem this legislation does not touch.

Moreover, to be frank, the bulk of the Joint Committee bills consist essentially of advice and direction. But time is running out on the proliferation problem. There is advice galore but no responsible legislation on the statute for us to point to when questioned about the Indian nuclear activities, the reported diversions in Taiwan, the incredible revelations of several GAO reports and so forth.

Our bill may not be 30 pages long, but it has bite rather than bravado. Rather than posture, it sets a sober and responsible standard—a floor, so to speak, on the most critical of all our safeguards. It assures warning before countries can transform diverted material into bombs; it makes it more difficult for them to quickly carry out such an act. As the former president of the Rand Corp., Henry Rowen, said in supporting our amendment: Who can oppose such a basic condition, when the alternative is to give a country the capability of having ready access to nuclear weapon material.

This amendment has the support of the International Relations Committee on both sides of the aisle. It has been carefully drafted and studiously researched. It is here to be acted upon today. We can delay no longer.

Mr. OTTINGER. Mr. Chairman, I rise in strong support of the Zablocki-Findley amendment to the Export Administration Act. This amendment is an excellent example of bipartisan cooperation in establishing policy guidelines to deal with one of the most serious problems facing the world today, the proliferation of nuclear weaponry. The work of both those gentlemen, the chairman and ranking minority member of the Subcommittee on International Security and Scientific Affairs, deserves commendation by all of us.

Since the explosion of a nuclear device by India in May 1974, the threat of nuclear proliferation has increasingly grasped the attention of the world. The paradox written into the Non-Proliferation Treaty, which on the one hand enjoins the signatories from transferring or receiving the capability to develop nuclear weapons, and on the other hand protects the rights of all nations to have access to nuclear energy for peaceful purposes, is now a matter for the policymakers to clarify. By now we are all aware of the relationship between the exportation of nuclear technology and equipment and the development of nuclear weapons. In the case of India, their weapon was made possible by reprocessing the spent fuel from a Canadian reactor with heavy water that had been supplied by the United States. Both the Canadian reactor and the U.S. heavy water had been exported on the condition that they would not be used for the production of nuclear weapons.

It is to me an incredible and prolonged stroke of luck that more nations have not developed nuclear weapons since the U.S. use of one over Hiroshima. It is remarkable that the stress which has been placed on nuclear deterrence, nuclear arsenals, nuclear war strategies, and the general power and respect reputed to follow in the wake of a nation's development of nuclear weapons have not induced many more nations to seek a nuclear weapons capability. While continuing to profess noninterest in nuclear weapons, the actions of Brazil, South Korea, Taiwan, Iran, and South Africa all indicate the horrendously dangerous potential to produce nuclear weapons.

All of the reasons for seeking such a potential existed before the Indian explosion, so why do these nations now believe that they can openly negotiate for the equipment and technical knowledge necessary to construct a nuclear weapon? The apparent reason is the indifference of the United States toward the Indian actions. Certainly, if the largest exporter of nuclear equipment does not back up its critical policy statements with actions why should anyone care what we say.

Were it not for the interest and hard work of the Zablocki subcommittee and the Senate Committee on Government Operations I am convinced that there would still be no response forthcoming from the United States to this problem which is of our own making and is our responsibility.

The Zablocki-Findley amendment deals with two of the most immediate problems surrounding the issue of proliferation. First, it would eliminate the ambiguity in the U.S. policy toward "peaceful nuclear explosions." Section 17(b)(3)(A) requires that any nation receiving nuclear equipment from the United States give assurances that those items will not be used to develop any nuclear explosive device. It is about time that our policy reflect what everyone knows: that there is no difference between a nuclear weapon and a so-called peaceful nuclear device.

Second, that amendment deals with the complex problem of safeguarding spent nuclear fuel and the reprocessing of that material. It assures that the United States will maintain control of any nuclear material produced in a reactor supplied by the United States and provides for the establishment of an adequate safeguard system before the United States will either export reprocessing facilities or allow other nations to reprocess nuclear material produced in U.S. reactors.

These steps are responsible actions to curtail the spread of nuclear weapons. As far as I can tell, acceptance of these strictures would be offensive only to those nations interested in developing nuclear weapons, and as such I do not believe that the United States should assist them in reaching their goal. This amendment represents a positive step toward the control of nuclear weapons and I urge all of my colleagues to support it.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

AMENDMENT OFFERED BY MR. FRASER

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

The Clerk read as follows:

Amendment offered by Mr. FRASER: Page 23, immediately after line 9, insert the following new section:

EXPORTS OF NUCLEAR TECHNOLOGY

SEC. 19. Section 4(j) of the Export Administration Act of 1969, as added by section 11 of this Act, is amended by adding at the end thereof the following new paragraph:

"(3) In furtherance of the purposes of this subsection (relating to exports of technical information), of subsection (h) of this section (relating to exports of technology which may contribute to the military potential of other nations), and of section 17 of this Act (relating to nuclear exports), the President shall conduct an in-depth study of whether, or the extent to which, the education and training of foreign nationals within the United States in nuclear engineering and related fields contributes to the proliferation of explosive nuclear devices or the development of a capability of producing explosive nuclear devices. Not later than the end of the 6-month period beginning on the date of enactment of this paragraph, the President shall submit to the Congress a detailed report containing the findings and conclusions of such study. Such report shall analyze the direct and indirect contribution of such education and training to nuclear proliferation."

Mr. FRASER. Mr. Chairman, this amendment is offered on my own behalf and on behalf of the gentleman from Maryland (Mr. LONG).

Mr. Chairman, the intent of this amendment is to provide the Congress with information on the significance of training and education of foreign nationals in the United States to the proliferation of nuclear weapons.

As expressed in section 4 of the Export Administration Act, the Congress determined that "the defense posture of the United States may be seriously compromised if the Nation's goods and technology are exported * * * without an adequate and knowledgeable assessment being made to determine whether the export of such * * * technology will significantly increase the military capability" of other countries.

It should be noted that between 1955 and 1974 the Atomic Energy Commission trained over 10,000 foreign nationals in the use of research reactors and other aspects of a nuclear program. This included the following number of trainees from countries which we now regard as "near nuclear":

India	1,104
Taiwan	713
Argentina	192
Brazil	133
Korea	195
Pakistan	120
South Africa	88
UAR	103
Israel	250

It might be said that "the horse is out of the barn" and that we should have monitored the flow of nuclear technology more carefully years ago. While it is certainly true that the monitoring should have begun long ago, it is not the case that it is pointless to begin now. There are constantly "new horses" coming in the rear door. There is no single "secret"

to technology flows. To a large extent the transmission and development of technologies is a matter of the growth of a reservoir of people with key skills and interests. Within a small country, this highly educated group may become a pressure group for programs which utilize and extend their skills. This process continues.

Furthermore, we do not know what new technologies will be coming along. Particularly problematic would be breakthroughs in the enrichment and reprocessing of nuclear fuel. We are at a point where spent fuel is so widely distributed that a breakthrough in reprocessing methods would place nuclear weapons within reach of scores of countries.

In conclusion, let me note that the proposed amendment is quite modest. It only calls for a study; however, the study should be thorough. The fields which are relevant to the development of nuclear weapons are quite diverse. They include metallurgical and chemical engineering as well as nuclear engineering. It will not be easy to review and assess the significance of such education and training. Given the importance of the issues involved, it is worth the effort.

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

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

Mr. MORGAN. Mr. Chairman, I want to say that the gentleman from Minnesota (Mr. FRASER) raised this issue during the committee markup. I know of the longstanding interest of the gentleman from Maryland (Mr. LONG), who has offered amendments to other bills which have been reported from the Committee on International Relations.

Mr. Chairman, I am sympathetic with what the gentleman from Minnesota is trying to do; after consultation with the ranking minority member, I am sure we would be glad to take this amendment, if it is the wish of the House, to conference and see what can be worked out.

Mr. Chairman, the only reason I opposed it in the committee is because I thought it involved the jurisdiction of other committees.

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

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

Mr. BROOMFIELD. Mr. Chairman, I also would like to say that we have had a chance to look at this amendment, and we are in accord with what the gentleman from Pennsylvania (Mr. MORGAN) has said.

Mr. Chairman, I feel that this study would be very important, and I think we can certainly accept this amendment.

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

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

Mr. LONG of Maryland. Mr. Chairman, I congratulate the gentleman from Minnesota (Mr. FRASER).

As the gentleman knows, I am a cosponsor of this amendment, and I have some remarks prepared in support of it.

The most effective help we can give a nation is not necessarily the hardware but the know-how with which to develop that nation's own engineering complex.

In the 5-year period from 1970–75, the United States trained nearly 1,500 foreign nationals from 41 nations in the crucial areas of nuclear reactor technology, plutonium recycle/reprocessing, uranium enrichment and related disciplines.

Particularly disturbing is the fact that at least eight scientists from seven nations were trained in the key area of plutonium recycle/reprocessing.

Of the 1,489 trained in the 5-year period, 1,356 were from nations which could develop weapons in the near future.

One of the chief causes of proliferation is the chain reaction effect which occurs when one country gets nuclear weapons and irresistible internal political pressures force its neighbors to go after nuclear weapons also.

INDIA—A PRIME EXAMPLE

On July 26, 1976, I released a 1966 Atomic Energy Commission—AEC—memorandum acknowledging that 10 years ago the United States knew that India had a plutonium reprocessing plant not under international safeguards but nevertheless recommended that the United States provide "encouragement and assistance toward the recycle of plutonium produced in India's nuclear powerplants."

Not only did we supply the heavy water used in the 1974 Indian nuclear explosion, but we also taught Indians nearly everything they needed to know to convert nuclear materials into an explosive.

Well over 1,100 Indians have been trained at U.S. facilities since 1955—23 Indians trained between 1970–75 in critical areas.

Several Indian scientists were trained in the key area of plutonium recycle/reprocessing, one of whom was H. N. Sethna, head of India's Atomic Energy Commission.

In hearings this morning before a Senate Foreign Relations Subcommittee, witnesses from the State Department and the Arms Control Disarmament Agency testified on the nuclear program of the Republic of China. A State Department official responded that Senator SYMINGTON was correct in his statement that U.S. training of Taiwanese in the nuclear field could indeed lead to the production of nuclear weapons regardless of the U.S. intention behind the training.

Over 2 years ago—June 1974—I asked Secretary Kissinger for a list and description of U.S. assistance to nuclear research and development programs of countries which are reported to have potential for development of nuclear weapons. The information he provided showed that over the 18-year period of 1955–73, foreign nationals trained in nuclear physics and related fields numbered well over a hundred in several countries:

India	1,104
Brazil	133
Argentina	192
Egypt	103
Israel	250
Pakistan	126
Taiwan	713
Turkey	108
South Korea	193
Philippines	118

From ERDA, I requested and received a list of the nearly 1,500 foreign nationals trained in nuclear technology in the last 5 years—1970–75. By placing the training totals by nation in four distinct categories—showing various nations' proximity to developing nuclear weapons, we see that there is, ample justification—in fact a crying need for the Fraser-Long amendment calling for a study of the extent to which U.S. training of foreign nationals in nuclear engineering and related fields contributes to proliferation.

The four categories, and nations in each category, are listed below:

TRAINING OF FOREIGN PERSONNEL IN THE UNITED STATES (1970–75)

(In reactor technology, plutonium recycle/reprocessing, uranium enrichment and related disciplines)

NATION AND NUMBER OF NATIONALS TRAINED

Category O/O+ (Nations which have nuclear weapons/explosives):	
France	38
Great Britain	28
India	23
U.S.S.R.	3
Category I (Nations with full access to bomb-grade material and with broad-based technology support):	
Belgium	6
Canada	6
Germany (West)	158
Italy	128
Japan	269
Netherlands	7
South Africa	4
Sweden	17
Taiwan	354
Category II (Nations with limited bomb material sources and some nuclear technology program):	
Argentina	6
Australia	8
Brazil	73
Czechoslovakia	1
Egypt	8
Iran	33
Israel	11
Korea (ROK)	11
Mexico	90
Norway	1
Pakistan	4
Spain	64
Switzerland	97
Category III (Remainder of nations):	
Algeria	3
Austria	8
Chile	4
Denmark	3
Finland	1
Greece	3
Hong Kong	1
Ireland	1
Jordan	1
Libya	1
Nigeria	2
Saudi Arabia	1
Syria	1
Thailand	1
Turkey	8
Vietnam (South)	2
Total	1,489

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. FRASER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HUGHES

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

The Clerk read as follows:

Amendment offered by Mr. HUGHES: Page

23, immediately after line 9, insert the following new section:

LIMITATION ON EXPORTS OF CRUDE OIL AND NATURAL GAS

SEC. 20. Section 4 of the Export Administration Act of 1969, as amended by sections 11, 14, and 15 of this Act, is further amended by adding at the end thereof the following new subsection (m):

"(m) (1) Except for crude oil and natural gas described in paragraph (2), no crude oil or natural gas produced in the United States (including the Outer Continental Shelf) may be exported from the United States, its territories or possessions, unless the President determines that the export of such crude oil or natural gas will not diminish the total quantity and quality of crude oil and natural gas available to the United States and that such export is in the national interest of the United States: *Provided*, That such determination shall be reported to the Congress, and after the date of receipt of such report Congress shall have a period of sixty calendar days, thirty days of which Congress must have been in session, to consider whether exports under the terms of this subsection are in the national interest: *Provided further*, That no such exports shall take place during such time period. If the Congress within such time period passes a concurrent resolution of disapproval stating disagreement with the President's determination concerning national interest, such determination shall have no force or effect.

"(2) Paragraph (1) shall not apply to such exports of crude oil or natural gas as may be necessary to leave uninterrupted or unimpaired—

"(A) exchanges in similar quantity for convenience or increased efficiency of transportation with persons or the government of a foreign state,

"(B) temporary exports for convenience or increased efficiency of transportation across parts of an adjacent foreign state which exports reenter the United States, and

"(C) the historical trading relations of the United States with Canada and Mexico.".

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

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

There was no objection.

Mr. HUGHES. Mr. Chairman, the amendment I am offering would prohibit the export of crude oil and natural gas produced in the United States or from our Outer Continental Shelf, except upon a finding by the President that such exports are in the national interest, and that it would not reduce the quantity or quality of oil and natural gas available to the United States.

The President's findings could not take effect for a period of 60 days, and would be subject to disapproval by concurrent resolution of the Congress during that time.

The amendment would specifically exempt exchange agreements, temporary transportation across an adjacent foreign nation, and our traditional trading relations with Mexico and Canada.

I would emphasize also that it applies only to crude oil and natural gas, It would permit exports if the President and not refined petroleum products.

This amendment is addressed to recent press accounts concerning the oil surplus which has been projected for the west coast when the Alaska pipeline begins delivering oil to the lower 48 States next year.

I know it is bewildering to be talking about a surplus in the midst of an oil shortage, but that apparently will be the case, especially given the difficulty of economically transporting west coast surpluses to eastern markets.

At present, the discussions concerning the surplus revolve around exchanging that surplus oil with Japan for Middle East oil which would have ordinarily gone to Japan. The Mideast oil could go to the eastern markets in this country.

I have no objection to an exchange agreement, provided that we receive a like amount of oil in exchange. My amendment would specifically exempt exchanges from the prohibition on exports.

But we cannot ignore the possibility, which has already been suggested, that surplus west coast oil be sold outright to other nations, such as Japan. The temptation to export U.S. oil may grow in future years, particularly as more and more offshore areas are opened up for oil and gas development for the first time, under the accelerated leasing program.

Yet, at the present time, we have only patchwork of laws dealing with the problem of oil exports.

There is one law, Public Law 93–153, dealing with Alaskan crude transported via the pipeline. There is another law, the Energy Policy and Conservation Act, which deals with other crude oil and refined products.

The status of oil produced from the Outer Continental Shelf is not clear at the present time. Although the proposed OCS Lands Act amendments, which will be before us tomorrow in the form of a conference report, would subject OCS oil to the Export Administration Act, it is not clear whether the OCS bill will be passed, or if it is passed, whether it will be vetoed.

At any rate, all three of those laws make reference to the Export Administration Act. However, in the event of a temporary or regional surplus, it is safe to say that the act would not necessarily prevent oil exports. Under a temporary or regional surplus situation, reasonable people could argue that exports would not have an inflationary impact or create shortages.

But when we are talking about oil, we are talking about a nonrenewable resource. To me, it seems unfair to cheat future generations by exporting oil now for the temporary expedient of effecting a surplus in our balance of trade, or because the oil we produce now cannot be absorbed all at once by a regional market, such as the west coast.

My amendment would bring a uniform standard to the issue of whether or not we should export any of our oil. It is not a rigid or unyielding standard: It would permit exports if the President and both Houses of Congress concur that it would be in the national interest.

If the west coast oil surplus comes into being, we will face a chaotic situation. The Alaskan pipeline legislation says one thing: the energy policy and conservation act says another, and the OCS bill, if passed, would establish another third standard for OCS oil.

I urge the adoption of my amendment to provide a uniform standard for oil exports.

Mr. FINDLEY. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from New Jersey (Mr. HUGHES).

Mr. Chairman, I oppose the amendment reluctantly because I am sure it is the intent of the administration and of both Presidential candidates, up to date, to conserve our stockpiles of petroleum products.

Yet I think we ought to recognize that the Export Administration Act already has language which permits the President to protect the national interest, to assure adequate domestic supplies or to serve the foreign policy interests of the Nation by curtailing or prohibiting the export of the commodity specified in the amendment.

Second, it seems to me that this amendment, while understandable, is, nevertheless, quite contrary to the spirit of all trade expansion legislation in recent years. It does propose a flat prohibition on the export of petroleum, crude oil, and natural gas.

Third, it is unduly restrictive, and I should like to cite just one example to illustrate the complications it might cause.

Let us assume the State of Israel gets into a terrible bind for petroleum supplies and finds it was at odds with most of the world, with perhaps the United States as its only friend. As I read this amendment, I see no way that the President could set aside the language set forth here and in that dire emergency send crude oil or natural gas or other products to the State of Israel.

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

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

Mr. HUGHES. I thank the gentleman for yielding.

I want to say to my colleague that the language is almost exactly the language that is in the trans-Alaskan pipeline legislation. What I am saying in essence is why should we treat Alaskan oil any different than the Outer Continental Shelf oil? There is discretion in this respect. The President has to make a finding that it is in the national interest, but to be consistent with Project Independence, it seems to make sense to me to have one standard for all oil, not three or four different standards.

Mr. FINDLEY. If I could comment on that, my own feeling is that that language in the Alaskan pipeline legislation was a mistake, and we should not complicate our national policy by making another mistake.

Mr. Chairman. I yield back the remainder of my time.

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

Mr. Chairman, I am very sympathetic

to the objectives sought by the gentleman from New Jersey, However, Mr. Chairman, I see several problems with his amendment. I am told by the counsel that there are similar amendments presently incorporated in several other laws: The Energy Policy and Conservation Act, the Trans-Alaskan Pipeline Act, and the Navy Petroleum Reserve Production Act. In each of these instances this matter has been dealt with by committees other than the Committee on International Relations.

I do not believe that we should get into this subject without consideration by the committee of proper jurisdiction and competence over this subject.

I am advised that the administration would be very much concerned with this amendment because it again has to deal with the same issue that I spoke about on the Findley amendment.

About the concurrent resolution included in the gentleman's amendment, it would give us some problems by threatening a Presidential veto.

I would think the administration would have to look at four different acts in regulating petroleum exports if this stayed in the bill. I feel it is unnecessary in this bill. I think it just clouds the issue here today.

The passage of this bill is very, very important, as I said in my opening remarks. This act expires on September 30, some 8 days away. We will attempt to go to conference, if we can, on this tomorrow, if this passes the House. As much as I regret it, I cannot support the gentleman's amendment, and I hope the House will vote down the amendment.

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

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

Mr. HUGHES. I thank the gentleman for yielding.

I can appreciate the Chairman's concern, but let me say to the Chairman that we now have a patchwork of three different formulas being used by three different pieces of legislation. My amendment would standardize one formula. The language is just about identical with the language in the Trans-Alaskan Pipeline legislation. I am a member of the Ad Hoc Select Committee on the Outer Continental Shelf, and I incorporate by reference the Export Administration Act of 1969 into the legislation. What my amendment will do will be to standardize it so that all oil, whether it comes from Alaska or the Outer Continental Shelf, or from wherever it comes, will be subject to the application of the same standard. It seems to me the Chairman would be interested in this.

Mr. MORGAN. I listened to the gentleman's remarks very well, and I heard him say in his remarks in defense of the amendment that the House would consider a conference report tomorrow that includes the same provision and could be subject to a veto. So I see no reason, if the gentleman feels his own conference report on the Outer Continental Shelf is going to be subject to a veto, why we should expose this very important piece of legislation to a veto.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. HUGHES).

The question was taken; and on a division (demanded by Mr. HUGHES) there were—ayes 6, noes 36.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. BURLISON OF MISSOURI

Mr. BURLISON of Missouri. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BURLISON of Missouri: Page 23, immediately after line 9, insert the following new section:

EXPORT CONTROLS ON AGRICULTURAL COMMODITIES

SEC. 20. Section 4(f) of the Export Administration Act of 1969, as amended by section 16 of this Act, is further amended by adding at the end thereof the following new paragraph:

"(3) In any case in which the exportation of any agricultural commodity is limited or prohibited under this Act, the exportation of any fertilizer, tools, tractors, combines, or other material or implements used in the production of that agricultural commodity shall be limited in corresponding amount or prohibited, as the case may be. If the limitation or prohibition on exportation of the agricultural commodity is applicable with respect to specific nations, the limitation or prohibition pursuant to this paragraph shall be applicable with respect to the same nations.".

Mr. BURLISON of Missouri. Mr. Chairman, what does this amendment do? Very simply it places a restriction on the exports of merchandise and materials used by the farmer to produce the commodities which are embargoed under this act.

The unfortunate experience of our farmers began under this act in 1973 with the soybean embargo. In that instance many of our export markets were lost for future years.

In my interrogation of or colloquy with the Secretary of Agriculture the year after that embargo was levied, the Secretary testified that he felt it was a mistake to put in place the embargo in 1973 on soybeans. He gave as his reason for levying that embargo that they had to do it to prove it was a mistake so that they would not do it again.

Now, if that sounds like a far-fetched answer, an unreasonable answer, I agree, but I cite part 1 of the fiscal year 1975 Appropriation Committee hearings, the Subcommittee on Agriculture, on page 78, where Members will find that testimony, to wit:

Mr. BURLISON. Were you referring also in that statement to the decision to place export controls on soybeans?

Secretary BUTZ. Yes, sir, which again, I think, was an unfortunate decision. Except——

Mr. BURLISON. Again a decision that you joined in with Mr. Shultz and publicly approved of?

Secretary BUTZ. That is correct. At that time I think we had to go through that instance to prove to ourselves we shouldn't do it again.

I asked the Library of Congress to submit a report to me with respect to the effects of embargoes since 1973, and that report under date of March 8, 1976, compiled by Janice Baker reads in part as follows:

As farm organizations have pointed out, the embargo or moratorium indicated to traditional foreign buyers that the United States might no longer be a reliable supplier. Purchasers such as Japan began to look elsewhere to assure an adequate supply of needed imports of soybeans and grains.

Mr. Chairman, if there is any doubt in the minds of Members with respect to the truth of that analysis, I would refer them to the Journal of Commerce, March 1, 1976, on page 2, in which is read in detail an agreement between Japan and Brazil for the production of 50,000 hectares of soybeans in Brazil, an experiment which was expected and is expected to develop into 1 million hectares of soybean production in Brazil in cooperation with Japan. The reason for this is the violation of soybean contracts with Japan, one of our greatest export customers. So we find now Japan has looked to Brazil to rely upon that source as a result of the embargo that was placed under this act in 1973 and subsequent years. The article in its entirety reads as follows:

JAPANESE, BRAZIL PLAN JOINT FARM PRODUCTION

(By A. E. Cullison)

TOKYO.—Talks between representatives of the Japan-Brazil Agricultural Development Cooperation Organization and the Brazilian Government finally have resulted in a basic agreement to proceed with the plan to open 50,000 hectares to farm production as a joint effort.

Officials of the Japanese Agriculture-Forestry Ministry disclosed at the weekend that the massive agricultural production project on the central plain of Brazil was agreed upon after almost four weeks of discussions in Brazil. The program is expected to cost both countries at least approximately $26.4 million and perhaps more as it progresses.

Under the agreement, the ministry authorities said, only the 50,000 hectares of the vast Serra do Roncador region, which includes Minas Gerais, Goias and Mato Grosso States in the central part of Brazil, will be developed on an experimental basis. However, if all goes well in the future, it is assumed that as much as a million hectares later may be jointly developed as farmland.

A jointly established agricultural development company is to be established to operate the experimental project. The new venture will be financed through direct loans provided roughly on a 50–50 basis by the Japanese and Brazilians. It is understood that the Japanese loans will be made on Brazilian-provided securities.

The agreement also calls for both the Japanese and Brazilian investments in the new firm to be provided by means of investment companies established in Tokyo and Brazilia. In addition, Brazilian interests will hold something more than a 50-per-cent equity position in the joint venture.

During the early negotiations it was learned that the Brazilians had wanted the joint venture to develop around a million hectares of farmland. But the Japanese were more cautious, holding out for a test operation of the 50,000 hectares. There also was the question of budgetary considerations resulting from Japan's present struggle with its own economic recession.

PLAN FIRST BROUGHT UP

The plan to develop the region was first brought up on an official basis in 1973 when then Japanese Prime Minister Kakuei Tanaka paid a state call on President Ernest Giesel. At that time—before the oil crisis—

the Japanese economy was expanding at a fast pace and it was considered likely that very much more than just 50,000 hectares woud be put into development.

Japanese now is to invest around $13.2 million in the project, with Brazil putting in the equivalent or perhaps slightly more. Under the program agreement, the Japanese Government will invest $6.6 million and the country's business community will invest the remaining $6.6 million investment.

It is expected that the intial project will grow soybeans and grains and that much of the production will be shipped to the Japanese market. There also have been reports in Tokyo that the program ultimately will call for the growing of citrus fruits of various types.

Mr. Chairman, I will ask unanimous consent when we return to the House to include extraneous matter where I can put in more detail these sources of information to which I am alluding.

Mr. Chairman, another effect of these embargoes and again I quote from the Library of Congress report:

In June 1973, prior to the imposition of the soybean embargo, farmers were receiving $10 per bushel for soybeans. When the embargo and licensing system ended in 1973, farmers were receiving $5.81 per bushel.

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

(By unanimous consent, Mr. BURLISON of Missouri was allowed to proceed for an additional 2 minutes.)

Mr. BURLISON of Missouri. Mr. Chairman, I might add that the average price received for soybeans during that production year was $4.75 a bushel, in comparison with the $10 per bushel which existed when the embargo was put in place.

Mr. Chairman, I think the problem as it affects farmers was fairly well put in perspective by some officials of the Iowa Soybean Growers Association in a report or statement which was reported in the Des Moines Register of February 5, 1976, where it is stated that during the 5-month restriction on soybean exports, beginning in October, 1974—this is the embargo that was put in place 1 year later.

The statement follows:

IOWA SOYBEAN GROWERS JOIN D.C. PROTEST

(By James Risser)

WASHINGTON, D.C.—A delegation of 40 soybean producers, including seven from Iowa, came to Washington Wednesday to demand that control of agricultural policy be returned to the U.S. Department of Agriculture (USDA).

The farmers angered by grain export embargoes and falling soybean prices, asserted government "interference" had cost each of 600,000 U.S. soybean producers an average of $11,178 in the past 2 years.

"We in agriculture have no desire to become the American peasantry dictated to by unions, consumer groups and departments of government which have no understanding of our problems," William Prichard, a vice-president of the American Soybean Association, told a news conference.

Prichard of Louisville, Ga., said, "The government asked farmers to plant from fencerow to fencerow last spring and the year before" but then "stepped in to limit or actually prohibit sales of the commodities produced."

He said a five-month restriction on soybean exports beginning in October, 1974, caused the domestic price to fall from $8.50 a bushel to $4.72.

The subsequent three-month moratorium on shipments of soybeans and grains to Russia and Poland, starting in late July, 1975, resulted in prices dropping from $5.73 a bushel to $4.91, he said.

The producers presented petitions signed by 40,000 growers in 14 states, to Senator Herman Talmadge (Dem., Ga.), chairman of the Senate Agriculture Committee.

Talmadge told the delegation he agreed with their position, and said part of the blame rests with members of Congress who have "a lack of informed interest in agriculture" and believe farmers should "produce products for free and give them away."

Iowans who attended the news conference and who met later with members of Congress were Morris Greenley of Independence, Merlyn Groot of Manson, Garland Hanson of Callender, Ed Schettler of Emmetsburg, Herb Turin of Odebolt, Harold Fick of Callender and Eugene Lang of Grinnel.

Now, Mr. Chairman, I have also had considerable colloquy and discussion with the Secretary of Agriculture and his staff on their appearances before the Agricultural Appropriations Subcommittee for the fiscal years 1975, 1976, and 1977. Again, I will place some of that material in the RECORD upon receiving unanimous consent to do so when we are in the full House.

The material is as follows:

Mr. BURLISON. For about 5 or 6 years we have done that. I want to remind any of those that might be reading the record that our discussion last year was on pages 90 to 92, inclusive, of part I of the hearings.*

Now, I want to update that discussion with something that has happened since our little colloquy at that time.

FULL PRODUCTION VERSUS TRADE EMBARGOES

The Department put out a news release in 1975 at planting time. I brought your attention to this news release in a prior hearing.

The Department put out this release encouraging our farmers to go to full production, fence row to fence row, to get in every available acre, because they are going to have a free market to market their product. Then, as we approached harvest season, some time in late summer, our wheat embargo with Russia goes on that you have taken credit for.

Now, what is your response to that?

Secretary BUTZ. My response is that earlier in that season we had already sold the Russians substantially more than their normal purchases from this country.

Sales to every other part of the world continued unabated, with the exception of Poland. We sold some of the Socialist countries of Eastern Europe, including East Germany, substantially increased quantities.

My response is that we had already sold the Russians enough, that they had enough to go 7 months at full capacity with unloading. I don't think we skipped a beat.

Mr. BURLISON. I would say this, Mr. Secretary: I am afraid if you do put out a news release again this year urging our farmers to put forth full production, to take advantage of an open and free market, they are not going to put much substance in that news release.

Grain embargo

Mr. BURLISON. Mr. Manager, can we expect a grain embargo in 1976?

Mr. HUTCHINSON. I would say absolutely not, in 1976.

Mr. BURLISON. Why do you say that?

Mr. HUTCHINSON. If our supplies are adequate, and it appears that we can see we are going to have some increases, a slight increase, in our carryover, we do not see problems of supply in relation to demand as we see it, both worldwide at the present time, and domestically here at home. And I would like to mention one other thing, that the Soviet agreement has taken the huge impact of the uncertainties about Soviet purchases out of the market to a large degree.

Mr. BURLISON. I think to a significant respect that answer is similar to your response last year. I have been asking this question for 4 years now and I get the same answer every year. And we can look forward to the same embargo when the next summer comes, notwithstanding the Department testimony.

On this question, Mr. Secretary, I just noticed some recent speeches that you have made with respect to free trade.

On December 1st of last year you said:

"Grain farmers now have the incentive to respond fully to market growth. With the 1970 and 1973 Agriculture Acts we have moved forward toward a market oriented farm policy."

You went on to say:

"It is the free market system which depends on the marketplace to signal the producer the needs of the customers, both at home and abroad."

In a speech on February 21, 1976, you stated.

"American farmers now have the freedom and incentive to produce to meet effective world demand."

In a speech on February 3rd of this year, before the Illinois Corn Growers, you said:

"Expanded corn and other grain exports have enabled American agriculture to pursue a full production and market orientation foreign policy. Policy of prior years were costly and pressured American farmers from using fully their resources and managerial capacity. The full production and market-orientation policy permitted farmers to use their resources more effectively. Consequently, farm productivity is on the rise.

"It is a policy that has put decisionmaking in American agriculture back in the hands of American farmers. That is where decisionmaking in agriculture belongs. The production and export records speak for themselves."

I never cease to be amazed how you folks go on the stump, as soon as the annual embargo has been lifted, advertising to the American farmer this great free market system that we have and how they can rely on it.

Are you ever going to quit running across the country making those promises, only to violate them——

Mr. BELL. Mr. Burlison——

Mr. BURLISON [continuing]. The next summer, when it is harvest season?

Mr. BELL. Before 1972 the American farmer did not have access to the grain markets in the U.S.S.R. He didn't have access to the grain markets in Eastern Europe. He had at least 60 million acres of land he was not producing on. He was being paid $4 billion in subsidy not to use his full managerial capacity.

In the past year, or rather, the last 3 to 4 years, we have more than tripled our agricultural exports. We have put most of that land of 60 million acres back into production. We have gotten rid of the $4 billion subsidy payment.

Frankly, I don't know how many farmers you talked to in Missouri. Ones I have talked to kind of like our policy. I think we will be out there continuing to say it despite what you say.

Mr. BURLISON. If you can find a farmer in my State that is in favor of your annual export embargo policy, I will tip my hat to you.

Mr. BELL. I don't think that we have an annual export embargo policy that you seem to say we do.

Mr. BURLISON. You have had it since 1973, haven't you? Haven't we had at least one embargo or moratorium or restriction, whatever you want to call it? You come up with a different title every year. It is the same thing. It affects the grain market in the same fashion, drives it down to the same extent.

We have had it in 1973, 1974, and 1975, 1976 is an election year. I am telling my people that I think we can count on not having it this year. But I am worried about 1977 and 1978.

Thank you, Mr. Chairman.

Mr. WHITTEN. Mr. Secretary, I am not running your business, but I wouldn't tell a fellow about his own State. I learned when I first got into politics, don't go to their town telling them how strong you are in that town. They know more about it than you do.

You made a mistake about telling Mr. Burlison about his State. Leave his State alone.

Mr. BELL. I don't intend to be invited to Missouri to find out.

Mr. WHITTEN. I would say, if you don't, it sounds like you know it is not very strong for you.

Mr. Chairman, in conclusion, the effect and the result of this amendment will be to temporize and moderate the inclination of our Government to levy these grain and soybean embargoes, as has been the case in 1973, 1974, and 1975.

The administration has promised the farmers in each of those instances at planting time that we will have the free market system if the farmer will just plant from fence row to fence row. "If you will just utilize all of that acreage, we promise you that it will be a free and open market in which to sell your product." Then as we approach harvest time, that promise has been broken. In all 3 of those years, the promises of this administration, the Nixon administration and the Ford administration, under two Secretaries of Agriculture, have been violated to the detriment of the farm producer; to the detriment of the interests of this country with respect to our balance of payments, with respect to our integrity as an exporting country for farm commodities to Japan and Western Europe and the others of our valued and dependable customers around the world.

Mr. Chairman, if this amendment is defeated, the bill should be defeated.

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

I am sympathetic with the gentleman's problem about the embargo on soybeans back in 1973, but I do not think the gentleman's amendment is going to correct another embargo on soybeans. I think the gentleman has no idea how far this amendment will go. It would apply controls in respect to fertilizer, tools, tractors, combines, or any other materials used in the production of agricultural commodities; if another soybean embargo were put on we would not be able to ship overseas a truck or a tractor or anything else.

This is a very punitive type of amendment. I say that this is no place for it. If the gentleman is on the Agriculture Committee and has a problem with the Secretary of Agriculture as to the production and shipment of soybeans overseas, I think he should take it up in his own committee. This is a very punitive amendment and puts restrictions on many of the products we export abroad. I think it should be defeated.

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

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

Mr. BROOMFIELD. Mr. Chairman, I also want to join the chairman in opposition to this amendment. I think the language that has been proposed by the gentleman's amendment would create controls so complex they would be almost impossible to administer. For that reason, I ask that we vote down this amendment.

Mr. JOHNSON of Colorado. Mr. Chairman, I move to strike the last word, and I rise to speak in favor of the amendment. I will not take the full 5 minutes, because I realize the mood of the House.

I would like to point out that the gentleman from Missouri has used a delightful means of bringing to the attention of this House and perhaps to the Nation—if we can get anybody to listen—the inconsistency that is involved when people that are in the production of manufacturing farm machinery and other things that go to produce farm equipment, which is subsequently used by farmers, then demand that there be a curtailment of export of farm commodities because the price is becoming too high to them, for their groceries. So, the punitive aspects of farm export embargoes always fall back on the farmer and never reflect finally on the rest of our society.

The gentleman is simply trying to make a point. He has made the point that the Secretary of Agriculture is to blame, but I would also point out that the last embargo, which was not with respect to soybeans but was related to wheat, was instigated by members of a union. The gentleman is obviously of a party that cannot stand any criticism of unions, but the members of the union did not realize that they are also affected by the fact that farmers pay high prices for machinery—pay, in effect, union wages for the machinery—and the consumers who keep insisting that the farmer pay the bill for lower farm commodities rather than the rest of society.

So, the gentleman is simply trying to make a point that if we, as a society, decide that all of our farm prices are too high, we do not concentrate that punitive aspect on the farm alone, but it should be spread throughout all of our economy.

People who manufacture farm equipment should also participate in this farm commodity embargo. It makes a great deal of sense. I know that nobody from a manufacturing district will vote for this, but anybody from a manufacturing district who does not vote for this and then endorses the commodity embargo is exposed for the political chameleon he really is.

Mr. BURLISON of Missouri. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Missouri.

Mr. BURLISON of Missouri. I thank the gentleman for yielding. He knows of my respect for his extraordinary expertise as a leader on the Committee on Agriculture.

Mr. Chairman, I would like to say that I have been extremely critical of organized labor for the part they played in the grain embargo of 1975, the refusal to load that grain. I have been just as critical of Mr. Meany and the longshoremen as I have been of two Presidents and two Secretaries of Agriculture. I appreciate the point the gentleman from Colorado is making, which is that if the consumers are going to get the "benefit" of an embargo on farm commodities, then it just seems eminently fair that the farmers get the benefit of an embargo on the products that they must use to produce their commodities.

My colleagues may find of interest the contents of my letter of September 9, 1975, addressed to Mr. Meany. It reads as follows:

U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., September 9, 1975.

Mr. GEORGE MEANY,
President,
AFL–CIO,
Washington, D.C.

DEAR MR. MEANY: This letter is to voice my opposition and disappointment with the disruption of farm commodities trade which your action has precipitated by refusal to load grain bound for Russia. In my view you have taken advantage of, and punished, the sector of our economy which the maritime industry, as well as the maritime and longshoremen's unions, are most indebted. I refer to the $22 billion per year in farm exports. Where would the maritime industry and its unions be without this staggering volume of trade? You are biting the hand that feeds your industry and its workers.

Your ostensible reason for this interference is inflated food costs. You seem not to understand that increased grain prices play a very small role in such inflation. There is only about four cents of wheat in a thirty-five cent loaf of bread. It is well documented that transportation, packaging, promotion and labor costs are far larger factors, e.g., the $2 an hour wage increase which the maritime unions won in their last contract. The farmer's fertilizer costs quadrupled in a year, but we placed no embargo on fertilizer. The cost of the farmer's machinery and equipment increases 25 percent in a year, but no thought is given to placing an embargo on American manufactured farming equipment. There appears to be no alarm at a tripling of the farmer's energy related production costs in a highly energy dependent farm industry. Farm commodity prices go up but they always come back down, (as they have this time in response to the labor imposed export embargo). Nothing the farmer buys to produce his crop ever comes down once it goes up, just as your union worker's wages never come down but always move forward. The farmer must buy his production inputs at the world price but you expect him to sell his product at a domestically controlled price.

It also seems to me that you are attempting to execute the foreign policy of the country. This would be better left to the President and the Congress where the broad national interests can be better balanced. The issues are farm issues and trade issues, not labor issues.

Probably the primary purpose of your action is to obtain a larger share of shipping for American bottoms. This would seem a legitimate concern of you and the maritime unions and industry. In the past I have supported these efforts in spite of the fact that in comparison with many other nations, high U.S. labor costs and low U.S. productivity highly inflates the shipping costs.

Your actions are made more astonishing by the fact that the maritime industry is

probably the highest subsidized industry in our economy. For example, last year alone the federal government subsidized maritime industry operations to the tune of $220 million and ship construction $281 million, with the deferral tax loophole adding another $40 million. I have also in the past supported these subsidies, but I can now be counted out on that.

As you know, I have rather consistently been on the side of labor on important labor oriented issues. The most recent example is situs picketing, a bill close to your heart as an old craft tradesman. I have great respect for your union leadership contributions. It is sincerely hoped that our disagreement on this important issue does not permanently fracture our working relationship.

Hopefully, you may reconsider your position which over the long term will be detrimental to your workers as well as a disservice to agriculture producers, consumers, and the national interest at large.

Respectfully yours,

BILL D. BURLISON,
Member of Congress.

P.S. I recognize you have just today agreed to load grain for a month. Apparently, the quid pro quo for this concession was a Presidential promise to retain the present embargo for another month. Therefore, the above points would remain relevant.

Mr. JOHNSON of Colorado. Mr. Chairman, I thank the gentleman for his remarks.

I realize this amendment is not going to pass, but in the interest of fairness I think the Members should recognize that the gentleman is making a very familiar point, and I congratulate the gentleman.

Mr. SEBELIUS. Mr. Chairman, I appreciate this opportunity to rise in support of the Burleson amendment and I am sorry that Mr. Findley withdrew his amendment to provide a Congressional veto over grain export controls.

At no time in our Nation's history has the farmer been more important to the economic and social well-being of our Nation and the world. The farmer must have a free market and fair price for farm products if we plan to continue making progress toward peace and prosperity both at home and abroad.

The farmer has been eager to make the transition from a Government-subsidized agriculture to the promise of a free market. He has made massive investments in land, machinery, and technology. As a result of this new thrust in U.S. farm policy, farmers increased total acreage for major crops from 291 million acres in 1969 to 355 million acres in 1976. Federal payments to farmers have fallen from an average of $3.4 billion per year in 1966–69 to only $768 million in calendar year 1975 and over half of the 1975 payments were for farmers' losses sustained in natural disasters.

Mr. Chairman, in a day and age of increased Government spending and controls and falling productivity in the private sector throughout the American economy, this is an incredible success story.

In return, the farmer simply asks for fair treatment and unrestricted access to markets both at home and abroad. This amendment would help guarantee the promise of a free market for farm products.

Working men and women have a direct interest in this proposal. One out of every four jobs in private employment in the United States is related to agriculture. Each billion dollars of farm exports represents about 53,000 additional nonfarm jobs in the United States. Jobs depend on a free market for farm products.

Consumers also have a direct stake in this proposal. Production on 1 out of every 3 acres of U.S. cropland is surplus to our Nation's requirement for food and fiber, thanks to the productive genius of the U.S. farmer. If we don't export this surplus, stockpiles are created and the taxpayer then is forced to pay for storage which amounted to $1 million a day in 1971 and price support payments that averaged $3.4 billion annually in the late 1960's. The consumer also benefits from the foreign exchange which is received when farm products are exported. This foreign exchange increases the value of the dollar and decreases the consumer cost of oil and other imports; oil that is vital to our economy and whose price is steadily increasing.

Last year farm exports were valued at a record $22.15 billion. The U.S. agricultural trade balance totaled $12 billion in 1976, more than offsetting the $8 billion deficit in nonagricultural trade. The farmer exported an all-time record 84.2 million metric tons of grain in 1975–76. But, Mr. Chairman, we still face a build up in carryover grain stocks.

For the first time in decades, the farm and rural population has started to grow as a result of farm prosperity resulting from free markets. This has started to ease some of the pressures on our cities which have been strained to handle the massive migration of rural residents to our nation's major metropolitan areas. As you can see, the benefits of a free market agriculture and access to foreign markets are tremendous in scope and importance.

It was a mistake to embargo grain exports in the past. It would be a mistake to embargo grain exports in the future. This amendment will assure fair treatment for farmers.

I urge your support for the amendment. We must get the attention of the other interests. We must "be fair to the farmer—he is the backbone of our Nation."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. BURLISON).

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

Mr. BURLISON of Missouri. Mr. Chairman, I demand a recorded vote and, pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Seventy-eight Members are present, not a quorum.

The Chair announces that he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from Missouri (Mr. BURLISON) for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. HECHLER OF WEST VIRGINIA

Mr. HECHLER of West Virginia. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HECHLER of West Virginia: On page 23, after line 9, insert the following new section:

"SUNSHINE IN GOVERNMENT

"SEC. 20. (a) Each officer or employee of the Secretary of Commerce who—

"(1) performs any function or duty under this Act or the Export Administration Act of 1969 which is amended by this Act; and

"(2) has any known financial interest in any person subject to such Acts, or in any person who obtains any license, enters into any agreement, or otherwise receives any benefit under such Acts;

shall, beginning on February 1, 1977, annually file with the Secretary a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

"(b) The Secretary shall—

"(1) act within ninety days after the date of enactment of this Act—

"(A) to define the term 'known financial interest' for purposes of subsection (a) of this section; and

"(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

"(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

"(c) In the rules prescribed in subsection (b) of this section, the Secretary may identify specific positions within such agency which are of a nonregulatory or nonpolicy-making nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

"(d) Any officer or employee who is subject to, and knowingly violates, this section or any regulation issued thereunder, shall be fined not more than $2,500 or imprisoned not more than one year, or both."

Mr. HECHLER of West Virginia (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to

the request of the gentleman from West Virginia?

There was no objection.

Mr. HECHLER of West Virginia. Mr. Chairman, I have a "sunshine in Government" amendment to H.R. 15377, as reported, at the desk which is printed in the September 21, 1976, RECORD at page 31714. The amendment adds a new section 18 to the bill.

Mr. Chairman, the purpose of this amendment is to bring more sunshine into Government. It is cosponsored by my colleague, Representative GARY A. MYERS.

It is the same provision which the Congress adopted last December for the Federal Energy Administration and some of the employees of the Interior Department administering Public Law 94–163—the Energy Policy and Conservation Act. On May 20, 1976, the House adopted this provision for ERDA employees in H.R. 13350, which authorized appropriations for fiscal year 1977 for ERDA. On June 11, 1976, the House added it to H.R. 6218 for employees of Interior administering the Outer Continental Shelf leasing program. Earlier this week the conferees reported that bill with this provision. On June 3, 1976, it was added to H.R. 9560 for EPA employees administering the water pollution program. On July 22, 1976, the House also added it to H.R. 13777, the public lands bill, for employees of Interior and on July 28, to H.R. 13555, the mine health and safety bill, for Interior, HEW, and Labor employees.

On August 4, it was added to H.R. 8401, the nuclear assurance bill, for ERDA employees. On August 23, it was added to H.R. 14032, the toxic substances bill, and on September 8, to H.R. 10498, the Clean Air Act, for EPA employees, and on September 2, to H.R. 13636, the LEAA bill. On September 14, 1976, it was added to S. 2371, the national parks mining bill, for National Park Service employees. The Senate accepted the provision last Friday and sent the bill to the President.

In addition, it is included in H.R. 12112, as reported by three committees, for ERDA employees, and in H.R. 14496 for EPA employees.

The amendment requires officers and employees of the Commerce Department who perform any function under the bill to file annual statements of any known financial interest in the persons subject to this bill or who receive financial assistance under the bill. Such statements would be available to the public and would have to be reviewed by Commerce. Positions within the agency that are of a nonregulatory or nonpolicymaking nature could be exempted from this requirement by the Secretary.

The amendment does not prevent any employee from having such interests. It merely requires that they disclose such interests. It does not apply to consultants.

Currently, Commerce and other Federal agencies require their employees who are at the GS–13 level or above and in a decisionmaking position to file financial interest statements which are not available to the public. This requirement is not based on any statutory provision but on a 1965 Executive Order No. 11222 and Civil Service Commission regulations. But the Executive order and regulations do not have any teeth. Our amendment does.

The use of the GS–13 level as a classification for determining who must file is an "administrative practice" convenient to the Federal agencies, but is not relevant to the degree of responsibility of the position as the GAO has noted. This amendment, like the one in the above bills, seeks to abandon the practice and force a position-by-position review by the agency.

Moreover, in a series of reports on the effectiveness of the financial disclosure system for agency employees, the GAO has found "deficiencies" in the system at Interior and several agencies, including in the collection and timely review of such statements, and the resolution of problems associated with the statements. In a March 3, 1975, report, the GAO said:

> Many USGS employees have financial interests which appear to conflict with their Government duties. Many of these holdings violate the Organic Act of 1879. We believe that the ownership of these conflicting interests is due to deficiencies in the Department's financial disclosure system and that they will have to be corrected to prevent the situation that now exists from continuing.
>
> To improve the effectiveness of the USGS financial disclosure system, we recommend that the Secretary of the Interior:
>
> Review, and take remedial action on, the financial interests of USGS officials which raise conflict of interest possibilities or violate the Organic Act.
>
> Prepare, keep current, and issue to USGS personnel specific guidelines, including a list of prohibited securities, concerning financial interests which may violate the Organic Act.
>
> Require the Bureau Counselor to strictly adhere to the restrictions imposed on USGS employees by the Organic Act.
>
> Insure that adequately trained and experienced personnel, who are knowledgeable of employees' duties and potential conflicts of interest, are appointed to counsel employees and review financial disclosure statements.
>
> Insure that officials responsible for reviewing financial disclosure statements are given specific guidelines and reference manuals to enable them to adequately evaluate the statements.
>
> Require reviewing officers to sign and date the financial disclosure statements to indicate they have reviewed them and determined that the financial interests do not violate the Organic Act or raise conflict of interest possibilities.
>
> Require the USGS Counselor to report the results of the annual financial disclosure review to the Department and to note any financial interests questioned and any remedial action taken.
>
> Establish procedures for periodically reviewing financial disclosure statements to insure that Bureau Counselors adequately enforce conflict of interest regulations.

In a later report of December 1975, the GAO said that Interior was taking steps to improve the situation but the GAO said there were 1,435 additional employees who should file statements, of which 1,000 were below the GS–13 level.

The GAO made similar findings in eight other studies since late 1974.

Our amendment makes it clear that the Secretary of Commerce must periodically look at the positions to determine who should file and not base his decision on the grade level of the employee. It also mandates annual filing by the affected employee and review by the agency and provides criminal penalties for knowing violation. Adequate provision is made for the Secretary to define what a "known financial interest" is. Indeed, as an example of such a definition, the Interior Department published proposed regulations defining this term on March 22, 1976, for the purposes of Public Law 94–163. That definition, which is not yet finalized, of course, is as follows:

> Any pecuniary interest of which an officer or employee is cognizant or of which he can reasonably be expected to have knowledge. This includes pecuniary interest in any person engaged in the business of exploring, developing, producing, refining, transporting by pipeline or distributing (other than at the retail level) coal, natural gas, or petroleum products, or in property from which coal, natural gas, or crude oil is commercially produced. This further includes the right to occupy or use the aforesaid business or property, or to take any benefits therefrom based upon a lease or rental agreement, or upon any formal or informal contract with a person who has such an interest where the business arrangement from which the benefit is derived or expected to be derived has been entered into between the parties or their agents. With respect to officers or employees who are beneficiaries of "blind trusts," the disclosure is required only of interests that are initially committed to the blind trust, not of interests thereafter acquired of which the employee or officer has no actual knowledge.

Finally, the regulations would be expected to make it clear that public disclosure of financial statements shall be only for lawful purposes. A violation of this requirement is subject to criminal prosecution.

I urge adoption of the amendment.

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

Mr. HECHLER of West Virginia. I yield to the gentleman from Pennsylvania.

Mr. MORGAN. Mr. Chairman, the majority and the minority side have seen this amendment.

I know it has been attached to five or six other bills in the House. It is a so-called sunshine amendment, and we are glad to accept the gentleman's amendment.

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

Mr. HECHLER of West Virginia. I yield to the gentleman from Michigan.

Mr. BROOMFIELD. Mr. Chairman, I want to compliment the gentleman from West Virginia (Mr. HECHLER) for his sunshine amendment. I think it makes a very important improvement to the bill, and we accept it on this side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. HECHLER).

The amendment was agreed to.

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. EVANS of Colorado, 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. 15377) to amend the Export Administration Act of 1969, pursuant to House Resolution 1549, 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 question is on the amendments.

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. MICHEL

Mr. MICHEL. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. MICHEL. I am, Mr. Speaker, very much so.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. MICHEL moves to recommit the bill, H.R. 15377 to the Committee on International Relations with instructions to report the bill to the House forthwith with the following amendment: Page 1, strike out line 8 and all that follows thereafter through the end of the bill.

The SPEAKER. Does the gentleman from Illinois desire to be heard briefly on his motion to recommit?

Mr. MICHEL. Mr. Speaker, I take the admonitions of the Speaker to heart that the House would like to move on to other business. Very briefly, what I propose to do in my motion to recommit is simply to have a 1-year extension of what we have now, with no amendments.

The answers to the questions I asked of the authors, particularly the gentleman from New York (Mr. BINGHAM) on his amendment, did not get very specific responses. We need those answers, because there are ramifications to this bill which go far beyond the emotional issue around which all of us would probably agree with respect to the morality of the boycott and what is involved therein.

Mr. Speaker, I have labeled this bill an unemployment bill. I did that during consideration of the rule. I pointed out that there has been $5 billion worth of exports going to the Arab countries from U.S. firms in the last year, 1975. Also U.S. News & World Report points out in an article in the current issue that the prospects in 1976 are for $7.1 billion worth of exports. The testimony of the Department of Commerce was that there are 400,000 American jobs at stake. And yet all the time we are talking about putting people to work and getting them off the unemployment rolls we act to implement this kind of a mechanism that puts people out of work. We cannot have it both ways.

I submit that it is a good economic issue. Support my motion to recommit and we can have a simple extension.

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

Mr. MICHEL. I yield to the gentleman from Louisiana.

Mr. WAGGONNER. Mr. Speaker, I want to express my concurrence in the statement that the gentleman from Illinois (Mr. MICHEL) has just made. This country will be better off with a simple extension of the existing legislation. If a motion to recommit is the only way for us to achieve that, then I do believe that we ought to support it. I am going to support that motion on this legislation.

Mr. MICHEL. I thank the gentleman from Louisiana for his very significant measure of support.

Mr. MORGAN. Mr. Speaker, I rise in opposition to the motion to recommit.

Mr. Speaker, the Committee on International Relations has worked long and hard, it has worked 15 months on this bill. This is not an unemployment bill. It is a bill that has a lot of good in it.

There are certain big corporations like the Mobile Oil Corp. that are running full page ads in every newspaper in the country in opposition to this bill, but we do not see such ads from the many companies that oppose boycotts and whose people are also out of work.

I know the gentleman from Illinois has a special interest that he spoke of during consideration of the rule when he spoke about the Caterpillar tractor factory. I am sympathetic with the gentleman's problem. But, on the other hand, Mr. Speaker, we cannot let these people in the Middle East discriminate against American citizens and that is exactly what they are doing and they have been doing it for a long, long time.

If this motion to recommit carries today, then we will be going to a conference with a Senate bill containing almost 40 points and a House bill with a single provision. We will still have to come back with some sort of a boycott provision, anyway, because it is in the Senate bill.

So, Mr. Speaker, I can see no use in wasting the time of the Members of the House with a rollcall vote on the motion to recommit tonight, because we are going to have the boycott legislation back here as soon as the conferees meet, anyway, because a boycott provision is in the Senate bill. There are some four States, including the State of Illinois, which have passed boycott legislation; Maryland and New York have also. What about those States? What has happened to the ports in those States? They are losing thousands and thousands of jobs, because we have no uniform boycott law in this country.

Speaking about unemployment, how about those stevedores? Let us make these laws national, and we will find that Arab countries will come back into the community of nations and stop this silly boycotting of American citizens.

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

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

Mr. MICHEL. I appreciate the gentleman's yielding.

The gentleman makes mention of the Stevenson amendment in the Senate bill. I would say that I think we are in a much more flexible position by enacting a bill here in the House which calls for a simple extension. This would permit the most advantageous position for the House to obtain some kind of movement in the conference that resolves this difficult employment matter.

Mr. MORGAN. This is only a 1-year bill. If it does not work, the gentleman knows we will be back in here next year with another extension. Let us try that so we do not discriminate against Americans for this coming year.

Mr. Speaker, I ask that the motion to recommit be voted down.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

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

Mr. KOCH. 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 91, nays 287, not voting 52, as follows:

[Roll No. 798]

YEAS—91

Abdnor	Hall, Tex.	Poage
Anderson, Ill.	Hansen	Quillen
Archer	Hutchinson	Randall
Armstrong	Hyde	Rhodes
Ashley	Ichord	Robinson
Beard, Tenn.	Jenrette	Runnels
Bowen	Johnson, Colo.	Satterfield
Breaux	Johnson, Pa.	Schneebeli
Brinkley	Karth	Sebelius
Brown, Mich.	Kazen	Shriver
Brown, Ohio	Kelly	Sikes
Burleson, Tex.	Ketchum	Skubitz
Butler	Kindness	Snyder
Cederberg	Latta	Spence
Clawson, Del	Lloyd, Tenn.	Stanton, J. William
Cochran	Lott	Steiger, Wis.
Collins, Tex.	Lujan	Symms
Conable	McClory	Taylor, Mo.
Daniel, Dan	McCormack	Thornton
Daniel, R. W.	McDonald	Treen
Dent	McEwen	Ullman
Dickinson	Mahon	Vander Jagt
Downing, Va.	Michel	Waggonner
Duncan, Oreg.	Milford	Wampler
Edwards, Ala.	Miller, Ohio	White
Erlenborn	Montgomery	Whitten
Eshleman	Moore	Wilson, Bob
Fountain	Myers, Ind.	Young, Alaska
Gaydos	Nichols	Young, Fla.
Goodling	Paul	
Hagedorn	Pettis	

NAYS—287

Abzug	Bedell	Broyhill
Adams	Bell	Buchanan
Addabbo	Bennett	Burgener
Alexander	Bergland	Burke, Calif.
Ambro	Bevill	Burke, Fla.
Anderson, Calif.	Biaggi	Burke, Mass.
Andrews, N.C.	Biester	Burlison, Mo.
Andrews, N. Dak.	Bingham	Burton, John
Annunzio	Blanchard	Burton, Phillip
Ashbrook	Blouin	Byron
Aspin	Boland	Carney
AuCoin	Bolling	Carr
Badillo	Bonker	Carter
Bafalis	Brademas	Chappell
Baldus	Breckinridge	Chisholm
Baucus	Brodhead	Clausen, Don H.
Bauman	Brooks	Clay
	Broomfield	Cleveland
	Brown, Calif.	

Cohen
Collins, Ill.
Conte
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Derwinski
Devine
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
English
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Tenn.
Fraser
Frenzel
Frey
Fuqua
Gilman
Ginn
Goldwater
Gonzalez
Grassley
Gude
Guyer
Hall, Ill.
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Jacobs
Jeffords
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jordan
Kasten
Kastenmeier
Kemp
Keys
Koch
Krebs
Lagomarsino
Landrum
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Long, La.
Long, Md.
Lundine
McCloskey
McDade
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mann
Martin
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murtha
Myers, Pa.
Natcher
Nedzi
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Quie
Railsback
Rangel
Regula
Richmond
Rinaldo
Risenhoover
Roberts
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Simon
Sisk
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, James V.
Stark
Steed
Stokes
Stratton
Studds
Sullivan
Symington
Talcott
Taylor, N.C.
Thompson
Thone
Traxler
Tsongas
Van Deerlin
Vander Veen
Vanik
Vigorito
Walsh
Waxman
Weaver
Whalen
Whitehurst
Wiggins
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Ga.
Zablocki
Zeferetti

NOT VOTING—52

Allen
Beard, R.I.
Boggs
Clancy
Conlan
Conyers
Diggs
Esch
Evins, Tenn.
Ford, Mich.
Forsythe
Giaimo
Gibbons
Gradison
Green
Haley
Hammer-schmidt
Hawkins
Hébert
Heinz
Helstoski
Henderson
Hinshaw
Jarman
Jones, Tenn.
Krueger
LaFalce
McCollister
Matsunaga
Mink
Murphy, N.Y.
Neal
Nix
O'Hara
Pepper
Peyser
Rees
Reuss
Riegle
Ruppe
Schulze
Shuster
Smith, Nebr.
Steelman
Steiger, Ariz.
Stephens
Stuckey
Teague
Udall
Wilson, C. H.
Wilson, Tex.
Young, Tex.

The Clerk announced the following pairs:

On this vote:

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

Mr. Teague for, with Mr. Hawkins against.

Until further notice:

Mrs. Boggs with Mr. Clancy.

Mr. Charles H. Wilson of California with Mr. Heinz.

Mr. Pepper with Mr. Beard of Rhode Island.

Mr. Giaimo with Mr. Ruppe.

Mr. Helstoski with Mr. Steelman.

Mr. Reuss with Mr. Esch.

Mr. Matsunaga with Mr. Forsythe.

Mr. Neal with Mr. Hammerschmidt.

Mr. Nix with Mr. McCollister.

Mr. Stuckey with Mr. Conlan.

Mr. Green with Mrs. Mink.

Mr. Haley with Mr. Jarman.

Mr. Gibbons with Mr. O'Hara.

Mr. Evins of Tennessee with Mr. Henderson.

Mr. Jones of Tennessee with Mr. Udall.

Mr. Conyers with Mr. Shuster.

Mr. Allen with Mr. Rees.

Mr. Ford of Michigan with Mr. Peyser.

Mr. Diggs with Mr. Riegle.

Mr. Krueger with Mr. Stephens.

Mr. LaFalce with Mr. Steiger of Arizona.

Mr. Gradison with Mr. Schulze.

Messrs. DEVINE and VIGORITO changed their vote from "yea" to "nay."

Messrs. DENT, HAGEDORN, JENRETTE, and WHITE changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

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

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

Mr. BROOMFIELD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 318, nays 63, not voting 49, as follows:

[Roll No. 799]

YEAS—318

Abzug
Adams
Addabbo
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashbrook
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conable
Conte
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
Erlenborn
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Tenn.
Fountain
Fraser
Frenzel
Fuqua
Gaydos
Gilman
Ginn
Goldwater
Gonzalez
Grassley
Gude
Guyer
Hagedorn
Hall, Ill.
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hyde
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jordan
Kasten
Kastenmeier
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Lagomarsino
Landrum
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Long, La.
Long, Md.
Lott
Lundine
McClory
McCloskey
McDade
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murtha
Myers, Pa.
Natcher
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Pettis
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Quie
Railsback
Rangel
Regula
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schneebeli
Schroeder
Seiberling
Sharp
Shipley
Shriver
Simon
Sisk
Slack
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steiger, Wis.
Stokes
Stratton
Studds
Symington
Talcott
Taylor, N.C.
Thompson
Thone
Traxler
Tsongas
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Wiggins
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Ga.
Zablocki
Zeferetti

NAYS—63

Abdnor
Alexander
Archer
Armstrong
Beard, Tenn.
Bowen
Breaux
Brown, Ohio
Burleson, Tex.
Burlison, Mo.
Collins, Tex.
Duncan, Oreg.
English
Frey
Goodling
Hall, Tex.
Hansen
Hicks
Hungate
Hutchinson
Ichord
Johnson, Colo.
Jones, Ala.
Jones, Tenn.
Karth
Kazen
Kelly
Latta
Lloyd, Tenn.
Lujan
McCormack
McDonald
McEwen
Mathis
Michel
Milford
Miller, Ohio
Montgomery
Moore
Myers, Ind.
Passman
Paul
Poage
Quillen
Randall
Robinson
Runnels
Satterfield
Sebelius
Sikes
Skubitz
Smith, Iowa
Steed
Sullivan
Symms
Taylor, Mo.
Thornton
Treen
Ullman
Waggonner
Whitten
Wilson, Bob
Young, Fla.

NOT VOTING—49

Boggs
Clancy
Conlan
Conyers
Diggs
Esch
Ford, Mich.
Forsythe
Giaimo
Gibbons
Gradison
Green
Haley
Hammer-schmidt
Hawkins
Hébert
Heinz
Helstoski
Henderson
Hinshaw
Hughes
Jarman
Krueger
LaFalce
McCollister
Matsunaga
Mink
Murphy, N.Y.
Neal
Nix
O'Hara
Pepper
Peyser
Rees
Reuss
Riegle
Ruppe
Schulze

Shuster	Stephens	Wilson, C. H.
Smith, Nebr.	Stuckey	Wilson, Tex.
Steelman	Teague	Young, Tex.
Steiger, Ariz.	Udall	

The Clerk announced the following pairs:

On this vote:

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

Mr. Hawkins for, with Mr. Teague against.

Until further notice:

Mrs. Boggs with Mr. Clancy.
Mr. Matsunaga with Mr. McCollister.
Mr. LaFalce with Mr. Jarman.
Mr. Pepper with Mr. Steelman.
Mr. Charles H. Wilson of California with Mr. Esch.
Mr. Hughes with Mr. Forsythe.
Mr. Conyers with Mr. Gradison.
Mr. Ford of Michigan with Mr. Conlan.
Mr. Giaimo with Mr. Hammerschmidt.
Mr. Diggs with Mr. Stuckey.
Mr. Green with Mr. Steiger of Arizona.
Mr. Haley with Mr. Henderson.
Mrs. Mink with Mr. Reuss.
Mr. Krueger with Mr. Schulze.
Mr. Nix with Mr. Stephens.
Mr. Neal with Mrs. Smith of Nebraska.
Mr. O'Hara with Mr. Riegle.
Mr. Udall with Mr. Ruppe.
Mr. Helstoski with Mr. Shuster.
Mr. Gibbons with Mr. Heinz.
Mr. Rees with Mr. Charles Wilson of Texas.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. MORGAN. Mr. Speaker, pursuant to House Resolution 1549, I call up from the Speaker's table, for immediate consideration, the Senate bill S. 3084 to amend and extend the Export Administration Act of 1969 to improve the administration of export controls pursuant to such act, to strengthen the antiboycott provision of such act, to amend the Securities Exchange Act of 1934 to enhance the investor disclosure provisions of that act, and for other purposes.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. MORGAN

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

The Clerk read as follows:

Mr. MORGAN moves to strike out all after the enacting clause of the bill S. 3084 and to insert in lieu thereof the text of the bill H.R. 15377, as passed by the House, as follows:

EXTENSION OF EXPORT ADMINISTRATION ACT

SECTION 1. The Export Administration Act of 1969 (50 U.S.C. App. 2401 et seq.) is amended in section 14 by striking out "September 30, 1976" and inserting in lieu thereof "September 30, 1977".

PENALTIES FOR VIOLATIONS

SEC. 2. (a) Section 6(a) of the Export Administration Act of 1969 is amended—

(1) in the first sentence, by striking out "$10,000" and inserting in lieu thereof "$25,000"; and

(2) in the second sentence, by striking out "$20,000" and inserting in lieu thereof "$50,000".

(b) Section 6(b) of such Act is amended by striking out "$20,000" and inserting in lieu thereof "50,000".

(c) Section 6(c) of such Act is amended by striking out "$1,000" and inserting in lieu thereof "10,000".

(d) Section 6(d) of such Act is amended by adding at the end thereof the following new sentences: "Further, the payment of any penalty imposed pursuant to subsection (c) may be deferred or suspended in whole or in part for a time equal to or less than any probation period (which may exceed one year) that may be imposed upon such person. Such deferral or suspension shall not operate as a bar to the collection of the penalty in the event that the conditions of the suspension, deferral, or probation are not fulfilled.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 3. The Export Administration Act of 1969 is amended by inserting after section 12 the following new section 13 and redesignating existing sections 13 and 14 as sections 14 and 15, respectively:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 13. Notwithstanding any other provision of law, no appropriation shall be made under any law to the Department of Commerce for expenses to carry out the purposes of this Act for any fiscal year commencing on or after October 1, 1977, unless previously and specifically authorized by legislation enacted after the enactment of this section.".

FOREIGN AVAILABILITY

SEC. 4. Section 4(b) of the Export Administration Act of 1969 is amended—

(1) by striking out paragraphs (2) through (4) and redesignating section 4(b)(1) as section 4(b); and

(2) by striking out ", regardless" and all that follows thereafter in the third sentence of such section 4(b) and inserting in lieu thereof a period and the following: "The President shall not impose export controls for national security purposes on the export from the United States of articles, materials, or supplies, including technical data or other information, which he determines are available without restriction from sources outside the United States in significant quantities and comparable in quality to those produced in the United States, unless the President determines that adequate evidence has been presented to him demonstrating that the absence of such a control would prove detrimental to the national security of the United States. The nature of such evidence shall be included in the semiannual report required by section 10 of this Act. Where in accordance with this subsection, export controls are imposed for national security purposes notwithstanding foreign availability, the President shall take steps to initiate negotiations with the governments of the appropriate foreign countries for the purpose of eliminating such availability.".

PERIOD FOR ACTION ON EXPORT LICENSE APPLICATIONS

SEC. 5. Section 4(g) of the Export Administration Act of 1969 is amended to read as follows:

"(g)(1) It is the intent of Congress that any export license application required under this Act shall be approved or disapproved within 90 days of its receipt. Upon the expiration of the 90-day period beginning on the date of its receipt, any export license application required under this Act which has not been approved or disapproved shall be deemed to be approved and the license shall be issued unless the Secretary of Commerce or other official exercising authority under this Act finds that additional time is required and notifies the applicant in writing of the specific circumstances requiring such additional time and the estimated date when the decision will be made.

"(2) With respect to any export license application not finally approved or disapproved within 90 days of its receipt as provided in paragraph (1) of this subsection, the applicant shall, to the maximum extent consistent with the national security of the United States, be specifically informed in writing of questions raised and negative considerations or recommendations made by any agency or department of the Government with respect to such license application, and shall be accorded an opportunity to respond to such questions, considerations, or recommendations in writing prior to final approval or disapproval by the Secretary of Commerce or other official exercising authority under this Act. In making such final approval or disapproval, the Secretary of Commerce or other official exercising authority under this Act shall take fully into account the applicant's response.".

AVAILABILITY OF INFORMATION TO CONGRESS

SEC. 6. (a) Section 7(c) of the Export Administration Act of 1969 is amended by adding at the end thereof the following new sentences: "Nothing in this Act shall be construed as authorizing the withholding of information from Congress, and any information obtained under this Act, including any report or license application required under section 4(b) and any information required under section 4(j)(1), shall be made available upon request to any committee of Congress or any subcommittee thereof. No such committee or subcommittee shall disclose any information obtained under this Act which is submitted on a confidential basis unless such committee or subcommittee determines that the withholding thereof is contrary to the national interest.".

(b) Section 4(c)(1) of such Act is amended by inserting immediately before the period at the end of the last sentence thereof "and in the last two sentences of section 7(c) of this Act".

TECHNICAL ADVISORY COMMITTEES

SEC. 7. Section 5(c)(2) of the Export Administration Act of 1969 is amended by striking out the third sentence and inserting in lieu thereof the following: "The Secretary shall include in each semiannual report required by section 10 of this Act an accounting of the consultations undertaken pursuant to this paragraph, the use made of the advice rendered by the technical advisory committees pursuant to this paragraph, and the contributions of the technical advisory committees to carrying out the policies of this Act.".

SIMPLIFICATION OF EXPORT REGULATIONS

SEC. 8. Section 7 of the Export Administration Act of 1969 is amended by adding at the end thereof the following new subsection (e):

"(e) The Secretary of Commerce, in consultation with appropriate United States Government departments and agencies and with appropriate technical advisory committees established under section 5(c), shall review the rules and regulations issued under this Act in order to determine how compliance with the provisions of this Act can be facilitated by simplifying such rules and regulations or by any other means. Not later than six months after the enactment of this subsection, the Secretary of Commerce shall report to Congress on the actions taken on the basis of such review to simplify such rules and regulations. Such report may be included in the semiannual report required by section 10 of this Act.".

CONTROL OF EXPORTS FOR NATIONAL SECURITY PURPOSES

SEC. 9. (a) Section 4(h)(1) of the Export Administration Act of 1969 is amended—

(1) by striking out "to a controlled country" in the first sentence;

(2) by striking out "significantly increase the military capability of such country" in the first sentence and inserting in lieu thereof "make a significant contribution to the military potential of any other nation or nations which would prove detrimental to the national security of the United States";

(3) by striking out "such country" in the second sentence and inserting in lieu there-

of "nation to which exports are restricted for national security purposes"; and

(4) by striking out "significantly increase the military capability of such country" in the second sentence and inserting in lieu thereof "makes a significant contribution to the military potential of any other nation or nations which would prove detrimental to the national security of the United States".

(b) The second sentence of section 4(h)(2) of such Act is amended to read as follows: "The appropriate export control office or agency to whom a request which falls within such types and categories is made shall notify the Secretary of Defense of such request, and such office may not issue any license or other authority pursuant to such request prior to the expiration of the period within which the President may disapprove such export.".

(c) Section 4(h)(2)(A) of such Act is amended to read as follows:

"(A) recommend to the President that he disapprove a request for the export of any goods or technology which he determines will make a significant contribution to the military potential of any nation or nations which would prove detrimental to the national security of the United States;".

(d) Section 4(h)(2)(C) of such Act is amended by striking out "export of such goods or technology" and inserting in lieu thereof "request".

(e) Section 4(h)(2) of such Act is amended by striking out "the export of such goods or technology to such country" in the last sentence and inserting in lieu thereof "such export".

(f) Section 4(h)(4) of such Act is amended—

(1) by inserting "and" at the end of subparagraph (A); and

(2) by striking out the semicolon at the end of subparagraph (B) and all that follows thereafter through "1961" at the end of subparagraph (C).

(g) Section (b) of such Act is amended by striking out "Communist-dominated nation" and inserting in lieu thereof "country to which exports are restricted for national security or foreign policy purposes".

REPEAL OF TITLE II OF THE MUTUAL DEFENSE ASSISTANCE CONTROL ACT

SEC. 10. (a) Title II of the Mutual Defense Assistance Control Act of 1951 (22 U.S.C. 1612–1612b) is repealed.

(b) Section 301 of such Act (22 U.S.C. 1613) is amended by striking out "and title II".

EXPORTS OF TECHNICAL INFORMATION

SEC. 11. Section 4 of the Export Administration Act of 1969 is amended by adding at the end thereof the following new subsection (j):

"(j)(1) Any person (including any college, university, or other educational institution) who enters into any agreement for, or which may result in, the transfer from the United States of technical data or other information to any nation to which exports are restricted for national security or foreign policy purposes shall furnish to the Secretary of Commerce such information with respect to such agreement as the Secretary shall by regulation require in order to enable him to monitor the effects of such transfers on the national security and foreign policy of the United States.

"(2) The Secretary of Commerce shall conduct a study of the problem of the export, by publications or any other means of public dissemination, of technical data or other information from the United States, the export of which might prove detrimental to the national security or foreign policy of the United States. Not later than 6 months after the enactment of this subsection, the Secretary shall report to the Congress his assessment of the impact of the export of such technical data or other information by such means on the national security and foreign policy of the United States and his recommendations for monitoring such exports without impairing freedom of speech, freedom of press, or the freedom of scientific exchange. Such report may be included in the semiannual report required by section 10 of this Act.".

SEMIANNUAL REPORTS

SEC. 12. (a) Section 10 of the Export Administration Act of 1969 is amended by adding at the end the following new subsection (c):

"(c) Each semiannual report shall include an accounting of—

"(1) any organizational and procedural changes instituted, any reviews undertaken, and any means used to keep the business sector of the Nation informed, pursuant to section 4(a) of this Act;

"(2) any changes in the exercise of the authorities of section 4(b) of this Act;

"(3) any delegations of authority under section 4(e) of this Act;

"(4) the disposition of export license applications pursuant to sections 4(g) and 4(h) of this Act;

"(5) the effects on the national security and foreign policy of the United States of transfers from the United States of technical data or other information which are reported to the Secretary of Commerce pursuant to section 4(j) of this Act;

"(6) consultations undertaken with technical advisory committees pursuant to section 5(c) of this Act; and

"(7) violations of the provisions of this Act and penalties imposed pursuant to section 6 of this Act.".

(b)(1) The section heading of such section 10 is amended by striking out "QUARTERLY".

(2) Subsection (b) of such section is amended—

(A) by striking out "quarterly" each time it appears; and

(B) by striking out "second" in the first sentence of paragraph (1).

SPECIAL REPORT

SEC. 13. The Export Administration Act of 1969, as amended by section 3 of this Act, is further amended by inserting after section 10 the following new section 11 and redesignating existing sections 11 through 15 as sections 12 through 16, respectively:

"SPECIAL REPORT

"SEC. 11. Not later than 12 months after the enactment of this section, the President shall submit to the Congress a special report on multilateral export controls in which the United States participates pursuant to this Act and pursuant to the Mutual Defense Assistance Control Act of 1951. The purpose of such special report shall be to assess the effectiveness of such multilateral export controls and to formulate specific proposals for increasing the effectiveness of such controls. That special report shall include—

"(1) the current list of commodities controlled for export by agreement of the group known as the Coordinating Committee of the Consultative Group (hereafter in this section referred to as the 'Committee') and an analysis of the process of reviewing such list and of the changes which result from such review;

"(2) data on and analysis of requests for exceptions to such list;

"(3) a description and an analysis of the process by which decisions are made by the Committee on whether or not to grant such requests;

"(4) an analysis of the uniformity of interpretation and enforcement by the participating countries of the export controls agreed to by the Committee (including controls over the re-export of such commodities from countries not participating in the Committee), and information on each case where such participating countries have acted contrary to the United States interpretation of the policy of the Committee, including United States representations to such countries and the response of such countries;

"(5) an analysis of the problem of exports of advanced technology by countries not participating in the Committee, including such exports by subsidiaries or affiliates of United States businesses in such countries;

"(6) an analysis of the effectiveness of any procedures employed, in cases in which an exception for a listed commodity is granted by the Committee, to determine whether there has been compliance with any conditions on the use of the excepted commodity which were a basis for the exception; and

"(7) detailed recommendations for improving through formalization or other means, the effectiveness of multilateral export controls, including specific recommendations for the development of more precise criteria and procedures for collective export decisions and for the development of more detailed and formal enforcement mechanisms to assure more uniform interpretation of and compliance with such criteria, procedures, and decisions by all countries participating in such multilateral export controls.".

FOREIGN BOYCOTTS

SEC. 14. (a) Section 3(5) of the Export Administration Act of 1969 is amended in subparagraph (B)—

(1) by striking out "encourage and request" and inserting in lieu thereof "require"; and

(2) by striking out "the furnishing of information or the signing of agreements" and inserting in lieu thereof "furnishing information or entering into or implementing agreements".

(b) Section 4 of such Act is amended—

(1) by striking out the next to the last sentence of subsection (b), as so redesignated by section 4 of this Act; and

(2) by adding the following new subsection (k) immediately after subsection (j), as added by section 11 of this Act:

"(k)(1)(A) Rules and regulations prescribed under subsection (b) shall implement the provisions of section 3(5) of this Act and shall require that any United States person receiving a request for furnishing information or entering into agreement as specified in that section must report this fact to the Secretary of Commerce for such action as the Secretary may deem appropriate to carry out the policy of that section.

"(B) Any report filed under subparagraph (A) after the enactment of this subsection shall be made available promptly for public inspection and copying. The Secretary of Commerce shall transmit copies of such reports to the Secretary of State for such action as the Secretary of State, in consultation with the Secretary of Commerce, may deem appropriate for carrying out the policy set forth in section 3(5). The provisions of section 7(c) shall not apply to reports filed under subparagraph (A) of this paragraph.

"(2)(A) In furtherance of the policy set forth in sections 3(5) (A) and (B), no United States person shall take any action with intent to comply with or to further or support any trade boycott fostered or imposed by any foreign country against a country which is friendly to the United States and which is not itself the object of any form of embargo by the United States. The mere absence of a business relationship with a boycotted country does not indicate the existence of the intent required by the preceding sentence.

"(B) For the purpose of enforcing the prohibition contained in subparagraph (A) of this paragraph, the Secretary of Commerce shall issue rules and regulations prohibiting any United States person from taking any action with the required intent, including the following actions:

"(i) Discriminating against any United States person, including any officer, employee,

agent, director, or stockholder or other owner of any United States person, on the basis of race, color, religion, sex, nationality, or national origin.

"(ii) Boycotting or refraining from doing business with any United States person, with the boycotted country, with any business concern in or of the boycotted country with any national or resident of the boycotted country, or with any business concern or other person which has done, does, or proposes to do business with the boycotted country, with any business concern in or of the boycotted country, or any national or resident of the boycotted country.

"(iii) Furnishing information with respect to the race, color, religion, sex, nationally, or national origin of any past, present, or proposed officer, employee, agent, director, or stockholder or other owner of any United States person.

"(iv) Furnishing information about any past, present, or proposed business relationship, including a relationship by way of sale, purchase, legal or commercial representation, shipping or other transport, insurance, investment, or supply, with any United States person, with the boycotted country, with any business concern in or of the boycotted country, with any national or resident of the boycotted country, or with any business concern or other person which has done, does, or proposes to do business with the boycotted country, with any business concern in or of the boycotted country, or any national or resident of the boycotted country.".

(c)(1) Section 6 of such Act is amended by redesignating subsection (g) as subsection (h) and by inserting immediately after subsection (f) the following new subsection (g):

"(g) Any United States person aggrieved by action taken as a result of a violation of section 4(k)(2) of this Act may institute a civil action in an appropriate United States district court, without regard to the amount in controversy, and may recover threefold actual damages, reasonable attorney's fees, and other litigation costs reasonably incurred, and obtain other appropriate relief.".

(2) Section 6(h) of such Act, as so redesignated by paragraph (1) of this subsection, is amended by striking out "or (f)" and inserting in lieu thereof "(f), or (g)".

(d) Section 12 of such Act, as so redesignated by section 13 of this Act, is amended by adding at the end thereof the following: "The term 'United States person' includes any United States resident or national, any domestic business concern (including any domestic subsidiary or affiliate of any foreign business concern), and any foreign subsidiary or affiliate of any domestic business concern.".

CERTAIN PETROLEUM EXPORTS

SEC. 15. Section 4 of the Export Administration Act of 1969, as amended by sections 11 and 14 of this Act, is further amended by adding at the end thereof the following new subsection (l):

"(l) Petroleum products refined in United States Foreign-Trade Zones, or in the United States Territory of Guam, from foreign crude oil shall be excluded from any quantitative restrictions imposed pursuant to section 3(2)(A) of this Act, except that, if the Secretary of Commerce finds that a product is in short supply, the Secretary of Commerce is authorized to issue such rules and regulations as may be necessary to limit exports.".

EXEMPTIONS FOR CERTAIN AGRICULTURE COMMODITIES FROM CERTAIN EXPORT LIMITATIONS

SEC. 16. Section 4(f) of the Export Administration Act of 1969 is amended—

(1) by redesignating such section as section 4(f)(1); and

(2) by adding at the end thereof the following new paragraph:

"(2) Upon approval of the Secretary of Commerce, in consultation with the Secretary of Agriculture, agricultural commodities purchased by or for use in a foreign country may remain in the United States for export at a later date free from any quantitative limitations on export which may be imposed pursuant to section 3(2)(A) of this Act subsequent to such approval. The Secretary of Commerce may not grant approval hereunder unless he receives adequate assurance and, in conjunction with the Secretary of Agriculture, so finds that such commodities will eventually be exported, that neither the sale nor export thereof will result in an excessive drain of scarce materials and have a serious domestic inflationary impact, that storage of such commodities in the United States will unduly limit the space available for storage of domestically owned commodities, and that the purpose of such storage is to establish a reserve of such commodities for later use, not including resale to or use by another country. The Secretary of Commerce is authorized to issue such rules and regulations as may be necessary to implement this paragraph.".

NUCLEAR POWERPLANTS

SEC. 17. None of the funds authorized by the Foreign Assistance Act of 1961 may be used to finance the construction of, the operation or maintenance of, or the supply of fuel for, any nuclear powerplant under an agreement for cooperation between the United States and any other country.

NUCLEAR EXPORTS

SEC. 18. The Export Administration Act of 1969 is amended by adding at the end thereof the following new section:

"NUCLEAR EXPORTS

"SEC. 17. (a)(1) The Congress finds that the export by the United States of nuclear material, equipment, and devices, if not properly regulated, could allow countries to come unacceptably close to a nuclear weapon capability, thereby adversely affecting international stability, the foreign policy objectives of the United States, and undermining the principle of nuclear nonproliferation agreed to by the United States as a signatory to the Treaty on the Non-Proliferation of Nuclear Weapons.

"(2) The Congress finds that nuclear export activities which enable countries to possess strategically significant quantities of unirradiated, readily fissionable material are inherently unsafe.

"(3) It is, therefore, the purpose of this section to implement the policies stated in paragraphs (1) and (2) of section 3 of this Act by regulating the export of nuclear material, equipment, and devices which could prove detrimental to United States national security and foreign policy objectives.

"(b)(1) No agreement for cooperation providing for the export of any nuclear material, equipment, or devices for civil uses may be entered into with any foreign country, group of countries, or international organization, and no amendment to or renewal of any such agreement may be agreed to, unless—

"(A) the provisions of the agreement concerning the reprocessing of special nuclear material supplied by the United States will apply equally to all special nuclear material produced through the use of any nuclear reactor transferred under such agreement; and

"(B) the recipient country, group of countries, or international organization, has agreed to permit the International Atomic Energy Agency to report to the United States, upon a request by the United States, on the status of all inventories of plutonium, uranium 233, and highly enriched uranium possessed by that country, group of countries, or international organization and subject to International Atomic Energy Agency safeguards.

"(2) The Secretary of State shall undertake consultations with all parties to agreements for cooperation existing on the date of enactment of this section in order to seek inclusion in such agreements of the provisions described in paragraphs (1)(A) and (1)(B) of this subsection.

"(3)(A) No license may be issued for the export of any nuclear material, equipment, or devices pursuant to an agreement for cooperation unless the recipient country, group of countries, or international organization, has agreed that the material, equipment, and devices subject to that agreement will not be used for any nuclear explosive device, regardless of how the device itself is intended to be used.

"(B) Subparagraph (A) of this paragraph shall take effect at the end of the one-year period beginning on the date of enactment of this section.

"(4) In any case in which a party to any agreement for cooperation seeks to reprocess special nuclear material produced through the use of any nuclear material, equipment, or devices supplied by the United States, the Secretary of State may only determine that safeguards can be applied effectively to such reprocessing if he finds that the reliable detection of any diversion and the timely warning to the United States of such diversion will occur well in advance of the time at which that party could transform strategic quantities of diverted nuclear material into explosive nuclear devices.".

EXPORTS OF NUCLEAR TECHNOLOGY

SEC. 19. Section 4(j) of the Export Administration Act of 1969, as added by section 11 of this Act, is amended by adding at the end thereof the following new paragraph:

"(3) In furtherance of the purposes of this subsection (relating to exports of technical information), of subsection (h) of this section (relating to exports of technology which may contribute to the military potential of other nations), and of section 17 of this Act (relating to nuclear exports), the President shall conduct an in-depth study of whether, or the extent to which, the education and training of foreign nationals within the United States in nuclear engineering and related fields contributes to the proliferation of explosive nuclear devices or the development of a capability of producing explosive nuclear devices. Not later than the end of the six-month period beginning on the date of enactment of this paragraph, the President shall submit to the Congress a detailed report containing the findings and conclusions of such study. Such report shall analyze the direct and indirect contribution of such education and training to nuclear proliferation.".

SUNSHINE IN GOVERNMENT

SEC. 20. (a) Each officer or employee of the Secretary of Commerce who—

(1) performs any function or duty under this Act or the Export Administration Act of 1969 which is amended by this Act; and

(2) has any known financial interest in any person subject to such Acts, or in any person who obtains any license, enters into any agreement, or otherwise receives any benefit under such Acts;

shall, beginning on February 1, 1977, annually file with the Secretary a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

(b) The Secretary shall—

(1) act within ninety days after the date of enactment of this Act—

(A) to define the term "known financial interest" for purposes of subsection (a) of this section; and

(B) to establish the methods by which the requirement to file written statements

specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) In the rules prescribed in subsection (b) of this section, the Secretary may identify specific positions within such agency which are of a nonregulatory or nonpolicy-making nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Any officer or employee who is subject to, and knowingly violates, this section or any regulation issued thereunder, shall be fined not more than $2,500 or imprisoned not more than one year, or both.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed. The title was amended so as to read: "To amend the Export Administration Act of 1969."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 15377) was laid on the table.

GENERAL LEAVE

Mr. MORGAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislatives in which to revise and extend their remarks on the bill H.R. 15377 just passed.

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

There was no objection.

GENERAL LEAVE

Mr. HUNGATE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the passage of H.R. 11722 today.

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

There was no objection.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS TO FILE CONFERENCE REPORT ON S. 2228

Mr. ROE. Mr. Speaker, I ask unanimous consent that the Committee on Public Works may have until midnight tonight to file a conference rpeort on the Senate bill S. 2228, Public Works and Economic Development Act Amendments of 1976.

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

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the gentleman from New Jersey tell us whether the gentleman has been able to secure the agreement of the minority Members on this?

Mr. ROE. Mr. Speaker, if the gentleman will yield, I am pleased to advise the gentleman from California (Mr. ROUSSELOT) that the minority leader has approved the request.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman from New Jersey and I withdraw my reservation of objection.

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

There was no objection.

TO PROVIDE FOR ESTABLISHMENT OF A CONSTITUTION FOR THE VIRGIN ISLANDS

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill H.R. 9460, an act to provide for the establishment of a constitution for the Virgin Islands, with the Senate amendment thereto and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert: That the Congress, recognizing the basic democratic principle of government by the consent of the governed, authorizes the people of the Virgin Islands to organize a government pursuant to a constitution of their own adoption as provided in this Act.

SEC. 2. (a) The Legislature of the Virgin Islands is authorized to call a constitutional convention to draft, within the existing territorial-Federal relationship, a constitution for the local self-government of the people of the Virgin Islands.

(b) Such constitution shall—

(1) recognize, and be consistent with, the sovereignty of the United States over the Virgin Islands, and the supremacy of the provisions of the Constitution, treaties, and laws of the United States applicable to the Virgin Islands, including, but not limited to, those provisions of the Organic Act and Revised Organic Act of the Virgin Islands which do not relate to local self-government;

(2) provide for a republican form of government, consisting of three branches: executive, legislative, and judicial;

(3) contain a bill of rights;

(4) deal with the subject matter of those provisions of the Revised Organic Act of the Virgin Islands of 1954, as amended, which relate to local self-government; and

(5) provide for a system of local courts consistent with the provisions of the Revised Organic Act of the Virgin Islands, as amended.

SEC. 3. The members of such constitutional convention shall be chosen as provided by the laws of the Virgin Islands (enacted after the date of enactment of this Act): *Provided, however,* That no person shall be eligible to be a member of the constitutional convention, unless he is a citizen of the United States and qualified to vote in the Virgin Islands.

SEC. 4. The convention shall submit to the Governor of the Virgin Islands a proposed constitution for the Virgin Islands which shall comply with the requirements set forth in section 2(b) above. Such constitution shall be submitted to the President of the United States by the Governor of the Virgin Islands.

SEC. 5. Within sixty calendar days after the date on which he has received the constitution, the President shall transmit such constitution together with his comments to the Congress which may modify or amend the proposed constitution. As approved by the Congress, the construction shall be submitted to the qualified voters of the Virgin Islands for acceptance or rejection through an islandwide referendum to be conducted as provided under the laws of the Virgin Islands (enacted after the date of enactment of this Act). Upon approval by not less than a majority of the voters participating in such referendum (counting only the affirmative or negative votes), the constitution shall become effective in accordance with its terms.

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

In lieu of the matter to be inserted by the Senate to the text of the bill insert the following:

That the Congress, recognizing the basic democratic principle of government by the consent of the governed, authorizes the peoples of the Virgin Islands and of Guam, respectively, to organize governments pursuant to constitutions of their own adoption as provided in this Act.

SEC. 2. (a) The Legislatures of the Virgin Islands and Guam, respectively, are authorized to call constitutional conventions to draft, within the existing territorial-Federal relationship, constitutions for the local self-government of the people of the Virgin Islands and Guam.

(b) Such constitutions shall—

(1) recognize, and be consistent with, the sovereignty of the United States over the Virgin Islands and Guam, respectively, and the supremacy of the provisions of the Constitution, treaties, and laws of the United States applicable to the Virgin Islands and Guam, respectively, including, but not limited to, those provisions of the Organic Act and Revised Organic Act of the Virgin Islands and the Organic Act of Guam which do not relate to local self-government.

Amend the title of the House bill to read "An Act to Provide for the Establishment of Constitutions for the Virgin Islands and Guam."

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

Mr. DON H. CLAUSEN. Mr. Speaker, reserving the right to object, and I do so only for the purpose of asking if the gentleman from California (Mr. BURTON) will explain to the Members of the House what the amendment will do.

Mr. PHILLIP BURTON. Mr. Speaker, if the gentleman will yield, as the gentleman from California knows, the House passed, without dissent, about a year ago, legislation authorizing local home rule constitutions for Guam and the Virgin Islands. The Senate has urged upon us, with success, the rearrangement of the time sequence. The bill, as provided for in this amendment, would have the proposed constitutional convention recommendations be first submitted to the House, the Senate and the President of the United States, before being submitted to the people, rather than as in the House bill, following.

Mr. DON H. CLAUSEN. The minority concurs that the compromise worked out by the gentleman with the Senate is acceptable.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent that all Members may have 2 legislative days in which to revise and extend their remarks on the bill just passed.

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

There was no objection.

CONFERENCE REPORT ON H.R. 12168, NATURAL GAS PIPELINE SAFETY ACT AMENDMENTS OF 1976

Mr. STAGGERS submitted the following conference report and statement on the bill (H.R. 12168) to amend the Natural Gas Pipeline Safety Act of 1968 to authorize additional appropriations, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 94-1660)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12168) to amend the Natural Gas Pipeline Safety Act of 1968 to authorize additional appropriations, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Natural Gas Pipeline Safety Act Amendments of 1976".

SEC. 2. Section 15 of the Natural Gas Pipeline Safety Act of 1968 is amended—

(1) in subsection (a) thereof, by striking out "and" after "June 30, 1975," and by inserting "$500,000 for the period beginning July 1, 1976, and ending September 30, 1976, $4,664,000 for the fiscal year ending September 30, 1977, and $5,000,000 for the fiscal year ending September 30, 1978," after "June 30, 1976,": and

(2) in subsection (b) thereof, by striking out "5(c)" and inserting in lieu thereof "5 (c) and (f)", and by striking out "and" after "June 30, 1975," and by inserting ", $2,500,000 for the fiscal year ending September 30, 1977, and $4,500,000 for the fiscal year ending September 30, 1978" after "June 30, 1976".

SEC. 3. Section 2 of the Natural Gas Pipeline Safety Act of 1968 is amended—

(1) by striking out "; and" at the end of paragraph (8) and inserting in lieu thereof ", except that it shall not include any pipeline facilities within a State which transport gas from an interstate gas pipeline to a direct sales customer within such State purchasing gas for its own consumption;"; and

(2) by redesignating paragraph (9) as paragraph (10), and inserting after paragraph (8) the following new paragraph:

"(9) 'Intrastate pipeline transportation' means pipeline facilities and transportation of gas within a State which are not subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act, except that it shall include pipeline facilities within a State which transport gas from an interstate gas pipeline to a direct sales customer within such State purchasing gas for its own consumption; and".

SEC. 4. Section 3(b) of the Natural Gas Pipeline Safety Act of 1968 is amended—

(1) by inserting "emergency plans and procedures," after "inspection," in the second sentence thereof; and

(2) by amending the last sentence thereof to read as follows: "Any State agency may adopt additional or more stringent standards for intrastate pipeline transportation if such standards are compatible with the Federal minimum standards. No State agency may adopt or continue in force any such standards applicable to interstate transmission facilities, after the Federal minimum standards become effective.".

SEC. 5. (a) Section 5(a) of the Natural Gas Pipeline Safety Act of 1968 is amended—

(1) in the first sentence thereof, by striking out "pipeline facilities and the transportation of gas (not subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act) within a State" and inserting in lieu thereof "intrastate pipeline transportation";

(2) in clause (1) thereof, by striking out "pipeline facilities and transportation of gas" and inserting in lieu thereof "transportation";

(3) by striking out "(2) has adopted each Federal safety standard applicable to such pipeline facilities and transportation of gas established under this Act as of the date of the certification;" and inserting in lieu thereof "(2) has adopted, as of the date of the certification, each Federal safety standard established under this Act which is applicable to such transportation or, with respect to each such Federal safety standard established within one hundred and twenty days before the date of the certification, is taking steps pursuant to State law to adopt such standard;"; and

(4) by striking out "and (4)" and inserting in lieu thereof "(4) is encouraging and promoting programs designed to prevent damage to pipeline facilities as a consequence of excavation activity; and (5)".

(b) Section 5(b) of such Act is amended by striking out "With respect to" and all that follows down through "actions to—" and by inserting in lieu thereof the following: "With respect to any intrastate pipeline transportation for which the Secretary does not receive an annual certification under subsection (a) of this section, the Secretary may, by agreement with a State agency (including a municipality) authorize such agency to assume responsibility for, and carry out on behalf of the Secretary as it relates to intrastate pipeline transportation the necessary actions to—".

(c) The first sentence of section 5(d) of such Act is amended to read as follows: "A certification which is in effect under subsection (a) of this section shall not apply with respect to any new or amended Federal safety standard established for intrastate pipeline transportation pursuant to this Act after the date of such certification.".

(d) Section 5 of such Act is amended by adding at the end thereof the following new subsection (f):

"(f)(1) During the fiscal year ending September 30, 1978, the Secretary shall, in accordance with regulations issued by the Secretary taking into account the needs of the respective States, pay to each State agency out of funds appropriated or otherwise made available one hundred percent of the cost (not to exceed $60,000 for each State agency) of not more than three full-time natural gas pipeline safety inspectors in addition to, and not in lieu of, the number of natural gas pipeline safety inspectors maintained by such State agency in calendar year 1977.

"(2) Not later than September 30, 1977, any State may apply to receive funds under paragraph (1) for the calendar year 1978.

"(3) Each State agency which receives funds under paragraph (1) shall continue to maintain during calendar years 1979 and 1980 not less than the number of full-time natural gas pipeline safety inspectors which were maintained by such State agency in calendar year 1978.

"(4) Any State in which the State agency fails to meet its obligations under paragraph (3) shall reimburse the Secretary for a sum equal to 50 percent of the funds received by such State under this subsection in proportion to which such State agency has failed to meet its obligations.".

SEC. 6. The first sentence of section 11 of the Natural Gas Pipeline Safety Act of 1968 is amended to read as follows: "Each person who engages in the transportation of gas or who owns or operates intrastate pipeline transportation facilities shall file with the Secretary or, if a certification or an agreement pursuant to section 5 of this Act is in effect, with the appropriate State agency, a plan for inspection and maintenance of each facility used in such transportation and owned or operated by such person, and any changes in such plan, in accordance with regulations prescribed by the Secretary or appropriate State agency.".

SEC. 7. Section 14(a)(1) of the Natural Gas Pipeline Safety Act of 1968 is amended by striking out "accidents" and inserting in lieu thereof "leak repairs, accidents,".

SEC. 8. The Natural Gas Pipeline Safety Act of 1968 is amended by adding at the end thereof the following:

"CONSUMER EDUCATION

"SEC. 16. Each person who engages in the transportation of gas shall, in accordance with the regulations prescribed by the Secretary, conduct a program to educate the public on the possible hazards associated with gas leaks and on the importance of reporting gas odors and leaks to appropriate authorities. The Secretary may develop materials suitable for use in such education programs.

"CITIZEN'S CIVIL ACTION

"SEC. 17. (a) Except as provided in subsection (b), any person may commence a civil action for mandatory or prohibitive injunctive relief, including interim equitable relief, against any other person (including any State, municipality, or other governmental entity to the extent permitted by the eleventh amendment to the Constitution, and the United States) who is alleged to be in violation of this Act or of any order or regulation issued under this Act. The district courts of the United States shall have jurisdiction over actions brought under this section, without regard to the amount in controversy or the citizenship of the parties.

"(b) No civil action may be commenced under subsection (a) with respect to any alleged violation of this Act or any order or regulation issued under this Act—

"(1) prior to the expiration of 60 days after the plaintiff has given notice of such alleged violation to the Secretary (or to the applicable State agency in the case of a State which has been certified under section 5(a) and in which the violation is alleged to have occurred), and to any person who is alleged to have committed such violation; or

"(2) if the Secretary (or such State agency) has commenced and is diligently pursuing administrative proceedings or the Attorney General of the United States (or the chief law enforcement officer of such State) has commenced and is diligently pursuing judicial proceedings with respect to such alleged violation.

Notice under this subsection shall be given in such manner as the Secretary shall prescribe by regulation.

"(c) In any action under subsection (a), the Secretary (with the concurrence of the

Attorney General) or the Attorney General may intervene as a matter of right.

"(d) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or at common law to seek enforcement of this Act or any order or regulation under this Act or to seek any other relief.

"(e) In any action under this section the court may, in the interest of justice, award the costs of suit, including reasonable attorney's fees and reasonable expert witnesses fees, to a prevailing plaintiff. Such court may, in the interest of justice, award such costs to a prevailing defendant whenever such action is unreasonable, frivolous, or meritless. For purposes of this subsection a reasonable attorney's fee is a fee (1) which is based upon (A) the actual time expended by an attorney in providing advice and other legal services in connection with representing a person in an action brought under this section, and (B) such reasonable expenses as may be incurred by the attorney in the provision of such services, and (2) which is computed at the rate prevailing for the provision of similar services with respect to actions brought in the court which is awarding such fee.

"(f) For purposes of this section, a violation of any safety standard or practice of any State shall be deemed to be a violation of this Act or of any order or regulation under this Act only to the extent that such standard or practice is not more stringent than the comparable Federal minimum safety standard."

And the Senate agree to the same.

HARLEY O. STAGGERS,
JOHN D. DINGELL,
TIMOTHY E. WIRTH,
PHIL SHARP,
WILLIAM M. BRODHEAD,
Managers on the Part of the House.

WARREN G. MAGNUSON,
VANCE HARTKE,
J. GLENN BEALL, Jr.,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12168) to amend the Natural Gas Pipeline Safety Act of 1968 to authorize additional appropriations, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers, and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

AUTHORIZATION OF APPROPRIATIONS

House bill

The House bill authorized to be appropriated $500,000 for the fiscal year transition period beginning July 1, 1976, and ending September 30, 1976, and $4,664,000 for the fiscal year ending September 30, 1977, for purposes of implementing the Natural Gas Pipeline Safety Act of 1968. In addition, the House bill authorized to be appropriated $2,500,000 for the fiscal year ending September 30, 1977 for purposes of implementing the State grant-in-aid program pursuant to section 5(c) of the Natural Gas Pipeline Safety Act of 1968.

Senate amendment

The Senate amendment authorized to be appropriated $2,850,000 for the fiscal year ending June 30, 1976, $650,000 for the fiscal year transition period beginning July 1, 1976, and ending September 30, 1976, $4,500,000 for the fiscal year ending September 30, 1977, and $5,000,000 for the fiscal year ending September 30, 1978, for purposes of implementing the Natural Gas Pipeline Safety Act of 1968. In addition, the Senate amendment authorized to be appropriated $2,500,000 for the fiscal year ending June 30, 1976 and the transitional period ending September 30, 1976, $4,500,000 for the fiscal year ending September 30, 1977, and $4,500,000 for fiscal year ending September 30, 1978, for purposes of implementing the State grant-in-aid program pursuant to section 5(c) of the Natural Gas Pipeline Safety Act of 1968.

Conference substitute (section 2)

The conference substitute authorizes to be appropriated $500,000 for the transition quarter, $4,664,000 for the fiscal year ending September 30, 1977, and $5,000,000 for the fiscal year ending September 30, 1978, for purposes of implementing the Natural Gas Pipeline Safety Act of 1968 (other than Federal grants-in-aid under the Act). In addition, it authorizes to be appropriated $2,500,000 for the fiscal year ending September 30, 1977, and $4,500,000 for the fiscal year ending September 30, 1978, for purposes of implementing the State grant-in-aid program pursuant to section 5 of the Natural Gas Pipeline Safety Act of 1968. The increase of $2 million for fiscal year 1978 is needed to implement the 1-year additional grant-in-aid program provided in section 5(d) of the conference substitute.

TECHNICAL PIPELINE SAFETY STANDARDS COMMITTEE

House bill

The House bill contained no provision with respect to the Technical Pipeline Safety Standards Committee.

Senate amendment

The Senate amendment amended section 4(a) of the Natural Gas Pipeline Safety Act of 1968 to require that the technical Pipeline Safety Standards Committee meet at least twice during each calendar year.

Conference substitute

The conference substitute adopts the position of the House and contains no provision with respect to the Technical Pipeline Safety Standards Committee. While deleting this provision, the conferees agree that the performance of the Technical Committee has been disappointing. The Secretary has not adequately sought the Committee's advice and the Committee itself has met infrequently and has shown little initiative in proposing standards.

The conferees believe that the Technical Committee should be meeting at least twice a year, but rather than write this requirement in the law, it was decided to give the Technical Committee maximum flexibility in scheduling meetings. However, both the House and the Senate Committees contemplate a closer evaluation of the meetings and performance of the Technical Committee in their future examination of this legislation.

DAMAGE TO SUBSURFACE UTILITY EQUIPMENT

House bill

The House bill contains no provision relating to damage to subsurface utility equipment.

Senate amendment

The Senate amendment amended section 5(a) of the Natural Gas Pipeline Safety Act of 1968 regarding the burden that a State agency must meet in order to be certified to enforce the Federal natural gas pipeline safety regulations. Under existing law, the State must submit to the Secretary an annual certification that such State agency (1) has regulatory jurisdiction over the safety standards and practices of pipeline facilities for the transportation of gas; (2) has adopted each Federal safety standard; (3) is enforcing such standards; and (4) has the authority to require record maintenance, reporting and inspections substantially the same as provided under the Act, the filing for approval of plans of inspection and maintenance required under the Act, and that the law of the States makes provision for the enforcement of the safety standards. The Senate amendment would require that a State agency encourage and promote programs designed to prevent damage to natural gas pipelines and other subsurface utility equipment as a consequence of any excavation activity.

Conference substitute (section 5(a)(4))

The conference substitute incorporates the Senate provision with technical modifications. More than half of the natural gas pipeline failures in recent years are attributable to outside forces, primarily excavation activity. It is the belief of the conferees that by incorporating this provision as a certification requirement, both the Federal Government and the States will focus greater attention on efforts to reduce the number of such pipeline failures.

AUTHORITY OF THE FEDERAL POWER COMMISSION

House bill

The House bill contained no provision with respect to the authority of the Federal Power Commission.

Senate amendment

The Senate amendment amended section 7 of the Natural Gas Pipeline Safety Act of 1968 to provide that the Federal Power Commission may not attach any condition to the issuance of a certificate of public convenience and necessity, or the exercise of rights granted under such a certificate, if such condition requires the applicant to comply with any safety standards for pipeline facilities or for the transportation of gas other than safety standards prescribed by the Secretary of Transportation.

Conference substitute

The Senate recedes to the House position and conference substitute does not include the Senate provision. The Natural Gas Pipeline Safety Act assigns to the Secretary of Transportation primary responsibility for establishing minimum Federal safety standards for the transportation of gas and pipeline facilities as defined in the Act. These standards may apply to the design, installation, inspection, testing, construction, extension, operation, replacement, and maintenance of those pipeline facilities. The conferees believe that it is incumbent upon the Federal Power Commission and other Federal departments and agencies with overlapping responsibilities in this area to direct the Secretary's attention to deficiencies in the natural gas pipeline safety regulatory program rather than to pursue piecemeal solutions on their own. Both industry and Government gain by uniform, consistent regulation.

The conferees note with approval FPC Chairman Dunham's letter of March 22, 1976 to Congressman Dingell (a copy of which is reprinted in House Report 94–1050) in which he supports the solution to this interagency controversy contained in the Senate provision. Based on Chairman Dunham's approval of this approach and DOT Secretary William Coleman's statement in his July 20, 1976 letter to Chairman Magnuson "that the current spirit of cooperation (between the DOT and the FPC) will alleviate past problems,"

the conferees are confident that the jurisdictional squabbles between the two agencies will cease.

NEW GRANTS-IN-AID

House bill

The House bill contained no provision with regard to a new program for grants-in-aid to the States.

Senate amendment

The Senate amendment provided that the Secretary shall pay out of the funds appropriated 100 percent (but not to exceed $60,000 for each State) of the cost of not more than three full time inspectors. The number of inspectors for which each State was eligible was to be determined by regulations issued by the Secretary taking into account the needs of the respective States. This 100-percent funding program was in addition to the 50 percent grants now provided for in section 5(c) of the Natural Gas Pipeline Safety Act of 1968. In order for a State to receive such funds, it must have maintained its expenditures at a level which does not fall below the average level of expenditures for the last 2 fiscal years preceding the fiscal year for which the State agency is seeking a 100-percent funding grant.

Conference substitute (section 5(d))

The conference substitute incorporates a substantially modified and scaled-down grant program. Under the substitute provision, the Secretary is authorized to pay the cost of not more than three full-time natural gas pipeline safety inspectors for each State (not to exceed $60,000 for each State) in fiscal year 1978. The Secretary is directed to promulgate regulations which define criteria for determining the eligibility of a State, and the number of inspectors an eligible State may receive under this provision. Those regulations should take into account such factors as the number of miles of pipeline in each State and the age of the pipeline. The conferees agreed that the Secretary should provide no more than $25,000 for any one inspector.

This limited program is designed to insure that the public is adequately protected from the dangers associated with the transportation of natural gas by pipeline. It is the belief of the conferee, however, that the public is not now adequately protected from such dangers. More than a dozen States, for example, have failed to provide sufficient resources to support even one full-time natural gas pipeline safety inspector. While 45 States have been certified under section 5(a) of the act to enforce the safety regulations, there are serious questions as to whether all of those States are in fact meeting their obligations required by the statute for certification. The conferees will not tolerate "paper" certifications and the Secretary is directed to closely scrutinize the natural gas pipeline safety program of each State to insure that the State is fulfilling its responsibilities.

This special grant-in-aid program is designed and intended to be temporary. It is the hope of the conferees that those States which to date have not provided sufficient inspection activity will take this opportunity to bring their inspection forces up to an appropriate level and maintain that level. The conference substitute provides that if a State receives a grant-in-aid for additional inspectors during calendar year 1978 under this section and then fails to continue to provide the funding for that inspector for at least 2 subsequent calendar years, then the State would be required to reimburse the Federal Government a sum equal to 50 percent of the funds it received under this section in proportion to which such State has failed to meet its obligations. Thus, if a State which currently supports 2 inspectors receives a grant of $20,000 for a third inspector, that State would be required, after calendar year 1978 to provide funding for at least 3 inspectors (2 inspectors previously supported, plus 1 inspector supported under this subsection) for the next 2 calendar years. If it fails to do so, it must reimburse the Federal Government $10,000 (50 percent of the total grant). If it provides such funding for only 1 year, it must reimburse the Federal Government $5,000 (one-half of 50 percent of the total grant). In providing the funding for the additional inspector in the years subsequent to calendar year 1978, the State would of course be eligible for the 50-percent funding under the existing grant-in-aid provisions of section 5(c) of the Act.

The conferees endorsed this approach because it is designed to assist the States to upgrade their enforcement program on a permanent basis. The alternative to this approach whereby the States share enforcement responsibilities with the Federal Government is to fund a network of Federal enforcement officials. This would of course be much more expensive and most likely less efficient, and it is the hope of the conferees that this temporary grant program will assist the States in creating and maintaining a meaningful enforcement capability.

CONSUMER EDUCATION

House bill

The House bill contained no provision with respect to consumer education.

Senate amendment

The Senate amendment required each person who engages in the transportation of gas, in accordance with regulations prescribed by the Secretary of Transportation, to conduct a program to educate the public on the possible hazards associated with gas leaks and on the importance of reporting gas odors and leaks to appropriate authorities. The Secretary was further authorized to develop materials suitable for use in such education programs.

Conference substitute (section 8)

The conference substitute adopts the provision contained in the Senate amendment. While this section is designed to upgrade the awareness of consumers about possible hazards associated with gas leaks, it is not intended to impact existing tort principles relating to the liability of a pipeline owner or operator for failure to educate the public about such possible hazards.

CITIZENS CIVIL ACTION

House bill

The House bill contained no provision with respect to citizens' civil actions.

Senate amendment

The Senate amendment added a new section to the Natural Gas Pipeline Safety Act of 1968 to provide that any person may commence a civil action for mandatory or prohibitive injunctive relief, including interim equitable relief, against any person who is alleged to be in violation of a provision of the Natural Gas Pipeline Safety Act of 1968 or of an order or regulation issued thereunder. However, no such civil action could be commenced prior to 60 days after the moving party had given notice of the alleged violation to the Secretary and to any alleged violator, or if the Secretary has commenced and is diligently pursuing administrative proceedings or the Attorney General has commenced or is diligently pursuing judicial proceedings with respect to the alleged violation. In any action under this section, the court may, in the interest of justice, award the costs of suit, including reasonable attorneys' fees and reasonable expert witnesses' fees to a prevailing plaintiff. Additionally, the court may, in the interest of justice, award such costs to a prevailing defendant whenever such action was unreasonable, frivolous, or meritless. A reasonable attorney's fee was defined as one which is based upon the actual time expended by an attorney in providing advice and other legal services in connection with representing a person in an action brought under this subsection and such reasonable expenses as may be incurred by the attorney in the provision of such services. Additionally, such fees were to be computed at the rate prevailing for the provision of similar services with respect to actions brought in the court which is awarding such fee.

Conference substitute (section 8)

The conference substitute adopts a citizen's civil action provision similar to the provision in the Senate bill. Under this provision, any person may commence a civil action for mandatory or prohibitive injunctive relief, against any person who is alleged to be in violation of the Natural Gas Pipeline Safety Act or an order or regulation issued under the Act. This provision would not supplant the Secretary's efforts (or if a State agency has been certified under section 5 (a), the State agency's efforts) for enforcement and compliance. Before a person may file such a civil action, he must inform the Secretary (or the State agency) of his intention to do so. If the Attorney General of the United States (or of the State if it has been certified under section 5(a)) has commenced and is diligently pursuing judicial proceedings or the Secretary (or the State agency) has commenced and is diligently pursuing administrative proceedings with respect to the alleged violation, then the person may not commence the civil action.

If a suit is brought in a State which has been certified under section 5(a) of the Act, then the petitioner may seek to enforce only the requirements of Federal minimum standard, notwithstanding a higher State standard. The 11th Amendment to the Constitution stands as a bar to bringing a suit against a State which has not consented to be sued in Federal court in such an action.

Like the Senate bill, the conference substitute authorizes the award of costs of suit, including reasonable attorney's fees and reasonable expert witnesses fees to a prevailing plaintiff-petitioner if the court determines that such an award is in the interest of justice. In awarding such costs, it is important to keep in mind that the purpose of this provision is to protect the public health and safety—generally the petitioner will not personally gain by his actions. The statute also allows the court, in the interest of justice, to award such costs to a prevailing defendant whenever such action is unreasonable, frivolous, or meritless. This is consistent with case law on the award of attorney's fees (see *United States Steel Corp.* v. *United States*, 385 F. Supp. 346 (W.D. Pa. 1974)).

The conferees intend that if such an action is brought and an injunction is sought which would impact the availability of gas to those served by the pipeline, those who would be impacted should be given prior notice and opportunity to participate in the court proceeding in the manner and to the extent determined by the court to be appropriate.

MISCELLANEOUS PROVISIONS

House bill

The House bill amended sections 3(a) and 3(b) of the Natural Gas Pipeline Safety Act of 1968 by deleting the word "minimum" wherever it appears. Those provisions now refer to the Federal safety standards as "minimum" standards and this amendment was contained in the House bill to emphasize that the regulations of the Secretary of Transportation were not to be modified or expanded upon by any other agency.

Senate amendment

First, the Senate amendment did not contain the provision striking the word "minimum" from sections 3(a) and 3(b) of the Natural Gas Pipeline Safety Act of 1968.

Second, the Senate amendment amended section 3(b) of the Act to provide that among the areas to which Federal pipeline safety regulations may be addressed are

regulations relating to emergency plans and procedures.

Additionally, the Senate amendment amended section 14(a)(1) of the Natural Gas Pipeline Safety Act of 1968 regarding the annual report of the Secretary to the President and Congress on the implementation of the Natural Gas Pipeline Safety Program. The amendment would require the report to contain a thorough compilation of leak repairs occurring in the year to which the report is addressed.

Conference substitute

The conference substitute does not incorporate the House amendments to sections 3(a) and 3(b) deleting the word "minimum." The conferees believe that the relationship between the Federal Power Commission and the Department of Transportation with respect to natural gas pipeline safety is clear. Additionally, the conferees want to emphasize that Federal safety standards are minimum standards and industry is free to exceed those standards where it deems appropriate.

Section 4(1) of the conference substitute incorporates the Senate amendment to section 3(b) relating to emergency plans and procedures. While DOT has issued regulations requiring such plans and procedures, the conferees have incorporated this provision to underscore the critical importance of improvements in this vital area. In 6 recent pipeline accidents, pipeline operator's personnel were at the leak site in sufficient time to prevent the ensuing accidents. The conferees strongly believe that emergency plans and procedures should be upgraded and the inclusion of this provision emphasizes the priority the conferees place on improvements in this area.

Section 7 of the conference substitute incorporates the Senate amendment to section 14(a)(1) regarding the inclusion of data on leak repairs in the Secretary's annual report. This latter amendment does not impact the Secretary's authority to collect data from pipeline owners and operators.

HARLEY O. STAGGERS,
JOHN D. DINGELL,
TIMOTHY E. WIRTH,
PHIL SHARP,
WILLIAM M. BRODHEAD,
Managers on the Part of the House.

WARREN G. MAGNUSON,
VANCE HARTKE,
J. GLENN BEALL, JR.,
Managers on the Part of the Senate.

CORPS OF ENGINEERS AND DEPARTMENTS OF INTERIOR AND TRANSPORTATION RESCISSIONS AND WILDLIFE CONSERVATION DEFERRAL—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 94-620)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith propose three rescissions of 1977 budget authority totalling $134.1 million. The rescission proposals affect programs of the Corps of Engineers and the Departments of the Interior and Transportation.

In addition, I am reporting an increase of $133,000 to a 1976 and transition quarter deferral involving the wildlife conservation, etc., military reservations programs.

The details of the proposed rescissions and the revised deferral are contained in the attached reports.

GERALD R. FORD.

THE WHITE HOUSE, *September 22, 1976.*

COPYRIGHT LAW REVISION

Mr. MURPHY of Illinois. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1550 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1550

Resolved, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 22) for the general revision of the copyright law, title 17 of the United States Code, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. No amendment to said amendment shall be in order except amendments offered by direction of the Committee on the Judiciary and germane amendments printed in the Congressional Record at least three calendar days prior to the start of the consideration of said bill for amendment, but said amendments shall not be subject to amendment except those offered by direction of the Committee on the Judiciary. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

Mr. MURPHY of Illinois. Mr. Speaker, I yield the usual 30 minutes for the minority to the distinguished gentleman from Mississippi (Mr. LOTT). Pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1550 provides for a modified open rule providing for 1 hour of general debate on S. 22, the copyright law revision. The rule provides that the committee substitute, now printed in the bill, be in order as an original bill for the purpose of amendment. House Resolution 1550 further provides that only amendments offered by the Judiciary Committee and germane amendments printed in the CONGRESSIONAL RECORD 3 calendar days prior to the consideration of the bill for amendment, will be in order. Amendments printed in the RECORD can only be amended by the Judiciary Committee.

House Resolution 1550 waives section 402(a) of the Congressional Budget Act to permit the consideration of this bill. S. 22 is in violation of the Budget Act since the bill was not reported from the House Judiciary Committee by May 15 but contains an authorization effective in fiscal year 1977. The Judiciary Committee will amend the bill on the floor eliminating the fiscal year 1977 authorization to conform to the provisions of the Budget Act.

S. 22 provides for the first comprehensive revision of the copyright law—title 17 of the United States Code—since 1909. This bill extends copyright liability to two previously exempted groups: The operators of jukeboxes and of cable television systems.

The bill also extends the length of copyright protection to the life of the creator plus 50 years. Existing works would receive an extension of 75 years.

S. 22 further provides that in 1981 the requirement that all copyrighted books and materials be printed in the United States be terminated.

Among other provisions of the bill, a three-member commission, appointed by the President, would determine copyright royalty rates, distribute royalty fees, and settle disputes.

Guidelines for copying materials by schools and libraries are also outlined. This bill allows the reproduction and distribution of one copy or phonorecord if the following conditions are met: No direct or indirect commercial gain is realized, the library is open to the public, and a notice of copyright is on the reproduction.

Copyright infringement and remedies are also provided in the bill.

The Copyright Act of 1909 has been outdated by new technological developments in the areas of motion pictures, recording, and photocopying. There is a need to revise this law to reflect these changes. I urge the adoption of House Resolution 1550 that we may discuss and debate S. 22.

Mr. Speaker, I yield to the gentleman from Mississippi (Mr. LOTT).

Mr. Speaker, I move the previous question.

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

Mr. Speaker, as the gentleman has explained, House Resolution 1550 is the rule making in order the consideration of S. 22, a bill providing for a general revision of the copyright laws. The rule waives section 402(a) of the Congressional Budget Act, which requires authorizations to be reported by May 15 preceding the beginning of the fiscal year in which they are to become effective. This waiver is necessary because this legislation was reported after May 15, 1976, and contains an authorization for fiscal year 1977. In this connection, it is my understanding that the Budget Committee will not oppose the waiver, since the Judiciary Committee has agreed to offer an amendment to the bill to delay the authorization until fiscal year 1978.

Pursuant to the terms of the rule, the bill may be debated for 1 hour and will be read for amendment under the 5-minute rule. The committee amendment in the nature of a substitute is made in order as an original bill for purposes of amendment. No amendment to the committee amendment in the nature of a substitute will be in order except amendments offered by the direction of the Judiciary Committee and germane amendments printed in the CONGRESSIONAL RECORD at least 3 calendar days prior to the start of consideration of the bill for amendment. These amendments, however, will not be subject to amendment except those offered by direction of the Judiciary Committee.

S. 22 provides for a general revision of the U.S. copyright law, title 17 of the United States Code. This measure passed the Senate on February 19 of this year by unanimous consent vote. After hearing 100 witnesses and holding 22 days of markup, the Judiciary Committee reported the bill to the House on September 3, 1976.

The estimated cost of the legislation for the first fiscal year is $1 million. Thereafter, no Federal expenditures are expected for the next 4 years.

Mr. Speaker, I believe this is a fair rule; and I urge its adoption so that we may proceed to consider this extremely important legislation.

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

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

Mr. BAUMAN. Mr. Speaker, I ask for this time to inquire from whomever might be able to answer, perhaps the chairman of the Judiciary Committee, what the program plans are for the rest of this evening. Are we going to finish this bill or not? It is 8 o'clock. I have heard it might take 3 hours. The Members might like to know what the plan is.

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

Mr. LOTT. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Speaker, soon after we go into the Committee of the Whole, I would think Members desiring to speak on this bill might limit their remarks to about 30 or 40 minutes at the most.

As far as the amendments are concerned, I know of at least five that will be offered en bloc and having talked to some of the Members I do not think the debate will be extensive. Therefore, I would predict that after we go into the Committee of the Whole, we should take about 1½ hours to 2 hours, but not more than that.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for that explanation.

Mr. MURPHY of Illinois. Mr. Speaker, I have no further requests for time and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. KASTENMEIER. 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 Senate bill (S. 22) for the general revision of the copyright law, title 17 of the United States Code, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Wisconsin (Mr. KASTENMEIER).

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 Senate bill, S. 22, with Mr. SMITH of Iowa in the chair.

The Clerk read the title of the Senate bill.

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

The CHAIRMAN. Under the rule, the gentleman from Wisconsin (Mr. KASTENMEIER) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. RAILSBACK) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from Wisconsin (Mr. KASTENMEIER.)

Mr. KASTENMEIER. Mr. Chairman, I yield such time as he may consume to the distinguished chairman of the Committee on the Judiciary, the gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. Mr. Chairman, today is a proud day for the Copyright Subcommittee and for its parent Judiciary Subcommittee as we present to the House—unanimously by the subcommittee and with one sole dissent in the full committee—the bill S. 22 for general revision of the copyright law, with a committee amendment in the nature of a substitute.

When one considers the extended background of this legislation and the difficulties that have been overcome in the process, the reason for our pride is not hard to see. Under the chairmanship and gifted guidance of our colleague BOB KASTENMEIER of Wisconsin and the unflagging cooperation of the ranking minority member of the subcommittee, TOM RAILSBACK of Illinois, our subcommittee undertook and has brilliantly brought to conclusion an enormous task.

The present copyright law is essentially as enacted in 1909. The technological and communications developments since that time have rendered that law obsolete and inadequate. It is the purpose and effect of the copyright bill which we bring you today to provide for a general revision of the copyright law.

The first American copyright law was enacted by the First Congress in 1790, in exercise of the constitutional power:

> To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.

Comprehensive revisions were enacted, at intervals of about 40 years.

Since 1909 significant changes in technology have affected the operation of the copyright law. Motion pictures and sound recordings had just made their appearance in 1909, and radio and television were still in the early stages of their development. During the past half century a wide range of new techniques for capturing and communicating printed matter, visual images, and recorded sounds have come into use, and the increasing use of information storage and retrieval devices, communications satellites, and laser technology promises even greater changes in the near future. The technical advances have generated new industries and new methods for the reproduction and dissemination of copyrighted works, and the business relations between authors and users have evolved new patterns.

Against this background of need for revision and after extended hearings and study, the committee in 1967 brought forth and the House enacted a comprehensive revision bill. The Senate, however, was unable to enact this measure. Not until 1974 did the Senate pass a copyright bill. Reintroduced in 1975, the measure became the basis for S. 22 and the House companion bill, H.R. 2223.

During 1975, the House Judiciary Subcommittee conducted extensive hearings at which nearly 100 witnesses were heard. Following some 22 days of public markup sessions in 1976 the House subcommittee favorably reported S. 22, by a unanimous vote, on August 3, 1976, with an amendment in the nature of a substitute. The Committee on the Judiciary now reports that bill, as amended, without change.

In reporting S. 22, the committee has deleted and held over for further consideration in the 95th Congress title 2 of the bill that would create a new system of protection for ornamental designs of useful articles.

The legislation before us now contains a number of complex and important provisions. These include: Increased term, fair use, exemptions related to the handicapped, royalty fees for cable television systems, mechanical royalties, and compulsory license for public broadcasting. The bill eliminates the so-called manufacturing clause which has performed a tariff function in the guise of copyright.

Mr. Chairman, it is with the most profound respect that I urge my colleagues to vote to enact this monumental revision.

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

Mr. Chairman, at the outset, I would like to compliment the Members of the subcommittee who worked so hard on this particular legislative endeavor; the gentleman from Illinois (Mr. RAILSBACK); the gentleman from California (Mr. WIGGINS); and on our side, the gentleman from California (Mr. DANIELSON); the gentleman from Massachusetts (Mr. DRINAN); the gentleman from New York (Mr. BADILLO); and the gentleman from New York (Mr. PATTISON); as well as the other gentlemen, the gentleman from California (Mr. EDWARDS); the gentleman from Michigan (Mr. HUTCHINSON); who 10 years ago served on the

subcommittee and worked on the project at that time.

Mr. Chairman, the Committee on the Judiciary has reported favorably the bill, S. 22, revising the copyright code of the United States.

The existing Copyright Code was enacted in 1909 and has remained basically unchanged since that time even though the intervening years have witnessed revolutionary technological developments which have totally changed the nineteenth century assumptions upon which that law was based.

Attempts to modernize the law began over 50 years ago, in 1924. Before World War II, revision bills twice passed one House of Congress only to be stymied in the other. The efforts which resulted in the committee bill before you today began in August 1955 when Congress authorized what was to become a 6-year study of needed revisions by a special committee of experts under the supervision of the Register of Copyrights.

On the basis of that study former chairman, Emanuel Celler, in 1965 introduced the general revision which is the forerunner of S. 22. It was my pleasure to chair 22 days of public hearings and 51 days of markup on that bill during the 89th Congress. The result of that effort was successful passage of a revision bill by the House in the 90th Congress in 1967. Because of a controversy over the cable TV provision, however, the bill died in the Senate.

By the 93d Congress the Senate was successful in achieving sufficient agreement to pass the bill. However, our committee received the measure far too late in that session to act, especially given the pressures of the impeachment inquiry.

Near the beginning of the current Congress the Senate quickly passed the bill a second time and our committee began work in earnest to produce a bill that would balance the competing interests of the various affected economic groups and at the same time serve the general public interest. The Subcommittee on Courts, Civil Liberties, and the Administration of Justice held a total of 17 days of hearings at which testimony was received from 99 different witnesses. These hearings were followed by 25 days of markup which resulted in the bill before you this morning.

Much of the bill is merely a restatement of existing law, both statutory law and the judicial doctrines which over the years have grown up around the 1909 code. However, the bill does contain a number of significant changes.

First, copyright protection is changed from the current maximum term of 56 years to the life of the author plus 50 years. This is in keeping with the standard recognized throughout the world, and will enable the United States to more easily reach reciprocal agreements on copyright matters with other nations. All copyrights presently in existence would be valid until 75 years from the date of publication.

Secondly, the bill extends copyright protection to two areas which are not presently covered—performance of copyrighted musical works by jukeboxes and retransmission of copyrighted works by cable television systems. However, the committee has greatly softened the impact of this extended copyright coverage by providing that jukebox operators and cable television systems will be entitled to compulsory licenses at very reasonable fees which are provided in the bill. The bill contains special provisions for small cable systems which require them to make only a nominal payment.

In addition, the bill raises the so-called mechanical royalty from the current 2 cents per pound to 2¾ cents or 6/10 cents per minute of playing time, whichever is greater. The mechanical royalty is the minimum payment which must be made to the copyright owner by record companies for the right to produce a recording of a work which has already been recorded.

In order that Congress itself will not be required to review periodically the rates of the various compulsory licenses established in the bill, a three member Copyright Royalty Commission is established to review royalty rates and settle disputes among parties claiming statutory royalties.

Another important reform contained in S. 22 is the phasing out of the archaic manufacturing requirement, a feature of the 1909 law which requires that virtually all copyrighted books be printed in the United States. The bill provides for the termination of this provision in 1981.

Finally, the legislation establishes for the first time a national television archive in the Library of Congress so that, through the copyright deposit system, a national archive of television programs may be maintained.

Mr. Chairman, although the bill provides for the creation of a copyright royalty commission and a national television archive it is not expected that any additional costs to the United States will be incurred because the revenue from fees authorized under the bill will more than offset costs. As you can see from the cost estimate on p. 184 of the report, revenue from fees during the next 5 years will actually exceed costs.

S. 22 is basically economic legislation which affects a variety of industries and interest groups. Of course, it is impossible to draft a copyright bill which will meet with the approval of every interested party. I believe that we have been successful in writing a bill which resolves the conflicts among the various parties as successfully as is humanly possible.

Three issues in the bill were most troublesome for the committee. These were: Photocopying by public libraries, the copyright liability of cable television systems, and the Senate attempt to create a new type of copyright protection for ornamental design.

I believe that we have successfully balanced the needs of libraries against the rights of copyright proprietors by providing that libraries may photocopy copyrighted material, including for purposes of interlibrary loans, as long as such photocopying is not systematic and a substitute for purchase or subscription.

On the cable TV issue, the Subcommittee had the benefit of an agreement reached by two of the three interested parties, the Copyright Proprietors and the National Cable Television Association. The third major group is the National Association of Broadcasters. We have endeavored to include in the bill provisions which, short of dictating communications policy, will protect the interest of broadcasters. An example is section 501 which permits local radio and television broadcasters to act as "private attorneys general" by granting them the right to sue cable systems which violate the terms of the compulsory license in the bill even though they have not been directly injured by a cable system's alteration of their own signals. I was disappointed to learn that very recently the Community Antenna Television Association—CATA—has raised several questions about the provisions of the bill dealing with importation of foreign signals from Mexico and Canada, powers of the Copyright Royalty Commission to change cable royalties on the basis of changes in FCC rules governing sports programing, the definition of local service area, and the requirement of the bill that all cable systems, even those retransmitting local signals, pay some copyright royalty.

The Members of the House should know that during the 22 markup sessions on the bill, many of which were attended by representatives of CATA, none of these points was raised. However, the Committee did make special efforts to accommodate the needs of the small cable systems which CATA represents by providing for substantially lower copyright royalty payments for cable systems with gross receipts of less than $160,000. The Senate version had only provided special treatment for systems with gross receipts of less than $80,000. To acquiesce to the further demands of CATA at this time would, in all likelihood, result in a substantial reduction of the total royalty fees available to copyright owners under the bill and, therefore, bring about their opposition to the bill.

The final major area of controversy is title II of the Senate bill which provides for a new form of protection for ornamental designs which cannot be identified separately from the useful articles of which they are part. This "no mans land" between copyright and patent law presents difficult public policy questions. The Department of Justice strongly opposed the creation of this new form of intellectual property on the grounds that no need for it had been demonstrated. Because sufficient information was not available to enable the subcommittee to resolve the issue at this time, we deleted title II from the bill with the understanding that the subject would be considered in depth during the next Congress.

For the most part, affected industries and groups are satisfied with the compromises reached in the bill. I believe that the fact that the bill was approved by the committee on a vote of 27 to 1 testifies vividly to this fact.

Mr. Chairman, before concluding my remarks I would like to discuss several questions which have been raised concerning the meaning of several provisions of S. 22 as reported by the House Judiciary Committee and of statements in the committee's report, No. 94–1476. One of these questions involves the mean-

ing of the concept of "publication" in the case of a work of art, such as a painting or statue, that exists in only one copy. It is not the committee's intention that such a work would be regarded as "published" when the single existing copy is sold or offered for sale in the traditional way—for example, through an art dealer, gallery, or auction house. On the other hand, where the work has been made for reproduction in multiple copies—as in the case of fine prints such as lithographs—or where multiple reproductions of the prototype work are offered for purchase by the public—as in the case of castings from a statue or reproductions made from a photograph of a painting—publication would take place at the point when reproduced copies are publicly distributed or when, even if only one copy exists at that point, reproductions are offered for purchase by multiple members of the public.

Another question involves the reference to "teacher" in the "Agreement on Guidelines for Classroom Copying in Not-for-Profit Educational Institutions" reproduced at pages 68–70 of the committee's report No. 94–1476 in connection with section 107. It has been pointed out that, in planning his or her teaching on a day-to-day basis in a variety of educational situations, an individual teacher will commonly consult with instructional specialists on the staff of the school, such as reading specialists, curriculum specialists, audiovisual directors, guidance counselors, and the like. As long as the copying meets all of the other criteria laid out in the guidelines, including the requirements for spontaneity and the prohibition against the copying being directed by higher authority, the committee regards the concept of "teacher" as broad enough to include instructional specialists working in consultation with actual instructors.

Also in consultation with section 107, the committee's attention has been directed to the unique educational needs and problems of the approximately 50,000 deaf and hearing-impaired students in the United States, and the inadequacy of both public and commercial television to serve their educational needs. It has been suggested that, as long as clear-cut constraints are imposed and enforced, the doctrine of fair use is broad enough to permit the making of an off-the-air fixation of a television program within a nonprofit educational institutional for the deaf and hearing impaired, the reproduction of a master and a work copy of a captioned version of the original fixation, and the performance of the program from the work copy within the confines of the institution. In identifying the constraints that would have to be imposed within an institution in order for these activities to be considered as fair use, it has been suggested that the purpose of the use would have to be noncommercial in every respect, and educational in the sense that it serves as part of a deaf or hearing-impaired student's learning environment within the institution, and that the institution would have to insure that the master and work copy would remain in the hands of a limited number of authorized personnel within the institution, would be responsible for assuring against its unauthorized reproduction or distribution, or its performance or retention for other than educational purposes within the institution. Work copies of captioned programs could be shared among institutions for the deaf abiding by the constraints specified. Assuming that these constraints are both imposed and enforced, and that no other factors intervene to render the use unfair, the committee believes that the activities described could reasonably be considered fair use under section 107.

Further, on pages 70 and 71 of the committee report Guidelines for Educational Uses of Music under section 107 are set forth. Those guidelines represent the understanding of the Music Publishers' Association of the United States, Inc., the National Music Publishers Association, Inc., the Music Teachers National Association, the Music Educators National Conference, the National Association of Schools of Music, and the Ad Hoc Committee on Copyright Law Revision as expressed in a joint letter to me dated April 30, 1976.

The report, as printed, does not reflect a subsequent change in the joint guidelines which was described in a subsequent letter to me from a representative of the above named organizations. Subsection A.2. of the guidelines should be changed to read as follows: "2. For academic purposes other than performance, single or multiple copies of excerpts of works may be made, provided that the excerpts do not comprise a part of the whole which would constitute a performable unit such as a selection, movement or aria, but in no case more than 10 percent of the whole work. The number of copies shall not exceed one copy per pupil."

In addition, Mr. Speaker, the paragraph beginning at the bottom of page 97 and concluding at the top of page 98 is intended to mean that, in one instance, specific additional payments are to be made for carrying specific additional programs. Where a cable system, at its own discretion, deletes certain programs and substitutes other, live, programs, an additional payment is to be made; this identifiable payment is intended to be distributed to the specific program source, that is, owners of live programs.

Finally Mr. Chairman, I would like to observe that the House bill differs from the Senate bill in its treatment of public broadcasting, especially regarding use of nondramatic literary works. We did not feel justified in going as far to guarantee arrangements for public broadcasters as they would have liked. Our preference was to encourage private negotiations, and, particularly in nondramatic literary works, we established a framework which we believe will be helpful in such private negotiations. We provided for an antitrust exemption so that publishers and authors could get together with public broadcasters in establishing standard terms, rates, and clearance mechanisms without running afoul of the antitrust laws. We also provided for a report to Congress in 2 years so that the outcome of such private arrangements could be made known to us. I am advised that indeed publishers and authors and public broadcasters are talking together this very week in an effort to set up suitable common rates and practices for public broadcasters. I am very encouraged by this report, and I hope they will come to a successful conclusion before our conference on this bill with the Senate.

Mr. Chairman, because of the complexity of this bill and the delicate balances which it creates among competing economic interests, the committee will resist extensive amendment of this bill. On behalf of the committee I would urge all of my colleagues to vote favorably on S. 22.

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

Mr. KASTENMEIER. I am happy to yield to my friend, the gentleman from Kansas.

Mr. SKUBITZ. Mr. Chairman, I thank my friend, the gentleman from Wisconsin, for yielding.

Mr. Chairman, I have received a great deal of mail from the schoolteachers in my district who are particularly concerned about section 107—fair use—the fair use of copyrighted material. Having been a former schoolteacher myself, I believe they make a good point and there is a sincere fear on their part that, because of the vagueness or ambiguity in the bill's treatment of the doctrine of fair use, they may subject themselves to liability for an unintentional infringement of copyright when all they were trying to do was the job for which they were trained.

The vast majority of teachers in this country would not knowingly infringe upon a person's copyright, but, as any teacher can appreciate, there are times when information is needed and is available, but may be literally impossible to locate the right person to approve the use of that material and the purchase of such would not be feasible and, in the meantime, the teacher may have lost that "teachable moment."

Did the subcommittee take these problems into consideration and did they do anything to try and help the teachers to better understand section 107?

Have the teachers been protected by this section 107?

Mr. KASTENMEIER. Mr. Chairman, in response to the gentleman's question and his observations preceding the question, I would say, indeed they have.

Over the years this has been one of the most difficult questions. It is a problem that I believe has been very successfully resolved.

Section 107 on "Fair Use" has, of course, restated four standards, and these standards are, namely: The purpose and character of the use of the material; the nature of the copyrighted work; the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and the effect of the use upon the potential market for or value of the copyrighted work.

These are the four "Fair Use" criteria. These alone were not adequate to guide teachers, and I am sure the gentleman

from Kansas (Mr. SKUBITZ) understands that as a schoolteacher himself.

Therefore, the educators, the proprietors, and the publishers of educational materials did, at the committee's long insistence, get together. While there were many fruitless meetings, they did finally get together.

Mr. Chairman, I will draw the gentleman's attention to pages 65 through 74 in the report which contain extensive guidelines for teachers. I am very happy to say that there was an agreement reached between teachers and publishers of educational material, and that today the National Education Association supports the bill, and it has, in fact, sent a telegram which at the appropriate time I will make a part of the RECORD and which requests support for the bill in its present form, believing that it has satisfied the needs of the teachers:

NATIONAL EDUCATION ASSOCIATION,
Washington, D.C., September 10, 1976.

National Education Association urgently requests your support of the Copyright Revision bill, H.R. 2223, as reported by the Judiciary Committee. This compromise effort represents a major breakthrough in establishing equitable legal guidelines for the use of copyright materials for instructional and research purposes. We ask your support of the committee bill without amendments.

JAMES W. GREEN,
Assistant Director for Legislation.

Mr. SKUBITZ. Mr. Chairman, if the gentleman will yield further, then the NEA is satisfied with the language in the bill as it now stands; is that correct?

Mr. KASTENMEIER. The gentleman is correct.

Mr. SKUBITZ. Mr. Chairman, I thank the gentleman.

Mr. RAILSBACK. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan (Mr. HUTCHINSON), the ranking minority member.

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

Mr. Chairman, I rise in strong support of S. 22, the general revision of the copyright law. Today marks a special day as the House considers and, I am confident, enacts the first general revision of the Nation's copyright laws in over 65 years. I would like to commend the members of the subcommittee who spent just countless hours working on this legislation. I can appreciate what they went through because I had the same experience when this bill went through the House in 1967.

Mr. Chairman, the first chapter of the bill defines the bundle of intangible property rights which inure in an original work of authorship which make up this statutory scope of copyright. That first chapter then proceeds to impose limitations upon those rights.

The second chapter of this bill deals with the ownership of those rights and how they may be transferred.

Now, Mr. Chairman, I propose to take up the consideration of chapter 3, concerned with the duration of those rights. Therefore, I shall be talking about sections 301 through 305 of the bill, sections to be found on pages 125 through 133 thereof.

Mr. Chairman, the constitutional grant of authority under which Congress considers this bill, is to be found in section 8 of article I of the original Constitution, wherein we are charged with the duty "to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries."

Mr. Chairman, for the purposes of chapter 3, the essential phrase in the constitutional grant contains three words—"for limited times."

Mr. Chairman, whatever copyright law the Congress enacts must limit the duration of the exclusive rights it secures. All works of authorship must eventually fall into the public domain. We are without power to vest those rights in an author in perpetuity.

Still, Mr. Chairman, notwithstanding our inability to create any perpetual exclusive rights in an author, there is another law of copyright—in the common law—and under that law an author's rights in the nature of copyright may be perpetual. These common law rights are unlimited as to time. But the common law must yield to statutory law, wherever statutory law is applicable. So, wherever our statute law reaches, whatever it covers, the common law of rights of unlimited duration in an author is displaced by the congressional law of termination.

Mr. Chairman, our statutory law of copyright draws the line where the common law of unlimited duration ceases, and the present and all prior statutes have drawn that line at the point of publication.

If a work is published, it then loses its common law protections and becomes a subject for copyright. Upon publication, if requisite statutory procedures are followed, the exclusive rights of the author are secured for the statutory time otherwise they fall immediately into the public domain.

Mr. Chairman, under our present statute, the author of a copyrighted work enjoys his exclusive right for a term of 28 years, and he is permitted to renew his copyright for one additional term of 28 years. So, if a valid copyright exists, it is valuable to the author for at least 28 years but never more than 56 years.

At the end of that time, the work falls into the public domain. In all cases, this time is measured from the date of publication under the present law. If the author of a work or his heirs choose not to publish it, they retain it as their exclusive right indefinitely under the common law.

The bill we are now considering will change that law. It will change it by measuring the time of copyright from the time of creation of a work rather than from the time of its publication. The time of creation is determined by the act of fixation of the work in a tangible form. Thus, when an author completes his manuscript the work is fixed in a tangible form, and the copyright term begins. The effect of this rather far-reaching change in the law is to bring under statutory copyright unpublished as well as published works.

The next important change in the law on the duration of copyright is a longer term. After January 1, 1978, when this bill will go into effect, a work within the copyright statute would be copyrightable for the lifetime of the author plus 50 years. There would be no renewable term available. Thus all the works of an author will fall into the public domain and become public property at the same time. The present complexity where the earlier works of an author become freely available before his later works—that present complexity will be done away with. Present-day records of vital statistics including records of death are now so complete and so available that it will be easy to determine when an author dies and 50 years after that date all of his works will fall at the same time into the free use of the public. Thus, the last works of an author will probably enjoy no longer term of protection that they would under the present law of 56 years. His earlier works may be protected for a longer period of time under the bill than under the present law, but if a man creates something of value, it is his property, and he ought to have the right to enjoy it for his lifetime. In no case would the heirs of an author have any rights beyond 50 years after his death.

The committee was persuaded to make this change in duration from the present maximum of 56 years after publication to the lifetime of the author plus 50 years, measuring the copyright from the creation of the work for the following reasons:

First, life expectancy has increased considerably since the present 56-year maximums were written into law in 1909.

Second, the tremendous growth in communication media has substantially lengthened the commercial life of a great many works. A short term is particularly discriminatory against serious works in music, literature, and art, whose value might not be recognized until after many years.

Next, although limitations on the term of copyright are publicly and constitutionally necessary, too short a term harms the author without giving any special benefit to the public. The public frequently pays the same for works in the public domain as it does for copyrighted works, and the only result is a commercial windfall to certain users at the author's expense.

In some cases the lack of copyright protection actually restricts the dissemination of the work since publishers and other users do not want to risk investing in the work unless they can be assured of some exclusive rights for a limited time.

The present system of measuring copyright from the date of publication is confused by the vagueness of the term "publication". The death of an author is a definite determinable event, and it would be the only date that a potential user would have to be concerned with under this new law.

All of an author's works, including

those successively revised by him, would fall into the public domain at the same time, thus avoiding the present problems of determining a multitude of publication dates, and of distinguishing old and new matter in later editions.

The problem of determining when a relatively obscure author died is resolved by establishing a registry of the dates of death of authors in the copyright office. A presumption is written into the law that after 75 years following the first publication of the work or 100 years after its creation, whichever expires first, any person who obtains a certificate from the copyright office that the register has no evidence that the author is living or that he died less than 50 years before, may presume that the author has been dead for at least 50 years so his work has fallen into the public domain.

The committee was also persuaded that the present system requiring renewal of copyright in order to extend its protection beyond the original term of 28 years is a substantial burden and expense. It is highly technical and in a number of cases the renewal requirement has been the cause for the loss of copyright. The life-plus-50-year term provided in the bill provides no renewal term.

The longer term is also justified, we believe, because we subject unpublished works to the copyright law, thus denying them the unlimited exclusive common law rights the author and his heirs have enjoyed in them, including works that have been widely disseminated by means other than publication. It is possible to make a wide dissemination of some kind of works without them ever having been technically or legally published. The life-plus-50-year-term rule in the present bill is fair recompense to authors for the loss of perpetual rights which they have heretofore had in unpublished works.

Lastly, the life-plus-50-year term which authors would have in works created after the effective date of this bill, would conform our law to the copyright law of many foreign countries. In these times of instant communication throughout the world, there is increasing need for some uniformity in the field of copyright. A very large number of countries have already adopted a copyright term of the life of the author and 50 years after his death.

American authors are today frequently protected longer in some foreign countries than in the United States, and some resentment has occasionally been provoked because of this disparity in the duration of the term. Copyrighted materials move across national borders faster than virtually any other economic commodity, and with the techniques now in common use this movement has become instantaneous and effortless in many cases. The need to conform the duration of U.S. copyright to that prevalent throughout the rest of the world is increasingly pressing in order to provide certainty and simplicity in international business dealing.

To this increased term of life plus 50 years, with no renewal term provided, the committee has devised a method by which an author or his heirs may enjoy a right of reverter after 35 years in any copyright sold. This would permit an author to renegotiate with publishers after 35 years in order to protect him against sales which he may have made or some arrangement he could have made with a publisher long before the value of the work was known.

This right of reverter will also afford an author an opportunity to find some other method to exploit his work if during the original 35 years his original publisher has not vigorously promoted the work.

A joint work under the law would enjoy copyright measured by the life plus 50 years of the last survivor of the authors.

If you have more than a single author, several authors joining together in a work, the duration of the copyright would be measured by the death of the last of the surviving authors. An anonymous or pseudonymous work would enjoy copyright for only 75 years from publication or 100 years from creation. A work for hire, where you employ someone to write a literary work for you would be copyrightable for 75 years from publication or 100 years from creation, whichever is earlier. The bill extends existing copyrights so that they may benefit from the longer term. Those in the original 28-year term may at the end of that time be extended for another 47 years, making a total of 75 years. Those in their renewal term will be extended an additional 19 years, to provide the same 75-year coverage.

There is another major provision in chapter 3 which I want to briefly touch upon and that is the doctrine of Federal preemption in the field of copyright. The bill proposes to take under jurisdiction of the Federal law the whole law of copyright. Since the bill would bring within its ken unpublished as well as published works of authorship which have been fixed in tangible form, the area for State regulation in this field will be greatly reduced anyway, and the bill proposes to supersede State law on the subject.

One of the purposes behind the copyright clause in the Constitution was to achieve a uniformity of the copyright law throughout the country and to avoid the difficulty of enforcing an author's rights under the differing laws of the several States.

The intention of section 301, which is the Federal preemption section is to preempt and abolish any rights under the common law or the statutes of a State that are equivalent to copyright and that extend to works coming within the scope of the Federal copyright law.

On the other hand, this bill does not reach works that have not been fixed in any tangible means of expression. Such works would include such things as extemporaneous speeches or original works of authorship communicated solely through conversations or live broadcasts, or a dramatic sketch or a musical composition which has been improvised or developed from memory and without having been recorded or written down. Since these are not subject to copyright, they would continue to be subject to State law and common law until fixed in some tangible form.

In summary, Mr. Chairman, the committee has worked long and hard to bring this piece of legislation before you and the membership of the House and I urge the Members to support the enactment of S. 22.

Mr. RAILSBACK. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I rise in support of Senate bill S. 22. This is the first general copyright revision legislation since 1909.

S. 22 is the first general copyright revision legislation since 1909. I believe it would be appropriate to first pay tribute to the Judiciary Subcommittee members who labored long and hard putting together this rather difficult and complex legislative package. I would especially like to commend our subcommittee chairman for his thoroughness, his fairness and his leadership throughout the consideration of this measure.

I want to pay tribute to the distinguished Register of Copyrights, the Honorable Barbara Ringer and her counsel, John Baumgarten and their staff. In all the rolls of our civil service, I believe, you will find no servants of the public who surpass in knowledge and the talent of these individuals. The Congress and the public are indebted to them for their intellectual labor.

The Congress has been struggling with this legislation for more than 10 years. The concept of general revision has been under study more than 50 years. The present copyright law was enacted in 1909, and, of course, makes no mention of radio, television, cable television, computer information storage, et cetera. It is a credit to what the Congress did in 1909, that such a copyright law has been able to function at all in this day of electronic mass communication.

The courts have pleaded, in case after case, for Congress to reform and update the copyright law. Well, here it is, and it is the closest we have ever come to having a general revision. And what you do here in the next couple of hours will determine whether there will be a new copyright law this year or ever, for that matter.

We have endeavored to balance the many competing interests. Teachers, librarians, and broadcasters, for good reason, are interested in making the most of the latest technologies with the least possible restrictions. Authors, composers, publishers, and the motion picture industries, on the other hand, are interested in protecting their work product. Their livelihood depends on such protection. This bill has more support now, than it has ever had. There is no way to satisfy all the parties who have an interest in this legislation. A good compromise is probably one that satisfies no one, but is acceptable to everyone, and it has been said that this bill is a compromise of compromises.

In my opinion, these interests and that of the public have been fairly well balanced. This balance, however, is a delicate one. A change in any one sentence may tilt that balance in such a way so as to unravel the entire bill. For example,

one of the most important sections of the bill is section 107, the Fair Use of Copyrighted Works.

Teachers were uncomfortable with this section because of its vagueness. The doctrine of fair use as it has been developed by the courts is purposely vague, since it would be difficult to prescribe precise rules to cover many varied situations. The Judiciary Committee Subcommittee made some slight changes which satisfied the teachers, without unsettling the authors and publishers. In addition, since the subcommittee's action, the two parties have agreed upon guidelines on how this section will work in practice. This agreement, in and of itself, is an amazing development to those of us close to the problem. These parties have rarely agreed upon anything. It is my purpose to support this measure in full and to resist those amendments which I feel, in a substantive way, alter the purpose and intent of this legislation.

This legislation is unlike any processed by the Judiciary Committee. It involves money, big money; it involves special interests, many special interests; and most importantly, it involves the public interest. And the interest best served by the expeditious consideration of S. 22 will be the public's interest.

Copyright involves the process by which one protects his personal, intellectual labor. Copyright has to do with the craft of the author, the craft of the composer and the craft of the artist. The purpose of copyright is to stimulate creativity and by so doing benefit the public. The granting of exclusive rights under the proper terms and conditions confers a public benefit that in my opinion outweighs the evils of this temporary kind of monopoly. Copyright is not a monopoly in the sense that a patent is a monopoly. Copyright secures only the property right in the manner and content of the expression. Facts and ideas recited or systems and processes described by the author are freely available to the public at large, and the author has no power under copyright to proscribe their use. For example, a photographer's copyright empowers him to prohibit the copying and use of his original photograph. However, it gives him no power to prevent another photographer from standing on the same spot and taking a picture of the same object with the same lighting, focus, and shutter speed, even if the second picture is identical to the first. Copyright is a constitutional right, even though the word is found nowhere in the U.S. Constitution.

Mr. Chairman, I shall not undertake, except in response to specific questions, to deal at any great length with the technical aspects of the legislation at this time. Rather, I would like to discuss generally an overview of the bill and in particular several of its more controversial provisions.

S. 22 is the complete revision of present copyright law which can be found in title 17, U.S.C., sections 1–201. The legislation is divided into eight chapters with general subject headings. Chapter 1 covers almost all the testimony received by the subcommittee, the vast majority of which covers sections 106 through 118. The subject matter of copyright, that is, the scope of the copyright law in terms of the works it covers, as distinguished from the rights it gives, is covered by chapter 1, sections 102 through 105. Section 106 is a very fundamental provision of the bill in that it lays out the exclusive rights of the copyright owner in general terms. Sections 107 through 118 are the limitations or qualifications on those exclusive rights, and it is these sections which are the ones most talked about.

Section 105 is the same as that of section 8 of the present law, that is, works produced for the U.S. Government by its officers and employees should not be subject to copyright. A more difficult question is whether the definition should be broadened to prohibit copyright in works prepared under U.S. Government contract or grant. As the bill is written, the Government agency concerned could determine in each case whether to allow an independent contractor or grantee to secure copyright in works prepared in whole or in part, with the use of Government funds. In this case, copyright can be used as an incentive to creation and dissemination, if necessary.

The subcommittee amended Section 105 at the request of the Department of Commerce to provide for a very limited exception to the rule precluding copyright protection in works of the U.S. Government. I offered that amendment which would have the effect of permitting the Secretary of Commerce to secure for a limited term, not to exceed 5 years, in any National Technical Information Service publication. Mr. Chairman, I believe this provision is justified for the following reasons:

First. The Secretary of Commerce must select publications for copyright and such protection is for no more than 5 years, it may be less. This is much less than the regular copyright terms of life of the author, plus 50 years;

Second. No broad Government copyright is claimed. Authority is granted for the highly specialized NTIS publications—scientific, technical, and engineering information. It would not give Government monopoly over the dissemination of Government information.

Third. NTIS by statute (15 U.S.C. Sec. 1151–7) must be self-sustaining. It exists without congressional appropriations of the taxpayers' money. It must survive by virtue of the income derived from public sales. Therefore, it is unreasonable and illogical to argue that NTIS would withhold any publication from sale.

Fourth. In the absence of explicit U.S. copyright protection, NTIS has tried to invoke the "national treatment" clause of the Universal Copyright Convention. Under this clause, each nation grants to authors of other nations copyright protection equivalent to that which the nation gives to its own authors in similar categories of works. Since government publications in nearly every other nation are copyrighted, theoretically, U.S. Government publications should receive copyright protection in other nations. NTIS has been unsuccessful in this endeavor because of the clear U.S. prohibition against copyright in government publications.

The significance of this is the loss of foreign sales income to NTIS, and thereby loss of opportunities to keep down prices to U.S. buyers. For example, several Japanese firms have estimated sales of copied-in-Japan NTIS publications at about $3,000,000 annually, compared to $150,000 received by NTIS. This is information pirated at our taxpayers' expense and it is wrong!

Fifth. Lastly, Mr. Chairman, in a letter from NTIS, dated March 26, 1976, they indicated that of the 64,000 publications by that agency in 1975, only 40 would have been even susceptible to an NTIS copyright.

Section 108 makes clear that the library photocopying exemption applies to the making of a single photocopy by librarians operating without any profit motive, open to the public or to outside researchers. Libraries are subject to the "fair use" doctrine of section 107. Subsection (F)(3) contains the so-called Vanderbilt University exception originally put in the legislation by Senator BAKER. For a number of years, Vanderbilt University has been providing a public service by attempting to record for history, major news events, especially the nightly newscast of the major networks. Vanderbilt felt that this was an important part of this country's oral history which, prior to their effort was being lost. S. 22 continues to recognize this special exemption which is intended to cover local, regional, or network newscasts, interviews concerning current news events, and on-the-spot coverage of news events.

Section 110 deals with performances and exhibitions that are now generally exempt under the "for profit" limitation and which are specifically exempted from copyright liability under this legislation. Section 110 is intended to set out the conditions under which performances or displays in the course of instructional activities are to be exempted from copyright. This clause covers all types of works. A teacher or student would be free to perform or display anything in class as long as the conditions are met.

One issue in these sections concerned 110(5) and the Twentieth Century Music Corp. against Aiken, decided by the U.S. Supreme Court in June 1975. The defendant in that case was the owner and operator of a fast-service food shop in downtown Pittsburgh who had "a radio with outlets to four speakers in the ceiling," which he turned on throughout the business day. Lacking any performing license, he was sued for copyright infringement by two ASCAP members. He lost in the district court, won a reversal in the Third Circuit Court of Appeals, and prevailed by a margain of 7 to 2 in the U.S. Supreme Court.

The Senate, without changing the language in the bill, added new language in the report that copyright licensing would be required under the revised copyright law in factual situations like that in the Aiken case. The subcommittee amended section 110(5)(B) to reflect the holding of the Aiken case and reverse what was intended by the Senate. That is, the fact situation in the Aiken case would not be an infringement of copy-

right. However, anything beyond what was done in the Aiken case may well be an infringement.

Section 111 primarily covers cable television. The subcommittee completely rewrote this section to reflect a compromise between Motion Picture Association of America and National Cable Television Association, the primary parties of interest. This section has been, by far, the most controversial section of the entire copyright bill and has been the primary reason for the delay in enacting the copyright revision bill. All parties are now satisfied with section 111, except the National Association of Broadcasters. They were not a party to the compromise because they are not a major party of interest, but the subcommittee amended the compromise to reflect some of their concerns among others. For the most part, the section is directed at the operation of cable television systems and the terms and conditions of their liability for the retransmission of copyrighted works. However, other forms of secondary transmission are also considered, including apartment house and hotel systems, wired instructional systems, common carriers, nonprofit "boosters" and translators and secondary transmissions of primary transmissions to controlled groups.

Another chapter of S. 22 which is very related to section 111 is chapter 8. This chapter creates a Copyright Royalty Commission for the purpose of periodically reviewing and adjusting statutory royalty rates for use of copyrighted materials pursuant to compulsory licenses provided in sections 111, 115, 116, and 118. Under section 801(b)(2)(B), the Commission may adjust the rates established in section 111(d)(2)(B) if the rules and regulations of the FCC—Federal Communications Commission—are amended at any time after April 15, 1976, to permit the carriage of additional distant signals. The subcommittee spent considerable time discussing factors which the Commission should consider in adjusting rates for new additional distant signals. In determining the reasonableness of such rates, the Commission should consider, among other factors: the economic impact that such adjustment may have on copyright owners and users, including broadcast stations and the effect of such additional distant signal equivalents, if any, on local broadcasters' ability to serve the public. On page 176 of the House Report No. 94-1476, we intended to delete the last sentence on that page, but due to a mix-up at the printing office, it was not deleted. The reason for its deletion is because it is confusing and would be misunderstood. I would like to make clear for the record, since the language in the report is reflecting my amendment, that the Federal Communications Commission and the Copyright Royalty Commission are two entirely separate commissions with entirely separate jurisdiction, proceedings, and functions.

In closing, Mr. Chairman, I believe that the committee has accomplished a remarkable task in reconciling many conflicting interests as fairly, as justly, and as constructively as possible. I urge the Members to support the enactment of S. 22.

Mr. KASTENMEIER. Mr. Chairman, I yield so much time as he may consume to the gentleman from California (Mr. DANIELSON).

Mr. DANIELSON. First of all, Mr. Chairman, I wish to associate myself fully with the comments of my subcommittee chairman, the gentleman from Wisconsin (Mr. KASTENMEIER) and my colleagues, the gentleman from Illinois (Mr. RAILSBACK) and the gentleman from Michigan (Mr. HUTCHINSON). I will not retraverse the ground that they have tread. I want to add two encomiums anyway to the list so far, and that is my appreciation and deep respect to Herb Fuchs and Bruce Lehman of our staff, who did an unbelievable amount of work in the last 2 years in putting this bill together.

There are two subjects on which I wish to touch very briefly. One is the subject of performer's rights. I was the author of a bill which was considered in conjunction with the principal bill which would have provided royalties for performers' rights. We have not included them in the final bill for very good reason; namely, we have not had time to conduct a full study of the proposal for performers' rights, and rather than jeopardize the legislation, we decided to leave that subject out of this bill and take it up at a future time. But I want the RECORD to show what we are talking about.

Performers' rights refer to the rights of performers—musicians, and so forth—to be compensated for the commercial use of their creative efforts. Recorded music accounts for roughly three-fourths of the advertising revenues of radio and TV. Yet they pay nothing to performers or recording companies for the use of the created musical material.

The performers' royalty concept is certainly consistent with cable TV royalties. Broadcasters should pay a fee for the profitmaking use of someone else's property. Performers' royalties are recognized in nearly every other Western nation. Out of about 25,000 musicians who make recordings in this country, we find that the average earning from the work was $840 per musician in the year 1975.

I would like also to point out that organized labor, the National Endowment for the Arts, the U.S. Copyright Office, and the thousands of talented American musicians support the concept.

Lastly, the platforms of the Democratic Party and the Republican Party which were adopted just this summer each contain a plank which would support performers' royalties, and I include those two planks at this point:

DEMOCRATIC PARTY PLATFORM, 1976

THE ARTS AND HUMANITIES

We recognize the essential role played by the arts and humanities in the development of America. Our nation cannot afford to be materially rich and spiritually poor. We endorse a strong role for the federal government in reinforcing the vitality and improving the economic strength of the nation's artists and arts institutions, while recognizing that artists must be absolutely free of any government control. We would support the growth and development of the National Endowment for the Arts and Humanities through adequate funding, the development of special anti-recession employment programs for artists, copyright reforms to protect the rights of authors, artists and performers, and revision of the tax laws that unfairly penalize artists. We further pledge our support for the concept and adequate financing of public broadcasting.

REPUBLICAN PARTY PLATFORM, 1976

ARTS AND HUMANITIES

The arts and humanities offer an opportunity for every American to become a participant in activities that add fullness, expression, challenge and joy to our daily lives. We Republicans consider the preservation of the rich cultural heritages of our various ethnic groups as a priority goal.

During our Bicentennial year we have celebrated our anniversary with cultural activities as varied and colorful as our cultural heritage. The Republican Party is proud of its record of support to the arts and humanities during the last eight years. We are committed to steadily increase our support through the National Endowments for the nation's museums, theatre, orchestras, dance, opera and film centers as well as for individual artists and writers.

This upward trend in funding for the National Arts and Humanities Endowments deserves to continue but Washington's presence should never dominate; it must remain limited to supporting and stimulating the artistic and cultural lives of each community.

We favor continued federal assistance to public broadcasting which provides us with creative educational and cultural alternatives. We recognize that public broadcasting is supported mainly through private sector contributions and commend this policy as the best insurance against political interference.

In 1976, we have seen vivid evidence that America's history lives throughout the nation. We support the continued commemoration throughout the bicentennial era by all Americans of those significant events between 1776 and 1789 which contributed to the creation of this nation. We support the efforts of both the public and private sectors, working in partnership, for the historic preservation of unique and irreplaceable historic sites and buildings.

We propose safeguarding the rights of performing artists in the copyright laws, providing tax relief to artists who contribute their own talents and art works for public enjoyment, and encouraging the use of one percent of the cost of government buildings for art works.

Much of the support of the arts and humanities comes from private philanthropy. This generosity should be encouraged by government policies that facilitate charitable donations.

The last point I would like to touch upon is the so-called jukebox. In this bill we are imposing a fee of $8 per jukebox per year as a flat royalty fee. There are provisions in the bill for sharing of that royalty derived from that fee for the owners of the copyrighted works which the jukeboxes use.

Two points I think should be stressed. Whereas jukeboxes may have been a very profitable industry at one time, they have passed their prime. With the advent of television and the decay in the inner cities, with the change of our national habits, we do not go downtown and spend the evening at the jukejoint, as it was called, any more. The number of jukeboxes has fallen off tremendously. Although they may have been able to pay

a tremendous royalty at one time, it is my opinion the $8 figure which now pertains is probably very appropriate.

We have a provision in the bill that in the future the Copyright Royalty Commission will have the power to review the copyright paid by jukebox operators, but I want the RECORD to reflect the fact that in section 801(b)(1) we put in the caution that such determinations—meaning those of the Copyright Royalty Commission—shall be based upon relevant factors occurring subsequent to the enactment of this act. I think that is a very important caveat and I wish it to appear in the RECORD.

Mr. KASTENMEIER. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. DRINAN).

Mr. DRINAN. Mr. Chairman, I want to pay tribute to the chairman of the subcommittee and the ranking minority member for their patience in the 41 sessions of the subcommittee in hearings and markup.

I also wish to express my appreciation to Ms. Barbara Ringer, the register of copyrights, for her exceptional skill and selfless devotion in providing expert assistance to the subcommittee on this measure. I do not think it is an overstatement to say that this bill might properly be called the "Ringer Copyright Act." Her extraordinary efforts, talents, and patience were principally responsible for the fine work which is represented by the committee substitute. I extend to Barbara my eternal gratitude.

At this time when one sees the conclusion of a really monumental piece of work, one is troubled by some things. Let me mention only one or two that continue to concern me. One is the right to play certain music under the so-called mechanical royalty rate. The economic data submitted to the committee seemed to justify an increase in that rate but it was not overwhelming. I am pleased that a Copyright Royalty Commission will have the right to reexamine that whole question in the near future.

The performing artists also have for too long been denied the full fruits of their labor. For example, in the manufacture and sale of the average phonograph record every contributor but the performer shares in the royalties. That is not fair and must be remedied. I hope that this subcommittee will in the near future get into those few things which we were not able to complete in this legislation.

Mr. Chairman, the authority to grant copyright is expressly given to the Congress by article I of the Constitution:

> To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.

Because copyright provides exclusive rights to reproduce specific material, it is, by definition, a form of monopoly.

The monopoly is given, because it serves to advance artistic, intellectual, and social development. Without those benefits to society as a whole, granting copyrights would be disadvantageous. In designing a fair copyright law, a proper balance must be struck between these conflicting values. Copyright as a monopolistic practice can only be justified to the extent it serves the public good. That is why the Constitution insists that it be secured only "for limited times."

As one examines this lengthy bill and even longer report, these divergent strains can be seen. The tension between competing values we all share emerges quite clearly. At every intersection the committee sought, with great diligence, to resolve the differences in a manner which would maximize artistic endeavors while protecting the public from unwarranted restrictions on access to the creative works.

Consequently the resulting revision of the copyright law is a series of compromises arrived at after much debate, examination, drafting and redrafting, reconsideration, and confirmation. In my judgment, the compromises in this bill do not represent the kind frequently associated with the legislative process: Cynical political deals worked out behind closed doors. At every step of the way, your committee developed this measure in public sessions, giving every opportunity to competing interests to present their views.

This bill emerged from that free exchange. Of necessity it strikes balances between social goals equally high in value. It is always difficult to legislate on matters in which the opponents have sound arguments. Seeking and finding accommodations of such rational views is a hard task.

In several sections of the bill, the competing interests were particularly difficult to accommodate. In sections 107 and 108, the rights of authors and publishers conflicted with the desire for free access to books and periodicals by teachers, students, and the reading public. In our judgment the Senate version did not strike the proper balance. Consequently the committee modified the Senate-passed bill to provide greater access to published materials by educators, librarians, and the citizenry. In this connection I am very grateful for the assistance of the Bureau of Library Extension of the Massachusetts Department of Education for providing expert comment and analysis on this sensitive and difficult issue.

In addition the subcommittee encouraged representatives of the competing interests to negotiate guidelines for the reproduction of copyrighted materials which would be satisfactory to all. While the bill moved forward, the parties met, discussed, and approved the "Guidelines for Classroom Copying in Not-for-Profit Educational Institutions." The Judiciary Committee said in its report that the "guidelines are a reasonable interpretation of the minimum standards of fair use."

I should note, however, that not all the affected parties concurred in the reasonableness of those guidelines. The Association of American Law Schools and the American Association of University Professors were particularly critical of those criteria—see the excerpts from their letters to Chairman KASTENMEIER, which are inserted into the RECORD at the conclusion of these remarks.

In view of the discontent in some areas over these guidelines, I wish to stress that, as the committee report notes, they are "minimum standards." The report also expresses the hope that "if there are areas where standards other than these guidelines may be appropriate, the parties will continue their efforts to provide additional specific guidelines in the same spirit of good will and give and take that has marked the discussion of this subject in recent months." I hope the AAUP and the AALS will continue their efforts to explore additional avenues for the implementation of this critical aspect of the new copyright law.

The subcommittee also struggled to reconcile the competing interests in section 111. In that provision, the concerns of cable television owners clashed with the rights of copyright owners of programs broadcast by television stations. Again the subcommittee encouraged the parties to seek resolution of their differences. Through those efforts and the assistance of other affected parties—including, I should add, some very helpful comments from my constituents—the subcommittee adopted a workable and sensible formula for determining and adjusting the royalty rates and distributing the income generated by them.

I should add that initially certain small cable operators, who generally operate in rural areas, were not satisfied with the resolution preliminarily approved by the subcommittee. After additional discussion and debate, modifications were made to accommodate the concerns of those parties. In my judgment the final product is a balanced approach reconciling very divergent interests. We should keep in mind that the Copyright Royalty Commission, created under this act, may make further adjustments in the rates, and that Congress ultimately sits in judgment of the success or failure of section 111.

A third major area involved section 118, where the public broadcasters asked us to continue their right for free access to nondramatic literary works, while authors urged us to require some payment for the public use of their creativity. Essentially the subcommittee adopted a provision which encourages, to the maximum feasible extent, voluntary arrangements between authors and broadcasters. In the event of irreconcilable differences, section 118 provides for intervention by the Copyright Royalty Commission.

In sum, I believe the subcommittee made extraordinary efforts in these crucial areas to achieve a negotiated settlement of differences by the affected parties. In each case, we arrived at a compromise which, in my view, represents an appropriate accommodation of the competing positions, while protecting the public interest in reasonable access to copyrighted works and in stimulating the creativity which produced them.

With all due deference to the work of our committee, for which I share responsibility, I cannot say with any certainty that we achieved that delicate accommodation in each instance. I continue to be troubled by the rate set in section 115 for the right to play re-

corded music, the so-called "mechanical" royalty rate.

The economic data submitted to the committee to justify an increase in that rate, frankly, was not overwhelming. It was challenged vigorously by the Consumer Federation of America as not based on sound investigation and full disclosure. Although the committee did not raise the rate as high as the recording industry would have desired, we nonetheless did increase it with an uncertain impact on record prices.

That the rate had remained constant for over 60 years in the face of rising prices at the retail level undoubtedly persuaded a majority to vote a half-cent increase. Because the bill creates a Copyright Royalty Commission which has authority to reexamine that rate at certain intervals, I am confident that any adverse impact, if any, to the consumer can be corrected.

I am also not satisfied that we explored sufficiently the question of record duplicating—the so-called "pirating" of copyrighted sound recordings. When Congress extended the antipiracy act 2 years ago, I expressed my concerns at some length in dissenting views. I still do not think we have examined the economic structure of the industry adequately to determine whether ultimately consumers are benefited or harmed by forbidding such duplication.

I am disappointed too, that the bill does not contain a provision granting a performance royalty. Performing artists have for too long been denied the full fruits of their labors. For example, in the manufacture and sale of the average phonograph record, every contributor but the performer shares in the royalties. That is not fair and must be remedied. I am hopeful that we can turn our attention to that inequity at the earliest possible time.

Finally, I should add that, through the efforts of the Boston Visual Artists Union and other persons interested in the fine arts, the measure approved by the committee reflects a greater appreciation for their work than the original bill. Among other things, modifications were made in the optional deposit requirements, and clarifications stated regarding "publication" for works of art. While the copyright law is not the proper vehicle to express and resolve the other concerns of fine artists, I am hopeful that the 95th Congress will examine those matters in some detail.

In view of the monumental task confronting your committee and in light of the exceptional product which resulted, I urge my colleagues to approve the committee amendment in the nature of a substitute to S. 22.

The material follows:

EXCERPTS FROM LETTER OF MAY 25, 1976, TO CHAIRMAN KASTENMEIER FROM THE AMERICAN ASSOCIATION OF UNIVERSITY PROFESSORS

As scholars and teachers who both produce and use copyrighted materials, we appreciate and approve the recognition of the needs of the scholar and university teacher reflected in Sections 107 and 504 of S. 22 as recently amended by your Subcommittee. In Section 504, the mandatory remission of statutory damages for teachers acting in good faith constitutes a recognition of the function of the scholar and teacher. More significantly, by its references to "teaching (including multiple copies for classroom use), scholarship, or research," and in the distinction recognized between commercial and nonprofit uses, Section 107 as presently drafted is an articulate statement of the general principle of fair use on which courts and others may build a comprehensive framework for the educational uses of copyrighted material.

However, these salutary and progressive provisions in the Bill would be undermined by the proposed Guidelines if, as is apparently contemplated by the parties who submitted them to you, they were to become a significant part of the legislative history of Section 107 as a result of incorporation in your Committee Report. We recognize, of course, the right of any given groups mutually to agree upon the terms and conditions by which they, and those they actually represent, will be guided in conforming to a statute such as this. To suggest, however, that such agreements should be binding upon *other* persons or groups or should, through incorporation in a committee report, be given weight in the interpretation of the statute generally, is quite a different matter. Consequently, these Guidelines—agreed to recently by author and publisher representatives and some members of the education community but with no representation from our Association—have caused us deep dismay. They would seriously interfere with the basic mission and effective operation of higher education and with the purpose of the Constitutional grant of copyright protection, which is designed to promote, not hinder, the discovery and dissemination of knowledge. These proposed Guidelines, notwithstanding the insistence that they represent only minimum standards, and despite other disclaimers, ultimately resort to the language of prohibition (see Section III). In so doing, they contradict the basic concept of fair use and threaten the responsible discharge of the functions of teaching and research.

EXCERPTS FROM LETTER TO CHAIRMAN KASTENMEIER FROM THE ASSOCIATION OF AMERICAN LAW SCHOOLS, MAY 26, 1976

Our substantive objections to the guidelines are spelled out in the letters of Professors Raskind and Gorman to you. They are in essence that the guidelines restrict the doctrine of fair use so substantially as to make it almost useless for classroom teaching purposes. Requiring a law school teacher to meet all three tests of brevity, spontaneity and cumulative effect stifles the use of copyrighted material for classroom purposes. The draft guidelines are based on the principle, with which most people would agree, that copying should not substitute generally for purchase of a copyrighted work. The effect of the draft guidelines before you, however, is to stifle dissemination of material rather than encourage purchasing or licensing of it. The realities of classroom teaching and the economics of our students are such that they cannot purchase or pay royalties on works other than the standard text and case books that are used as the major resources in classroom teaching. Thus the teacher's choice is not between purchasing and copying; it is between copying and not using. The vague and restrictive nature of the draft guidelines leaves the teacher with no assurance of safety in the fair-use doctrine and will result in sharply curtailing the use of copyrighted works in the classroom. We would prefer that the courts be allowed to delineate, within the well-phrased current draft of the statute, where to draw the line on abuses of the fair-use doctrine.

Mr. RAILSBACK. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Chairman, I thank the gentleman from Illinois (Mr. RAILSBACK) for yielding.

I certainly want to join in the tributes that have been paid to the members of the committee and the chairman, the gentleman from Wisconsin (Mr. KASTENMEIER) and the ranking minority member, the gentleman from Illinois (Mr. RAILSBACK) for producing this legislation which, as the gentleman from Massachusetts just said, is a truly monumental revision of the present law.

I rise to express the hope however that with respect to one provision, which is section 601 of the bill, that consideration will be given by the members of this distinguished committee who will serve on the conference committee to accepting the Senate version of this legislation insofar as it pertains to the so-called manufacturing clause.

Mr. Chairman, as members of the committee know, a manufacturing clause is one that allows the Government, in effect, to say to the publishers that we will grant them a monopoly to sell and to distribute this work; but as a condition of granting the monopoly we want them to have the product produced in this country by U.S. manufacturers and U.S. workers. This has been a provision of the copyright law since 1890. Rather than phase out the manufacturing clause, as the House bill would do, it seems to me it would be far better to instead include a provision that would provide for a review within 5 years by the Registrar of Copyrights to the effectiveness and the need for that provision. In that way, it seems to me an adequate study could be made and on that we could base a proper legislative judgment.

I think that sometimes the argument is made that this is a free trade provision, that we should eliminate the manufacturing clause under the guise of permitting free trade. I happen to be one that has generally promoted the concept of free trade, but I think those that used that argument in the context of defending this provision contained in the House bill really misunderstand the concept of free trade, because granting unlimited monopoly within the United States to foreign manufactured books obtained under the Universal Copyright Convention does not really bolster free trade, because at the same time the requirement for obtaining a monopoly within the United States has been accomplished and a restraint on trade has resulted; so this is not really the classic confrontation between free trade and the domestic interests, but I am convinced on the basis of the information that has been furnished me by many printing and publishing firms in the State of Illinois, which is a very great industry in our State, that the copyrights law is the proper place for the copyright regulations; that industry does need the manufacturing clause. In fact, I am pained to say they are in very poor condition in terms of profit margin and return on investment. Production costs are high. This is a very labor-intensive industry and labor and production costs are higher than in any other industry, that is because of the labor factor.

Mr. Chairman, I want to mention just one more point briefly in concluding

these remarks, that passage of the clause in its present form as it is now contained in the law is important with respect to our efforts to effect reductions in the Canadian trade barriers. I have been informed, for example, by Illinois publishers that there is in effect a 25 percent and, indeed, in some instances a 40-percent tariff charged on catalogs published here in the United States, a 40-percent tariff imposed by the Canadian Government. In addition to that, they have imposed mammoth trade barriers that impede the free flowing of U.S. printing and publishing materials between Canada and the United States. I do not have the time to recite some of the unfair nontariff barriers and some of the adjustments in Canadian tax law, refusing to allow Canadian advertisers to deduct the business expense and cost of advertising that they put in non-Canadian periodicals and so on. The only weapon we have to use with the Canadians is this manufacturing clause and until we can get them to negotiate, this hopefully will be discussed in the second Toronto Conference that we are trying to organize, until we can get the Canadians to see the equity of our position, to get them to lower their trade barriers to the importation of American books and periodicals published in the United States, we should not give away our hole card, which is the manufacturing clause.

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

Mr. RAILSBACK. Mr. Chairman, I yield 1 additional minute to the gentleman from Illinois.

Mr. Chairman, will the gentleman yield to me?

Mr. ANDERSON of Illinois. I yield to the distinguished gentleman.

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

I want to state that I personally am aware of the so-called Toronto Agreement which took place back in 1968 and under which the printing union representatives on both sides of the border agreed to attempt to provide equality and equity.

That particular pact bound us to Canadian exemptions, but it also committed the Canadian representatives to work for eliminating strict printing and publishing trade barriers. In the event that they would not so move in compliance with their side of the agreement, I would certainly think that this country and this Congress would want to take a second look at any barriers we may decide to erect.

Mr. ANDERSON of Illinois. If I could reclaim my time, I would ask the gentleman from Illinois one question: If, in the interim, however, we have passed this law in its present form and it has been signed into law by the President, have we not given away the bargaining tool that we might otherwise use to persuade the Canadians that they ought to bring down these barriers and unfair restrictions to which the gentleman has referred?

I have a letter from a representative of the Donnelly Co. which indicates that they are well on the road to putting together a second Toronto conference that would deal with all these Canadian trade barriers, and that is the hope we have, that we can encourage freer trade between the United States and Canada, but if we phase out the present manufacturing cost, we have lost the bargaining position.

Mr. RAILSBACK. I think maybe, in any conference, that we ought to take up this subject and address it. I think that leads to a letter I received from a representative of the company the gentleman just mentioned. That is one of the suggestions.

Mr. ANDERSON of Illinois. I hope that when the gentleman goes to conference along with the others on the committee, that he and they will bear in mind what has been said this evening and see the wisdom of accepting the Senate version on this matter.

Mr. RAILSBACK. Mr. Chairman, I yield 2 minutes to my distinguished colleague from Illinois (Mr. McCLORY).

Mr. McCLORY. Mr. Chairman, I rise in support of S. 22, the general revision of the copyright law. I doubt if anyone can be as informative in discussing this legislation as the members of the subcommittee who have worked so long, so hard, and so ably to produce it. I would like to commend the subcommittee for a job well done. The product of their work is monumental.

The framers of our U.S. Constitution directed the Congress "to promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries." When the framers met in Philadelphia to consider which powers might best be entrusted to the Federal Government, there appears to have been virtual unanimity in determining that copyright should be included within the national sphere. Although the constitutional committee proceedings which considered the copyright clause, were conducted in secret, it is known that the final form of the clause was adopted without debate. Originally enacted in 1790, by the First Congress, the copyright law has been completely revised only three times since at intervals of four decades. The last revision in 1909 is essentially still the law today. In this Bicentennial Year, it is a great tribute to this country, after over 50 years of work and research, to finally update our copyright law to reflect our more modern society.

Authors and composers are competing with record manufacturers, motion picture companies, and the television industry in an effort to protect the rights to their literary and musical works. At the same time, libraries and educators want to preserve provisions comparable to the existing law which permit "fair use" of published works for research and educational purposes.

Under the new law, copyrights will be granted for the life of the author or composer plus 50 years. During this period, the copyright owner and his assignee will enjoy exclusively the right to the copyrighted works.

The interests of libraries and schools will benefit from the sections on "fair use," embodied in the new bill. This will permit reproduction of copyrighted works providing there is no commercial use or sale of the copyrighted materials. This may permit duplication of portions of copyrighted literary and musical materials without infringing on the rights of authors and composers to secure the benefits of their creativity and without injuring publishers who have invested in the right to produce and market their literary and musical works.

The legislation aims to put at rest a controversy between composers and the recording industry relating to payments for records or tapes of copyrighted musical works. Under existing law, licenses are granted to the recording industry at the rate of 2 cents for a recording of 2 minutes or less, with an additional one-half cent fee for each additional minute which is included on a record or tape. These fees were increased to 2¾ cents or six-tenths of 1 cent per minute of playing time or fraction thereof, whichever is larger.

There is substantial urgency for the enactment of a new copyright law with only a limited period remaining for the 94th Congress to act. Efforts by various interest groups to secure last minute changes or to gain special advantages will undoubtedly be blocked in the interest of producing the first comprehensive revision of the copyright laws in more than 50 years and the greatest advance in copyright legislation in our Nation's 200-year history.

I urge the Members to support the enactment of this legislation.

Mr. KASTENMEIER. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee (Mr. ALLEN).

Mr. ALLEN. Mr. Chairman, as the representative of Music City, U.S.A., I would be remiss in my duty if I failed to rise in strong support of this legislation. Earlier in the year, if the Members will recall, I was honored to host a party at which all the Members were invited to meet artists, composers, and musicians from all areas of the United States.

Not many people realize that Nashville has come to be known as Music City, U.S.A., because it is today the largest recording center in all the Nation. We have more recording studios, and more records are made and more compositions come from that city than anywhere else.

I am delighted that this bill to amend an antiquated law that has remained on the books unchanged for nigh on to 70 years is, at long last, being brought up to date to give justice and relief to those who so badly need it among the authors, composers, and musicians across the Nation. I thank the chairman for giving me this opportunity.

Mr. FRENZEL. Mr. Chairman, I support the copyright revision bill, S. 22, although I believe that it is poor management on the part of our leadership to bring this complicated bill up for debate and vote at 10 p.m. The importance and complexity of the bill deserve better treatment.

I am particularly pleased with the "fair use" doctrine of this bill, but I wish it had been broadened to allow for more copies for libraries and archives. I hope the courts will continue to construe "fair use" as broadly as possible. I would support, if offered, the proposed amendment to increase the "fair use" copies from 1 to 10.

This bill should have been handled under an open rule with at least a full day available for debate and questions. Under these circumstances, I will vote "aye," urge its passage, and fervently hope that the sections we have not discussed adequately tonight are in good shape.

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

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

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

No amendment to the committee amendment is in order except amendments offered by the direction of the Committee of the Judiciary and germane amendments printed in the CONGRESSIONAL RECORD at least 3 calendar days prior to the start of consideration of said bill for amendment, but said amendments shall not be subject to amendment except those offered by direction of the Committee on the Judiciary.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

S. 22

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

TITLE I—GENERAL REVISION OF COPYRIGHT LAW

SEC. 101. Title 17 of the United States Code, entitled "Copyrights", is hereby amended in its entirety to read as follows:

TITLE 17—COPYRIGHTS

Chapter	Sec.
1. SUBJECT MATTER AND SCOPE OF COPYRIGHT	101
2. COPYRIGHT OWNERSHIP AND TRANSFER	201
3. DURATION OF COPYRIGHT	301
4. COPYRIGHT NOTICE, DEPOSIT, AND REGISTRATION	401
5. COPYRIGHT INFRINGEMENT AND REMEDIES	501
6. MANUFACTURING REQUIREMENT AND IMPORTATION	601
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Chapter 1.—SUBJECT MATTER AND SCOPE OF COPYRIGHT

Sec.
101. Definitions.
102. Subject matter of copyright: In general.
103. Subject matter of copyright: Compilations and derivative works.
104. Subject matter of copyright: National origin.
105. Subject matter of copyright: United States Government works.
106. Exclusive rights in copyrighted works.
107. Limitations on exclusive rights: Fair use.
108. Limitations on exclusive rights: Reproduction by libraries and archives.
109. Limitations on exclusive rights: Effect of transfer of particular copy or phonorecord.
110. Limitations on exclusive rights: Exemption of certain performances and displays.
111. Limitations on exclusive rights: Secondary transmissions.
112. Limitations on exclusive rights: Ephemeral recordings.
113. Scope of exclusive rights in pictorial, graphic, and sculptural works.
114. Scope of exclusive rights in sound recordings.
115. Scope of exclusive rights in nondramatic musical works: Compulsory license for making and distributing phonorecords.
116. Scope of exclusive rights in nondramatic musical works: Public performances by means of coin-operated phonorecord players.
117. Scope of exclusive rights: Use in conjunction with computers and similar information systems.
118. Scope of exclusive rights: Use of certain works in connection with noncommercial broadcasting.

§ 101. Definitions

As used in this title, the following terms and their variant forms mean the following:

An "anonymous work" is a work on the copies or phonorecords of which no natural person is identified as author.

"Audiovisual works" are works that consist of a series of related images which are intrinsically intended to be shown by the use of machines or devices such as projectors, viewers, or electronic equipment, together with accompanying sounds, if any, regardless of the nature of the material objects, such as films or tapes, in which the works are embodied.

The "best edition" of a work is the edition, published in the United States at any time before the date of deposit, that the Library of Congress determines to be most suitable for its purposes.

A person's "children" are that person's immediate offspring, whether legitimate or not, and any children legally adopted by that person.

A "collective work" is a work, such as a periodical issue, anthology, or encyclopedia, in which a number of contributions, constituting separate and independent works in themselves, are assembled into a collective whole.

A "compilation" is a work formed by the collection and assembling of pre-existing materials or of data that are selected, coordinated, or arranged in such a way that the resulting work as a whole constitutes an original work of authorship. The term "compilation" includes collective works.

"Copies" are material objects, other than phonorecords, in which a work is fixed by any method now known or later developed, and from which the work can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. The term "copies" includes the material object, other than a phonorecord, in which the work is first fixed.

"Copyright owner", with respect to any one of the exclusive rights comprised in a copyright, refers to the owner of that particular right.

A work is "created" when it is fixed in a copy or phonorecord for the first time; where a work is prepared over a period of time, the portion of it that has been fixed at any particular time constitutes the work as of that time, and where the work has been prepared in different versions, each version constitutes a separate work.

A "derivative work" is a work based upon one or more preexisting works, such as a translation, musical arrangement, dramatization, fictionalization, motion picture version, sound recording, art reproduction, abridgment, condensation, or any other form in which a work may be recast, transformed, or adapted. A work consisting of editorial revisions, annotations, elaborations, or other modifications which, as a whole, represent an original work of authorship, is a "derivative work".

A "device", "machine", or "process" is one now known or later developed.

To "display" a work means to show a copy of it, either directly or by means of a film, slide, television image, or any other device or process or, in the case of a motion picture or other audiovisual work, to show individual images nonsequentially.

A work is "fixed" in a tangible medium of expression when its embodiment in a copy or phonorecord, by or under the authority of the author, is sufficiently permanent or stable to permit it to be perceived, reproduced, or otherwise communicated for a period of more than transitory duration. A work consisting of sounds, images, or both, that are being transmitted, is "fixed" for purposes of this title if a fixation of the work is being made simultaneously with its transmission.

The terms "including" and "such as" are illustrative and not limitative.

A "joint work" is a work prepared by two or more authors with the intention that their contributions be merged into inseparable or interdependent parts of a unitary whole.

"Literary works" are works, other than audiovisual works, expressed in words, numbers, or other verbal or numerical symbols or indicia, regardless of the nature of the material objects, such as books, periodicals, manuscripts, phonorecords, film, tapes, disks, or cards, in which they are embodied.

"Motion pictures" are audiovisual works consisting of a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any.

To "perform" a work means to recite, render, play, dance, or act it, either directly or by means of any device or process or, in the case of a motion picture or other audiovisual work, to show its images in any sequence or to make the sounds accompanying it audible.

"Phonorecords" are material objects in which sounds, other than those accompanying a motion picture or other audiovisual work, are fixed by any method now known or later developed, and from which the sounds can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. The term "phono-records" includes the material object in which the sounds are first fixed.

"Pictorial, graphic, and sculptural works" include two-dimensional and three-dimensional works of fine, graphic, and applied art, photographs, prints and art reproduction, maps, globes, charts, technical drawings, diagrams, and models. Such works shall include works of artistic craftsmanship insofar as their form but not their mechanical or utilitarian aspects are concerned; the design of a useful article, as defined in this section, shall be considered a pictorial, graphic, or sculptural work only if, and only to the extent that, such design incorporates pictorial, graphic, or sculptural features that can be identified separately from, and are capable of existing independently of, the utilitarian aspects of the article.

A "pseudonymous work" is a work on the copies or phonorecords of which the author is identified under a fictititous name.

"Publication" is the distribution of copies or phonorecords of a work to the public by sale or other transfer of ownership, or by rental, lease, or lending. The offering to distribute copies or phonorecords to a group of persons for purposes of further distribution, public performance, or public display, constitutes publication. A public performance or display of a work does not of itself constitute publication.

To perform or display a work "publicly" means—

(1) to perform or display it at a place open to the public or at any place where a substantial number of persons outside of a

normal circle of a family and its social acquaintances is gathered; or

(2) to transmit or otherwise communicate a performance or display of the work to a place specified by clause (1) or to the public, by means of any device or process, whether the members of the public capable of receiving the performance or display receive it in the same place or in separate places and at the same time or at different times.

"Sound recordings" are works that result from the fixation of a series of musical, spoken, or other sounds, but not including the sounds accompanying a motion picture or other audiovisual work, regardless of the nature of the material objects, such as disks, tapes, or other phonorecords, in which they are embodied.

"State" includes the District of Columbia and the Commonwealth of Puerto Rico, and any territories to which this title is made applicable by an Act of Congress.

A "transfer of copyright ownership" is an assignment, mortgage, exclusive license, or any other conveyance, alienation, or hypothecation of a copyright or of any of the exclusive rights comprised in a copyright, whether or not it is limited in time or place of effect, but not including a nonexclusive license.

A "transmission program" is a body of material that, as an aggregate, has been produced for the sole purpose of transmission to the public in sequence and as a unit.

To "transmit" a performance or display is to communicate it by any device or process whereby images or sounds are received beyond the place from which they are sent.

The "United States", when used in a geographical sense, comprises the several States, the District of Columbia and the Commonwealth of Puerto Rico, and the organized territories under the jurisdiction of the United States Government.

A "useful article" is an article having an intrinsic utilitarian function that is not merely to portray the appearance of the article or to convey information. An article that is normally a part of a useful article is considered a "useful article".

The author's "widow" or "widower" is the author's surviving spouse under the law of the author's domicile at the time of his or her death, whether or not the spouse has later remarried.

A "work of the United States Government" is a work prepared by an officer or employee of the United States Government as part of that person's official duties.

A "work made for hire" is—

(1) a work prepared by an employee within the scope of his or her employment; or

(2) a work specially ordered or commissioned for use as a contribution to a collective work, as a part of a motion picture or other audiovisual work, as a translation, as a supplementary work, as a compilation, as an instructional text, as a test, as answer material for a test, or as an atlas, if the parties expressly agree in a written instrument signed by them that the work shall be considered a work made for hire. For the purpose of the foregoing sentence, a "supplementary work" is a work prepared for publication as a secondary adjunct to a work by another author for the purpose of introducing, concluding, illustrating, explaining, revising, commenting upon, or assisting in the use of the other work, such as forewords, afterwords, pictorial illustrations, maps, charts, tables, editorial notes, musical arrangements, answer material for tests, bibliographies, appendixes, and indexes, and an "instructional text" is a literary, pictorial, or graphic work prepared for publication with the purpose of use in systematic instructional activities.

§ 102. Subject matter of copyright: In general

(a) Copyright protection subsists, in accordance with this title, in original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. Works of authorship include the following categories:

(1) literary works;

(2) musical works, including any accompanying words;

(3) dramatic works, including any accompanying music;

(4) pantomimes and choreographical works;

(5) pictorial, graphic, and sculptural works;

(6) motion pictures and other audiovisual works; and

(7) sound recordings.

(b) In no case does copyright protection for an original work of authorship extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work.

§ 103. Subject matter of copyright: Compilations and derivative works

(a) The subject matter of copyright as specified by section 102 includes compilations and derivative works, but protection for a work employing pre-existing material in which copyright subsists does not extend to any part of the work in which such material has been used unlawfully.

(b) The copyright in a compilation or derivative work extends only to the material contributed by the author of such work, as distinguished from the pre-existing material employed in the work, and does not imply any exclusive right in the pre-existing material. The copyright in such work is independent of, and does not affect or enlarge the scope, duration, ownership, or subsistence of, any copyright protection in the pre-existing material.

§ 104. Subject matter of copyright: National origin

(a) UNPUBLISHED WORKS.—The works specified by sections 102 and 103, while unpublished, are subject to protection under this title without regard to the nationality or domicile of the author.

(b) PUBLISHED WORKS.—The works specified by sections 102 and 103, when published, are subject to protection under this title if—

(1) on the date of first publication, one or more of the authors is a national or domiciliary of the United States, or is a national, domiciliary, or sovereign authority of a foreign nation that is a party to a copyright treaty to which the United States is also a party, or is a stateless person, wherever that person may be domiciled; or

(2) the work is first published in the United States or in a foreign nation that, on the date of first publication, is a party to the Universal Copyright Convention; or

(3) the work is first published by the United Nations or any of its specialized agencies, or by the Organization of American States; or

(4) the work comes within the scope of a Presidential proclamation. Whenever the President finds that a particular foreign nation extends, to works by authors who are nationals or domiciliaries of the United States or to works that are first published in the United States, copyright protection on substantially the same basis as that on which the foreign nation extends protection to works of its own nationals and domiciliaries and works first published in that nation, the President may by proclamation extend protection under this title to works of which one or more of the authors is, on the date of first publication, a national domiciliary, or sovereign authority of that nation, or which was first published in that nation. The President may revise, suspend, or revoke any such proclamation or impose any conditions or limitations on protection under a proclamation.

§ 105. Subject matter of copyright: United States Government works

Copyright protection under this title is not available for any work of the United States Government, but the United States Government is not precluded from receiving and holding copyrights transferred to it by assignment, bequest, or otherwise: Provided, however, That the Secretary of Commerce may secure copyright for a limited term not to exceed five years, on behalf of the United States as author or copyright owner in any National Technical Information Service publication, which is disseminated pursuant to the provisions of chapter 23 of title 15.

§ 106. Exclusive rights in copyrighted works

Subject to sections 107 through 118, the owner of copyright under this title has the exclusive rights to do and to authorize any of the following:

(1) to reproduce the copyrighted work in copies or phonorecords;

(2) to prepare derivative works based upon the copyrighted work;

(3) to distribute copies or phonorecords of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending;

(4) in the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works, to perform the copyrighted work publicly; and

(5) in the case of literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work, to display the copyrighted work publicly.

§ 107. Limitations on exclusive rights: Fair use

Notwithstanding the provisions of section 106, the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include—

(1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;

(2) the nature of the copyrighted work;

(3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and

(4) the effect of the use upon the potential market for or value of the copyrighted work.

§ 108. Limitations on exclusive rights: Reproduction by libraries and archives

(a) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a library or archives, or any of its employees acting within the scope of their employment, to reproduce no more than one copy or phonorecord of a work, or to distribute such copy or phonorecord, under the conditions specified by this section, if—

(1) the reproduction or distribution is made without any purpose of direct or indirect commercial advantage;

(2) the collections of the library or archives are (i) open to the public, or (ii) available not only to researchers affiliated with the library or archives or with the institution of which it is a part, but also to other persons doing research in a specialized field; and

(3) the reproduction or distribution of the work includes a notice of copyright.

(b) The rights of reproduction and distribution under this section apply to a copy

or phonorecord of an unpublished work duplicated in facsimile form solely for purposes of preservation and security or for deposit for research use in another library or archives of the type described by clause (2) of subsection (a), if the copy or phonorecord reproduced is currently in the collections of the library or archives.

(c) The right of reproduction under this section applies to a copy or phonorecord of a published work duplicated in facsimile form solely for the purpose of replacement of a copy or phonorecord that is damaged, deteriorating, lost, or stolen, if the library or archives has, after a reasonable effort, determined that an unused replacement cannot be obtained at a fair price.

(d) The rights of reproduction and distribution under this section apply to a copy, made from the collection of a library or archives where the user makes his or her request or from that of another library or archives, of no more than one article or other contribution to a copyrighted collection or periodical issue, or to a copy or phonorecord of a small part of any other copyrighted work, if—

(1) the copy or phonorecord becomes the property of the user, and the library or archives has had no notice that the copy or phonorecord would be used for any purpose other than private study, scholarship, or research; and

(2) the library or archives displays prominently, at the place where orders are accepted, and includes on its order form, a warning of copyright in accordance with requirements that the Register of Copyrights shall prescribe by regulation.

(e) The rights of reproduction and distribution under this section apply to the entire work, or to a substantial part of it, made from the collection of a library or archives where the user makes his or her request or from that of another library or archives, if the library or archives has first determined, on the basis of a reasonable investigation, that a copy or phonorecord of the copyrighted work cannot be obtained at a fair price, if—

(1) the copy or phonorecord becomes the property of the user, and the library or archives has had no notice that the copy or phonorecord would be used for any purpose other than private study, scholarship, or research; and

(2) the library or archives displays prominently, at the place where orders are accepted, and includes on its order form, a warning of copyright in accordance with requirements that the Register of Copyrights shall prescribe by regulation.

(f) Nothing in this section—

(1) shall be construed to impose liability for copyright infringement upon a library or archives or its employees for the unsupervised use of reproducing equipment located on its premises: Provided, That such equipment displays a notice that the making of a copy may be subject to the copyright law;

(2) excuses a person who uses such reproducing equipment or who requests a copy or phonorecord under subsection (d) from liability for copyright infringement for any such act, or for any later use of such copy or phonorecord, if it exceeds fair use as provided by section 107;

(3) shall be construed to limit the reproduction and distribution by lending of a limited number of copies and excerpts by a library or archives of an audiovisual news program, subject to clauses (1), (2), and (3) of subsection (a); or

(4) in any way affects the right of fair use as provided by section 107, or any contractual obligations assumed at any time by the library or archives when it obtained a copy or phonorecord of a work in its collections.

(g) The rights of reproduction and distribution under this section extend to the isolated and unrelated reproduction or distribution of a single copy or phonorecord of the same material on separate occasions, but do not extend to cases where the library or archives, or its employee—

(1) is aware or has substantial reason to believe that it is engaging in the related or concerted reproduction or distribution of multiple copies or phonorecords of the same material, whether made on one occasion or over a period of time, and whether intended for aggregate use by one or more individuals or for separate use by the individual members of a group; or

(2) engages in the systematic reproduction or distribution of single or multiple copies or phonorecords of material described in subsection (d): Provided, That nothing in this clause prevents a library or archives from participating in interlibrary arrangements that do not have, as their purpose or effect, that the library or archives receiving such copies or phonorecords for distribution does so in such aggregate quantities as to substitute for a subscription to or purchase of such work.

(h) The rights of reproduction and distribution under this section do not apply to a musical work, a pictorial, graphic or sculptural work, or a motion picture or other audiovisual work other than an audiovisual work dealing with news, except that no such limitation shall apply with respect to rights granted by subsections (b) and (c), or with respect to pictorial or graphic works published as illustrations, diagrams, or similar adjuncts to works of which copies are reproduced or distributed in accordance with subsections (d) and (e).

(i) Five years from the effective date of this Act, and at five-year intervals thereafter, the Register of Copyrights, after consulting with representatives of authors, book and periodical publishers, and other owners of copyrighted materials, and with representatives of library users and librarians, shall submit to the Congress a report setting forth the extent to which this section has achieved the intended statutory balancing of the rights of creators, and the needs of users. The report should also describe any problems that may have arisen, and present legislative or other recommendations, if warranted.

§ 109. Limitations on exclusive rights: Effect of transfer of particular copy or phonorecord

(a) Notwithstanding the provisions of section 106(3), the owner of a particular copy or phonorecord lawfully made under this title, or any person authorized by such owner, is entitled, without the authority of the copyright owner, to sell or otherwise dispose of the possession of that copy or phonorecord.

(b) Notwithstanding the provisions of section 106(5), the owner of a particular copy lawfully made under this title, or any person authorized by such owner, is entitled, without the authority of the copyright owner, to display that copy publicly, either directly or by the projection of no more than one image at a time, to viewers present at the place where the copy is located.

(c) The privileges prescribed by subsections (a) and (b) do not, unless authorized by the copyright owner, extend to any person who has acquired possession of the copy or phonorecord from the copyright owner, by rental, lease, loan, or otherwise, without acquiring ownership of it.

§ 110. Limitations on exclusive rights: Exemption of certain performances and displays

Notwithstanding the provisions of section 106, the following are not infringements of copyright:

(1) performance or display of a work by instructors or pupils in the course of face-to-face teaching activities of a nonprofit educational institution, in a classroom or similar place devoted to instruction, unless, in the case of a motion picture or other audiovisual work, the performance, or the display of individual images, is given by means of a copy that was not lawfully made under this title, and that the person responsible for the performance knew or had reason to believe was not lawfully made;

(2) performance of a nondramatic literary or musical work or display of a work, by or in the course of a transmission, if—

(A) the performance or display is a regular part of the systematic instructional activities of a governmental body or a nonprofit educational institution; and

(B) the performance or display is directly related and of material assistance to the teaching content of the transmission; and

(C) the transmission is made primarily for—

(i) reception in classrooms or similar places normally devoted to instruction, or

(ii) reception by persons to whom the transmission is directed because their disabilities or other special circumstances prevent their attendance in classrooms or similar places normally devoted to instruction, or

(iii) reception by officers or employees of governmental bodies as a part of their official duties or employment;

(3) performance of a nondramatic literary or musical work or of a dramatic-musical work of a religious nature, or display of a work, in the course of services at a place of worship or other religious assembly;

(4) performance of a nondramatic literary or musical work otherwise than in a transmission to the public, without any purpose of direct or indirect commercial advantage and without payment of any fee or other compensation for the performance to any of its performers, promoters, or organizers, if—

(A) there is no direct or indirect admission charge; or

(B) the proceeds, after deducting the reasonable costs of producing the performance, are used exclusively for educational, religious, or charitable purposes and not for private financial gain, except where the copyright owner has served notice of objection to the performance under the following conditions:

(i) the notice shall be in writing and signed by the copyright owner or such owner's duly authorized agent; and

(ii) the notice shall be served on the person responsible for the performance at least seven days before the date of the performance and shall state the reasons for the objection; and

(iii) the notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation;

(5) communication of a transmission embodying a performance of a work by the public reception of the transmission on a single receiving apparatus of a kind commonly used in private homes, unless—

(A) a direct charge is made to see or hear the transmission; or

(B) the performance or display is further transmitted beyond the place where the receiving apparatus is located;

(6) performance of a nondramatic musical work by a governmental body or a nonprofit agricultural or horticultural organization, in the course of an annual agricultural or horticultural fair or exhibition conducted by such body or organization; the exemption provided by this clause shall extend to any liability for copyright infringement that would otherwise be imposed on such body or organization, under doctrines of vicarious liability or related infringement, for a performance by a concessionnaire, business establishment, or other person at such fair or exhibition, but shall not excuse any such person from liability for the performance;

(7) performance of a nondramatic musical

work by a vending establishment open to the public at large without any direct or indirect admission charge, where the sole purpose of the performance is to promote the retail sale of copies or phonorecords of the work, and the performance is not transmitted beyond the place where the establishment is located and is within the immediate area where the sale is occurring;

(8) performance of a nondramatic literary work, by or in the course of a transmission specifically designed for and primarily directed to blind or other handicapped persons who are unable to read normal printed material as a result of their handicap, or deaf or other handicapped persons who are unable to hear the aural signals accompanying a transmission of visual signals, if the performance is made without any purpose of direct or indirect commercial advantage and its transmission is made through the facilities of (i) a governmental body; or (ii) a noncommercial educational broadcast station (as defined in section 397 of title 47); or (iii) a radio subcarrier authorization (as defined in 47 CFR 73.293–73.295 and 73.593–73.595); or (iv) a cable system (as defined in section 111(f)).

§ 111. Limitations on exclusive rights: Secondary transmissions

(a) CERTAIN SECONDARY TRANSMISSIONS EXEMPTED.—The secondary transmission of a primary transmission embodying a performance or display of a work is not an infringement of copyright if—

(1) the secondary transmission is not made by a cable system, and consists entirely of the relaying, by the management of a hotel, apartment house, or similar establishment, of signals transmitted by a broadcast station licensed by the Federal Communications Commission, within the local service area of such station, to the private lodgings of guests or residents of such establishment, and no direct charge is made to see or hear the secondary transmission; or

(2) the secondary transmission is made solely for the purpose and under the conditions specified by clause (2) of section 110; or

(3) the secondary transmission is made by any carrier who has no direct or indirect control over the content or selection of the primary transmission or over the particular recipients of the secondary transmission, and whose activities with respect to the secondary transmission consist solely of providing wires, cables, or other communications channels for the use of others: *Provided*, That the provisions of this clause extend only to the activities of said carrier with respect to secondary transmissions and do not exempt from liability the activities of others with respect to their own primary or secondary transmissions; or

(4) the secondary transmission is not made by a cable system but is made by a governmental body, or other nonprofit organization, without any purpose of direct or indirect commercial advantage, and without charge to the recipients of the secondary transmission other than assessments necessary to defray the actual and reasonable costs of maintaining and operating the secondary transmission service.

(b) SECONDARY TRANSMISSION OF PRIMARY TRANSMISSION TO CONTROLLED GROUP.—Notwithstanding the provisions of subsections (a) and (c), the secondary transmission to the public of a primary transmission embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506, if the primary transmission is not made for reception by the public at large but is controlled and limited to reception by particular members of the public: *Provided, however*, That such secondary transmission is not actionable as an act of infringement if—

(1) the primary transmission is made by a broadcast station licensed by the Federal Communications Commission;

(2) the carriage of the signals comprising the secondary transmission is required under the rules, regulations, or authorizations of the Federal Communications Commission; and

(3) the signal of the primary transmitter is not altered or changed in any way by the secondary transmitter.

(c) SECONDARY TRANSMISSIONS BY CABLE SYSTEMS.—

(1) Subject to the provisions of clauses (2), (3), and (4) of this subsection, secondary transmissions to the public by a cable system of a primary transmission made by a broadcast station licensed by the Federal Communications Commission or by an appropriate governmental authority of Canada or Mexico and embodying a performance or display of a work shall be subject to compulsory licensing upon compliance with the requirements of subsection (d) where the carriage of the signals comprising the secondary transmission is permissible under the rules, regulations, or authorizations of the Federal Communications Commission.

(2) Notwithstanding the provisions of clause (1) of this subsection, the willful or repeated secondary transmission to the public by a cable system of a primary transmission made by a broadcast station licensed by the Federal Communications Commission or by an appropriate governmental authority of Canada or Mexico and embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506, in the following cases:

(A) where the carriage of the signals comprising the secondary transmission is not permissible under the rules, regulations, or authorizations of the Federal Communications Commission; or

(B) where the cable system has not recorded the notice specified by subsection (d) and deposited the statement of account and royalty fee required by subsection (d).

(3) Notwithstanding the provisions of clause (1) of this subsection and subject to the provisions of subsection (e) of this section, the secondary transmission to the public by a cable system of a primary transmission made by a broadcast station licensed by the Federal Communications Commission or by an appropriate governmental authority of Canada or Mexico and embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506, if the content of the particular program in which the performance or display is embodied, or any commercial advertising or station announcements transmitted by the primary transmitter during, or immediately before or after, the transmission of such program, is in any way willfully altered by the cable system through changes, deletions, or additions, except for the alteration, deletion, or substitution of commercial advertisements performed by those engaged in television commercial advertising market research: *Provided*, That the research company has obtained the prior consent of the advertiser who has purchased the original commercial advertisement, the television station broadcasting that commercial advertisement, and the cable system performing the secondary transmission: And *provided further*, That such commercial alteration, deletion, or substitution is not performed for the purpose of deriving income from the sale of that commercial time.

(4) Notwithstanding the provisions of clause (1) of this subsection, the secondary transmission to the public by a cable system of a primary transmission made by a broadcasting station licensed by an appropriate governmental authority of Canada or Mexico and embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by section 502 through 506, if (A) with respect to Canadian signals, the community of the cable system is located more than one hundred and fifty miles from the United States-Canadian border and is also located south of the forty-second parallel of latitude, or (B) with respect to Mexican signals, the secondary transmission is made by a cable system which received the primary transmission by means other than direct interception of a free space radio wave emitted by such broadcast television station, unless prior to April 15, 1976, such cable system was actually carrying, or was specifically authorized to carry, the signal of such foreign station on the system pursuant to the rules, regulations, or authorizations of the Federal Communications Commission.

(d) COMPULSORY LICENSE FOR SECONDARY TRANSMISSIONS BY CABLE SYSTEMS.—

(1) For any secondary transmission to be subject to compulsory licensing under subsection (c), the cable system shall, at least one month before the date of the commencement of operations of the cable system or within one hundred and eighty days after the enactment of this Act, whichever is later, and thereafter within thirty days after each occasion on which the ownership or control or the signal carriage complement of the cable system changes, record in the Copyright Office a notice including a statement of the identity and address of the person who owns or operates the secondary transmission service or has power to exercise primary control over it, together with the name and location of the primary transmitter or primary transmitters whose signals are regularly carried by the cable system, and thereafter, from time to time, such further information as the Register of Copyrights, after consultation with the Copyright Royalty Commission, shall prescribe by regulation to carry out the purpose of this clause.

(2) A cable system whose secondary transmissions have been subject to compulsory licensing under subsection (c) shall, on a semiannual basis, deposit with the Register of Copyrights, in accordance with requirements that the Register shall, after consultation with the Copyright Royalty Commission, prescribe by regulation—

(A) a statement of account, covering the six months next preceding, specifying the number of channels on which the cable system made secondary transmissions to its subscribers, the names and locations of all primary transmitters whose transmissions were further transmitted by the cable system, the total number of subscribers, and the gross amounts paid to the cable system for the basic service of providing secondary transmissions of primary broadcast transmitters; and such other data as the Register of Copyrights may, after consultation with the Copyright Royalty Commission, from time to time prescribe by regulation. Such statement shall also include a special statement of account covering any nonnetwork television programing that was carried by the cable system in whole or in part beyond the local service area of the primary transmitter, under rules, regulations, or authorizations of the Federal Communications Commission permitting the substitution or addition of signals under certain circumstances, together with logs showing the times, dates, stations, and programs involved in such substituted or added carriage; and

(B) except in the case of a cable system whose royalty is specified in subclause (C) or

(D), a total royalty fee for the period covered by the statement, computed on the basis of specified percentages of the gross receipts from subscribers to the cable service during said period for the basic service of providing secondary transmissions of primary broadcast transmitters, as follows:

(i) 0.675 of 1 per centum of such gross receipts for the privilege of further transmitting any nonnetwork programing of a primary transmitter in whole or in part beyond the local service area of such primary transmitter, such amount to be applied against the fee, if any, payable pursuant to paragraphs (ii) through (iv);

(ii) 0.675 of 1 per centum of such gross receipts for the first distant signal equivalent;

(iii) 0.425 of 1 per centum of such gross receipts for each of the second, third, and fourth distant signal equivalents;

(iv) 0.2 of 1 per centum of such gross receipts for the fifth distant signal equivalent and each additional distant signal equivalent thereafter; and

in computing the amounts payable under paragraphs (ii) through (iv), above, any fraction of a distant signal equivalent shall be computed at its fractional value and, in the case of any cable system located partly within and partly without the local service area of a primary transmitter, gross receipts shall be limited to those gross receipts derived from subscribers located without the local service area of such primary transmitter;

(C) if the actual gross receipts paid by subscribers to a cable system for the period covered by the statement for the basic service of providing secondary transmissions of primary broadcast transmitters total less than $80,000, gross receipts of the cable system for the purpose of this subclause shall be computed by subtracting from such actual gross receipts the amount by which $80,000 exceeds such actual gross receipts, except that in no case shall a cable system's gross receipts be reduced to less than $3,000. The royalty fee payable under this subclause shall be 0.5 of 1 per centum, regardless of the number of distant signal equivalents, if any; and

(D) if the actual gross receipts paid by subscribers to a cable system for the period covered by the statement, for the basic service of providing secondary transmissions of primary broadcast transmitters, are more than $80,000 but less than $160,000, the royalty fee payable under this subclause shall be (i) 0.5 of 1 per centum of any gross receipts in excess of $80,000; and (ii) 1 per centum of any gross receipts in excess of $80,000 but less than $160,000, regardless of the number of distant signal equivalents, if any.

(3) The Register of Copyrights shall receive all fees deposited under this section and, after deducting the reasonable costs incurred by the Copyright Office under this section, shall deposit the balance in the Treasury of the United States, in such manner as the Secretary of the Treasury directs, for later distribution by the Copyright Royalty Commission as provided by this title. The Register shall submit to the Copyright Royalty Commission, on a semiannual basis, a compilation of all statements of account covering the relevant six-month period provided by clause (2) of this subsection.

(4) The royalty fees thus deposited shall, in accordance with the procedures provided by clause (5), be distributed to those among the following copyright owners who claim that their works were the subject of secondary transmissions by cable systems during the relevant semiannual period:

(A) any such owner whose work was included in a secondary transmission made by a cable system of a nonnetwork television program in whole or in part beyond the local service area of the primary transmitter; and

(B) any such owner whose work was included in a secondary transmission identified in a special statement of account deposited under clause (2)(A); and

(C) any such owner whose work was included in nonnetwork programing consisting exclusively of aural signals carried by a cable system in whole or in part beyond the local service area of the primary transmitter of such programs.

(5) The royalty fees thus deposited shall be distributed in accordance with the following procedures:

(A) During the month of July in each year, every person claiming to be entitled to compulsory license fees for secondary transmissions shall file a claim with the Copyright Royalty Commission, in accordance with requirements that the Commission shall prescribe by regulation. Notwithstanding any provisions of the antitrust laws (within the meaning of section 12 of title 15), for purposes of this clause any claimants may agree among themselves as to the proportionate division of compulsory licensing fees among them, may lump their claims together and file them jointly or as a single claim, or may designate a common agent to receive payment on their behalf.

(B) After the first day of August of each year, the Copyright Royalty Commission shall determine whether there exists a controversy concerning the distribution of royalty fees. If the Commission determines that no such controvery exists, it shall, after deducting its reasonable administrative costs under this section, distribute such fees to the copyright owners entitled, or to their designated agents. If the Commission finds the existence of a controversy, it shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty fees.

(C) During the pendency of any proceeding under this subsection, the Copyright Royalty Commission shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall have discretion to proceed to distribute any amounts that are not in controversy.

(e) NONSIMULTANEOUS SECONDARY TRANSMISSIONS BY CABLE SYSTEMS.—

(1) Notwithstanding those provisions of the second paragraph of subsection (f) relating to nonsimultaneous secondary transmissions by a cable system, any such transmissions are actionable as an act of infringement under section 501, and are fully subject to the remedies provided by sections 502 through 506, unless—

(A) the program on the videotape is transmitted no more than one time to the cable system's subscribers; and

(B) the copyrighted program, episode, or motion picture videotapes, including the commercials contained within such program, episode, or picture, is transmitted without deletion or editing; and

(C) an owner or officer of the cable system (i) prevents the duplication of the videotape while in the possession of the system, (ii) prevents unauthorized duplication while in the possession of the facility making the videotape for the system if the system owns or controls the facility, or takes reasonable precautions to prevent such duplication if it does not own or control the facility, (iii) takes adequate precautions to prevent duplication while the tape is being transported, and (iv) subject to clause (2), erases or destroys, or causes the erasure or destruction of, the videotape; and

(D) within forty-five days after the end of each calendar quarter, an owner or officer of the cable system executes an affidavit attesting (i) to the steps and precautions taken to prevent duplication of the videotape, and (ii) subject to clause (2), to the erasure or destruction of all videotapes made or used during such quarter; and

(E) such owner or officer places or causes each such affidavit, and affidavits received pursuant to clause (2)(C), to be placed in a file, open to public inspection, at such system's main office in the community where the transmission is made or in the nearest community where such system maintains an office; and

(F) the nonsimultaneous transmission is one that the cable system would be authorized to transmit under the rules, regulations, and authorizations of the Federal Communications of the Federal Communications Commission in effect at the time of the nonsimultaneous transmission if the transmission had been made simultaneously, except that this subclause shall not apply to inadvertent or accidental transmissions.

(2) If a cable system transfers to any person a videotape of a program nonsimultaneously transmitted by it, such transfer is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506, except that, pursuant to a written, nonprofit contract providing for the equitable sharing of the cost of such videotape and its transfer, a videotape nonsimultaneously transmitted by it, in accordance with clause (1), may be transferred by one cable system in Alaska to another system in Alaska, by one cable system in Hawaii permitted to make such nonsimultaneous transmissions to another such cable system in Hawaii, or by one cable system in Guam, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands, to another cable system in any of those three territories, if—

(A) each such contract is available for public inspection in the offices of the cable systems involved, and a copy of such contract is filed, within thirty days after such contract is entered into, with the Copyright Office (which Office shall make each such contract available for public inspection); and

(B) the cable system to which the videotype is transferred complies with clause (1) (A), (B), (C), (i), (iii), and (iv), and (D) through (F); and

(C) such system provides a copy of the affidavit required to be made in accordance with clause (1)(D) to each cable system making a previous nonsimultaneous transmission of the same viodeotape.

(3) This subsection shall not be construed to supersede the exclusivity protection provisions of any existing agreement, or any such agreement hereafter entered into, between a cable system and a television broadcast station in the area in which the cable system is located, or a network with which such station is affiliated.

(4) As used in this subsection, the term "videotape", and each of its variant forms, means the reproduction of the images and sounds of a program or programs broadcast by a television broadcast station licensed by the Federal Communications Commission, regardless of the nature of the material objects, such as tapes or films, in which the reproduction is embodied.

(f) DEFINITIONS.—As used in this section, the following terms and their variant forms mean the following:

A "primary transmission" is a transmission made to the public by the transmitting facility whose signals are being received and further transmitted by the secondary transmission service, regardless of where or when the performance or display was first transmitted.

A "secondary transmission" is the further transmitting of a primary transmission simultaneously with the primary transmission, or nonsimultaneously with the primary transmission if by a "cable system" not located in whole or in part within the boundary of the forty-eight contiguous States, Hawaii, or Puerto Rico: *Provided, however,* That a nonsimultaneous further transmis-

sion by a cable system located in Hawaii of a primary transmission shall be deemed to be a secondary transmission if the carriage of the television broadcast signal comprising such further transmission is permissible under the rules, regulations, or authorizations of the Federal Communications Commission.

A "cable system" is a facility, located in any State, territory, trust territory, or possession, that in whole or in part receives signals transmitted or programs broadcast by one or more television broadcast stations licensed by the Federal Communications Commission, and makes secondary transmissions of such signals or programs by wires, cables, or other communications channels to subscribing members of the public who pay for such service. For purposes of determining the royalty fee under subsection (d)(2), two or more cable systems in contiguous communities under common ownership or control or operating from one headend shall be considered as one system.

The "local service area of a primary transmitter", in the case of a television broadcast station, comprises the area in which such station is entitled to insist upon its signal being retransmitted by a cable system pursuant to the rules, regulations, and auhorizations of the Federal Communications Commission in effect on April 15, 1976, or in the case of a television broadcast station licensed by an appropriate governmental authority of Canada or Mexico, the area in which it would be entitled to insist upon its signal being retransmitted if it were a television broadcast station subject to such rules, regulations, and authorizations. The "local service area of a primary transmitter", in the case of a radio broadcast station, comprises the primary service area of such station, pursuant to the rules and regulations of the Federal Communications Commission.

A "distant signal equivalent" is the value assigned to the secondary transmission of any nonnetwork television programing carried by a cable system in whole or in part beyond the local service area of the primary transmitter of such programing. It is computed by assigning a value of one to each independent station and a value of one-quarter to each network station and noncommercial educational station for the nonwork programing so carried pursuant to the rules, regulations, and authorizations of the Federal Communications Commission. The foregoing values for independent, network, and noncommercial educational stations are subject, however, to the following exceptions and limitations. Where the rules and regulations of the Federal Communications Commission require a cable system to omit the further transmission of a particular program and such rules and regulations also permit the substitution of another program embodying a performance or display of a work in place of the omitted transmission, or where such rules and regulations in effect on the date of enactment of this Act permit a cable system, at its election, to effect such deletion and substitution of a nonlive program or to carry additional programs not transmitted by primary transmitters within whose local service area the cable system is located, no value shall be assigned for the substituted or additional program; where the rules, regulations, or authorizations of the Federal Communications Commission in effect on the date of enactment of this Act permit a cable system, at its election, to omit the further transmission of a particular program and such rules, regulations, or authorizations also permit the substitution of another program embodying a performance or display of a work in place of the omitted transmission, the value assigned for the substituted or additional program shall be, in the case of a live program, the value of one full distant signal equivalent multiplied by a fraction that has as its numerator the number of days in the year in which such substitution occurs and as its denominator the number of days in the year. In the case of a station carried pursuant to the late-night or special programing rules of the Federal Communications Commission, or a station carried on a part-time basis where full-time carriage is not possible because the cable system lacks the activated channel capacity to retransmit on a full-time basis all signals which it is authorized to carry, the values for independent, network, and noncommercial educational stations set forth above, as the case may be, shall be multiplied by a fraction which is equal to the ratio of the broadcast hours of such station carried by the cable system to the total broadcast hours of the station.

A "network station" is a television broadcast station that is owned or operated by, or affiliated with, one or more of the television networks in the United States providing nationwide transmissions, and that transmits a substantial part of the programing supplied by such networks for a substantial part of that station's typical broadcast day.

An "independent station" is a commercial television broadcast station other than a network station.

A "noncommercial educational station" is a television station that is a noncommercial educational broadcast station as defined in section 397 of title 47.

§ 112. Limitations on exclusive rights: Ephemeral recordings

(a) Notwithstanding the provisions of section 106, and except in the case of a motion picture or other audiovisual work, it is not an infringement of copyright for a transmitting organization entitled to transmit to the public a performance or display of a work, under a license or transfer of the copyright or under the limitations on exclusive rights in sound recordings specified by section 114(a), to make no more than one copy or phonorecord of a particular transmission program embodying the performance or display, if—

(1) the copy or phonorecord is retained and used solely by the transmitting organization that made it, and no further copies or phonorecords are reproduced from it;

(2) the copy of phonorecord is used solely for the transmitting organization's own transmissions within its local service area, or for purposes of archival preservation or security; and

(3) unless preserved exclusively for archival purposes, the copy or phonorecord is destroyed within six months from the date the transmission program was first transmitted to the public.

(b) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a governmental body or other nonprofit organization entitled to transmit a performance or display of a work, under section 110(2) or under the limitations on exclusive rights in sound recordings specified by section 114(a), to make no more than thirty copies or phonorecords of a particular transmission program embodying the performance or display, if—

(1) no further copies or phonorecords are reproduced from the copies or phonorecords made under this clause; and

(2) except for one copy or phonorecord that may be preserved exclusively for archival purposes, the copies or phonorecords are destroyed within seven years from the date the transmission program was first transmitted to the public.

(c) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a governmental body or other nonprofit organization to make for distribution no more than one copy or phonorecord, for each transmitting organization specified in clause (2) of this subsection, of a particular transmission program embodying a performance of a nondramatic musical work of a religious nature, or of a sound recording of such a musical work, if—

(1) there is no direct or indirect charge for making or distributing any such copies or phonorecords; and

(2) none of such copies or phonorecords is used for any performance other than a single transmission to the public by a transmitting organization entitled to transmit to the public a performance of the work under a license or transfer of the copyright; and

(3) except for one copy or phonorecord that may be preserved exclusively for archival purposes, the copies or phonorecords are all destroyed within one year from the date the transmission program was first transmitted to the public.

(d) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a governmental body or other nonprofit organization entitled to transmit a performance of a work under section 110(8), to make no more than one copy or phonorecord embodying the performance, if—

(1) the copy or phonorecord is retained and used solely by the organization that made it, and no further copies or phonorecords are reproduced from it; and

(2) the copy or phonorecord is used solely for transmissions authorized under section 110(8), or for purposes of archival preservation or security.

(e) The transmission program embodied in a copy or phonorecord made under this section is not subject to protection as a derivative work under this title except with the express consent of the owners of copyright in the pre-existing works employed in the program.

§ 113. Scope of exclusive rights in pictorial, graphic, and sculptural works

(a) Subject to the provisions of subsections (b) and (c) of this section, the exclusive right to reproduce a copyrighted pictorial, graphic, or sculptural work in copies under section 106 includes the right to reproduce the work in or on any kind of article, whether useful or otherwise.

(b) This title does not afford, to the owner of copyright in a work that portrays a useful article as such, any greater or lesser rights with respect to the making, distribution, or display of the useful article so portrayed than those afforded to such works under the law, whether title 17 or the common law or statutes of a State, in effect on December 31, 1977, as held applicable and construed by a court in an action brought under this title.

(c) In the case of a work lawfully reproduced in useful articles that have been offered for sale or other distribution to the public, copyright does not include any right to prevent the making, distribution, or display of pictures or photographs of such articles in connection with advertisements or commentaries related to the distribution or display of such articles, or in connection with news reports.

§ 114. Scope of exclusive rights in sound recordings

(a) The exclusive rights of the owner of copyright in a sound recording are limited to the rights specified by clauses (1), (2), and (3) of section 106, and do not include any right of performance under section 106(4).

(b) The exclusive right of the owner of copyright in a sound recording under clause (1) of section 106 is limited to the right to duplicate the sound recording in the form of phonorecords, or of copies of motion pictures and other audiovisual works, that directly or indirectly recapture the actual sounds fixed in the recording. The exclusive

right of the owner of copyright in a sound recording under clause (2) of section 106 is limited to the right to prepare a derivative work in which the actual sounds fixed in the sound recording are rearranged, remixed, or otherwise altered in sequence or quality. The exclusive rights of the owner of copyright in a sound recording under clauses (1) and (2) of section 106 do not extend to the making or duplication of another sound recording that consists entirely of an independent fixation of other sounds, even though such sounds imitate or stimulate those in the copyrighted sound recording. The exclusive rights of the owner of copyright in a sound recording under clauses (1), (2), and (3) of section 106 do not apply to sound recordings included in educational television and radio programs (as defined in section 397 of title 47) distributed or transmitted by or through public broadcasting entities (as defined by section 118(g)): *Provided*, That copies or phonorecords of said programs are not commercially distributed by or through public broadcasting entities to the general public.

(c) This section does not limit or impair the exclusive right to perform publicly, by means of a phonorecord, any of the works specified by section 106(4).

(d) On January 3, 1978, the Register of Copyrights, after consulting with representatives of owners of copyrighted materials, representatives of the broadcasting, recording, motion picture, entertainment industries, and arts organizations, representatives of organized labor and performers of copyrighted materials, shall submit to the Congress a report setting forth recommendations as to whether this section should be amended to provide for performances and copyright owners of copyrighted material any performance rights in such material. The report should describe the status of such rights in foreign countries, the views of major interested parties, and specific legislative or other recommendations, if any.

§ 115. Scope of exclusive rights in nondramatic musical works: Compulsory license for making and distributing phonorecords

In the case of nondramatic musical works, the exclusive rights provided by clauses (1) and (3) of section 106, to make and to distribute phonorecords of such works, are subject to compulsory licensing under the conditions specified by this section.

(a) AVAILABILITY AND SCOPE OF COMPULSORY LICENSE.—

(1) When phonorecords of a nondramatic musical work have been distributed to the public in the United States under the authority of the copyright owner, any other person may, by complying with the provisions of this section, obtain a compulsory license to make and distribute phonorecords of the work. A person may obtain a compulsory license only if his or her primary purpose in making phonorecords is to distribute them to the public for private use. A person may not obtain a compulsory license for use of the work in the making of phonorecords duplicating a sound recording fixed by another, unless: (i) such sound recording was fixed lawfully; and (ii) the making of the phonorecords was authorized by the owner of copyright in the sound recording or, if the sound recording was fixed before February 15, 1972, by any person who fixed the sound recording pursuant to an express license from the owner of the copyright in the musical work or pursuant to a valid compulsory license for use of such work in a sound recording.

(2) A compulsory license includes the privilege of making a musical arrangement of the work to the extent necessary to conform it to the style or manner of interpretation of the performance involved, but the arrangement shall not change the basic melody or fundamental character of the work, and shall not be subject to protection as a derivative work under this title, except with the express consent of the copyright owner.

(1) Any person who wishes to obtain a compulsory license under this section shall, before or within thirty days after making, and before distributing any phonorecords of the work, serve notice of intention to do so on the copyright owner. If the registration or other public records of the Copyright Office do not identify the copyright owner and include an address at which notice can be served, it shall be sufficient to file the notice of intention in the Copyright Office. The notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation.

(2) Failure to serve or file the notice required by clause (1) forecloses the possibility of a compulsory license and, in the absence of a negotiated license, renders the making and distribuion of phonorecords actionable as acts of infringement under section 501 and fully subject to the remedies provided by sections 502 through 506.

(c) ROYALTY PAYABLE UNDER COMPULSORY LICENSE.—

(1) To be entitled to receive royalties under a compulsory license, the copyright owner must be identified in the registration or other public records of the Copyright Office. The owner is entitled to royalties for phonorecords made and distributed after being so identified, but is not entitled to recover for any phonorecords previously made and distributed.

(2) Except as provided by clause (1), the royalty under a compulsory license shall be payable for every phonorecord made and distributed in accordance with the license. For this purpose, a phonorecord is considered "distributed" if the person exercising the compulsory license has voluntarily and permanently parted with its possession. With respect to each work embodied in the phonorecord, the royalty shall be either two and three-fourth cents, or six-tenth of one cent per minute of playing time or fraction thereof, whichever amount is larger.

(3) Royalty payments shall be made on or before the twentieth day of each month and shall include all royalties for the month next preceding. Each monthly payment shall be made under oath and shall comply with requirements that the Register of Copyrights shall prescribe by regulation. The Register shall also prescribe regulations under which detailed cumulative annual statements of account, certified by a certified public accountant, shall be filed for every compulsory license under this section. The regulations covering both the monthly and the annual statements of account shall prescribe the form, content, and manner of certification with respect to the number of records made and the number of records distributed.

(4) If the copyright owner does not receive the monthly payment and the monthly and annual statements of account when due, the owner may give written notice to the licensee that, unless the default is remedied within 30 days from the date of the notice, the compulsory license will be automatically terminated. Such termination renders either the making or the distribution, or both, of all phonorecords for which the royalty had not been paid, actionable as acts of infringement under section 501 and fully subject to the remedies provided by sections 502 through 506.

§ 116. Scope of exclusive rights in nondramatic musical works: Public performances by means of coin-operated phonorecord players

(a) LIMITATION ON EXCLUSIVE RIGHT.—In the case of a nondramatic musical work embodied in a phonorecord, the exclusive right under clause (4) of section 106 to perform the work publicly by means of a coin-operated phonorecord player is limited as follows:

(1) The proprietor of the establishment in which the public performance takes place is not liable for infringement with respect to such public performance unless—

(A) such proprietor is the operator of the phonorecord player; or

(B) such proprietor refuses or fails, within one month after receipt by registered or certified mail of a request, at a time during which the certificate required by clause (1) (C) of subsection (b) is not affixed to the phonorecord player, by the copyright owner, to make full disclosure, by registered or certified mail, of the identity of the operator of the phonorecord player.

(2) The operator of the coin-operated phonorecord player may obtain a compulsory license to perform the work publicly on that phonorecord player by filing the application, affixing the certificate, and paying the royalties provided by subsection (b).

(b) RECORDATION OF COIN-OPERATED PHONORECORD PLAYER, AFFIXATION OF CERFICICATE, AND ROYALTY UNDER COMPULSORY LICENSE.—

(1) Any operator who wishes to obtain a compulsory license for the public performance of works on a coin-operated phonorecord player shall fulfill the following requirements:

(A) Before or within one month after such performances are made available on a particular phonorecord player, and during the month of January in each succeeding year that such performances are made available on that particular phonorecord player, the operator shall file in the Copyright Office, in accordance with requirements that the Register of Copyrights, after consultation with the Copyright Royalty Commission, shall prescribe by regulation, an application containing the name and address of the operator of the phonorecord player and the manufacturer and serial number or other explicit identification of the phonorecord player, and deposit with the Register of Copyrights a royalty fee for the current calendar year of $8 for that particular phonorecord player. If such performances are made available on a particular phonorecord player for the first time after July 1 of any year, the royalty fee to be deposited for the remainder of that year shall be $4.

(B) Within twenty days of receipt of an application and a royalty fee pursuant to subclause (A), the Register of Copyrights shall issue to the applicant a certificate for the phonorecord player.

(C) On or before March 1 of the year in which the certificate prescribed by subclause (B) of this clause is issued, or within ten days after the date of issue of the certificate, the operator shall affix to the particular phonorecord player, in a position where it can be readily examined by the public, the certificate, issued by the Register of Copyrights under subclause (B), of the latest application made by such operator under subclause (A) of this clause with respect to that phonorecord player.

(2) Failure to file the application, to affix the certificate, or to pay the royalty required by clause (1) of this subsection renders the public performance actionable as an act of infringement under section 501 and fully subject to the remedies provided by sections 502 through 506.

(c) DISTRIBUTION OF ROYALTIES.—

(1) The Register of Copyrights shall receive all fees deposited under this section and, after deducting the reasonable costs incurred by the Copyright Office under this section, shall deposit the balance in the Treasury of the United States, in such manner as the Secretary of the Treasury directs, for later distribution by the Copyright Royalty Commission as provided by this title.

The Register shall submit to the Copyright Royalty Commission, on an annual basis, a detailed statement of account covering all fees received for the relevant period provided by subsection (b).

(2) During the month of January in each year, every person claiming to be entitled to compulsory license fees under this section for performances during the preceding twelve-month period shall file a claim with the Copyright Royalty Commission, in accordance with requirements that the Commission shall prescribe by regulation. Such claim shall include an agreement to accept as final, except as provided in section 809 of this title, the determination of the Copyright Royalty Commission in any controversy concerning the distribution of royalty fees deposited under subclause (A) of subsection (b)(1) of this section to which the claimant is a party. Notwithstanding any provisions of the antitrust laws (within the meaning of section 12 of title 15), for purposes of this subsection any claimants may agree among themselves as to the proportionate division of compulsory licensing fees among them, may lump their claims together and file them jointly or as a single claim, or may designate a common agent to receive payment on their behalf.

(3) After the first day of October of each year, the Copyright Royalty Commission shall determine whether there exists a controversy concerning the distribution of royalty fees deposited under subclause (A) of subsection (b)(1). If the Commission determines that no such controversy exists, it shall, after deducting its reasonable administrative costs under this section, distribute such fees to the copyright owners entitled, or to their designated agents. If it finds that such a controversy exists, it shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty fees.

(4) The fees to be distributed shall be divided as follows:

(A) To every copyright owner not affiliated with a performing rights society, the pro rata share of the fees to be distributed to which such copyright owner proves entitlement.

(B) To the performing rights societies, the remainder of the fees to be distributed in such pro rata shares as they by agreement stipulate among themselves, or, if they fail to agree, the pro rata share to which such performing rights societies prove entitlement.

(C) During the pendency of any proceeding under this section, the Copyright Royalty Commission shall withhold from distributions an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall have discretion to proceed to distribute any amounts that are not in controversy.

(5) The Copyright Royalty Commission shall promulgate regulations under which persons who can reasonably be expected to have claims may, during the year in which performances take place, without expense to or harassment of operators or proprietors of establishments in which phonorecord players are located, have such access to such establishments and to the phonorecord players located therein and such opportunity to obtain information with respect thereto as may be reasonably necessary to determine, by sampling procedures or otherwise, the proportion of contribution of the musical works of each such person to the earnings of the phonorecord players for which fees shall have been deposited. Any person who alleges that he or she has been denied the access permitted under the regulations prescribed by the Copyright Royalty Commission may bring an action in the United States District Court for the District of Columbia for the cancellation of the compulsory license of the phonorecord player to which such access has been denied, and the court shall have the power to declare the compulsory license thereof invalid from the date of issue thereof.

(d) CRIMINAL PENALTIES.—Any person who knowingly makes a false representation of a material fact in an application filed under clause (1)(A) of subsection (b), or who knowingly alters a certificate issued under clause (1)(B) of subsection (b) or knowingly affixes such a certificate to a phonorecord player other than the one it covers, shall be fined not more than $2,500.

(e) DEFINITIONS.—As used in this section, the following terms and their variant forms mean the following:

(1) A "coin-operated phonorecord player" is a machine or device that—

(A) is employed solely for the performance of nondramatic musical works by means of phonorecords upon being activated by insertion of coins, currency, tokens, or other monetary units or their equivalent;

(B) is located in an establishment making no direct or indirect charge for admission;

(C) is accompanied by a list of the titles of all the musical works available for performance on it, which list is affixed to the phonorecord player or posted in the establishment in a prominent position where it can be readily examined by the public; and

(D) affords a choice of works available for performance and permits the choice to be made by the patrons of the establishment in which it is located.

(2) An "operator" is any person who, alone or jointly with others:

(A) owns a coin-operated phonorecord player; or

(B) has the power to make a coin-operated phonorecord player available for placement in an establishment for purposes of public performance; or

(C) has the power to exercise primary control over the selection of the musical works made available for public performance on a coin-operated phonorecord player.

(3) A "performing rights society" is an association or corporation that licenses the public performance of nondramatic musical works on behalf of the copyright owners, such as the American Society of Composers, Authors and Publishers, Broadcast Music, Inc., and SESAC, Inc.

§ 117. Scope of exclusive rights: Use in conjunction with computers and similar information systems

Notwithstanding the provisions of sections 106 through 116 and 118, this title does not afford to the owner of copyright in a work any greater or lesser rights with respect to the use of the work in conjunction with automatic systems capable of storing, processing, retrieving, or transferring information, or in conjunction with any similar device, machine, or process, than those afforded to works under the law, whether title 17 or the common law or statutes of a State, in effect on December 31, 1977, as held applicable and construed by a court in an action brought under this title.

§ 118. Scope of exclusive rights: Use of certain works in connection with noncommercial broadcasting

(a) The exclusive rights provided by section 106 shall, with respect to the works specified by subsection (b) and the activities specified by subsection (d), be subject to the conditions and limitations prescribed by this section.

(b) Not later than thirty days following the date of publication by the President of the notice announcing the initial appointments of the members of the Copyright Royalty Commission, as provided by section 801 (c), the Chairman of the Commission shall cause notice to be published in the Federal Register of the initiation of proceedings for the purpose of determining reasonable terms and rates of royalty payments for the activities specified by subsection (d) with respect to published nondramatic musical works and published pictorial, graphic, and sculptural works during a period beginning as provided in clause (3) of this subsection and ending on December 31, 1982. Copyright owners and public broadcasting entities shall negotiate in good faith and cooperate fully with the Commission in an effort to reach reasonable and expeditious results. Notwithstanding any provision of the antitrust laws (within the meaning of section 12 of title 15), any owners of copyright in works specified by this subsection and any public broadcasting entities, respectively, may negotiate and agree upon the terms and rates of royalty payments and the proportionate division of fees paid among various copyright owners, and many designate common agents to negotiate, agree to, pay, or receive payments.

(1) Any owner of copyright in a work specified in this subsection or any public broadcasting entity may, within one hundred and twenty days after publication of the notice specified in this subsection, submit to the Copyright Royalty Commission proposed licenses covering such activities with respect to such works. The Copyright Royalty Commission shall proceed on the basis of the proposals submitted to it as well as any other relevant information. The Copyright Royalty Commission shall permit any interested party to submit information relevant to such proceedings.

(2) License agreements voluntarily negotiated at any time between one or more copyright owners and one or more public broadcasting entities shall be given effect in lieu of any determination by the Commission: Provided, That copies of such agreements are filed in the Copyright Office within thirty days of execution in accordance with regulations that the Register of Copyrights shall prescribe.

(3) Within six months, but not earlier than one hundred and twenty days, from the date of publication of the notice specified in this subsection the Copyright Royalty Commission shall make a determination and publish in the Federal Register a schedule of rates and terms which, subject to clause (2) of this subsection, shall be binding on all owners of copyright in works specified by this subsection and public broadcasting entities, regardless of whether or not such copyright owners and public broadcasting entities have submitted proposals to the Commission. In establishing such rates and terms the Copyright Royalty Commission may consider the rates for comparable circumstances under voluntary license agreements negotiated as provided in clause (2) of this subsection. The Copyright Royalty Commission shall also establish requirements by which copyright owners may receive reasonable notice of the use of their works under this section, and under which records of such use shall be kept by public broadcasting entities.

(4) With respect to the period beginning on the effective date of this title and ending on the date of publication of such rates and terms, this title shall not afford to owners of copyright or public broadcasting entities any greater or lesser rights with respect to the activities specified in subsection (d) as applied to works specified in this subsection than those afforded under the law in effect on December 31, 1977, as held applicable and construed by a court in an action brought under this title.

(c) The initial procedure specified in subsection (b) shall be repeated and concluded between June 30 and December 31, 1982, and at five-year intervals thereafter, in accordance with regulations that the Copyright Royalty Commission shall prescribe.

(d) Subject to the transitional provisions

of subsection (b)(4), and to the terms of any voluntary license agreements that have been negotiated as provided by subsection (b) (2), a public broadcasting entity may, upon compliance with the provisions of this section, including the rates and terms established by the Copyright Royalty Commission under subsection (b)(3), engage in the following activities with respect to published nondramatic musical works and published pictorial, graphic, and sculptural works:

(1) performance or display of a work by or in the course of a transmission made by a noncommercial educational broadcast station referred to in subsection (g);

(2) production of a transmission program, reproduction of copies or phonorecords of such a transmission program, and distribution of such copies or phonorecords, where such production, reproduction, or distribution is made by a nonprofit institution or organization solely for the purpose of transmissions specified in clause (1); and

(3) the making of reproductions by a governmental body or a nonprofit institution of a transmission program simultaneously with its transmission as specified in clause (1), and the performance or display of the contents of such program under the conditions specified by clause (1) of section 110, but only if the reproductions are used for performances or displays for a period of no more than seven days from the date of the transmission specified in clause (1), and are destroyed before or at the end of such period. No person supplying, in accordance with clause (2), a reproduction of a transmission program to governmental bodies or non-profit institutions under this clause shall have any liability as a result of failure of such body or institution to destroy such reproduction: Provided, That it shall have notified such body or institution of the requirement for such destruction pursuant to this clause: And provided further, That if such body or institution itself fails to destroy such reproduction it shall be deemed to have infringed.

(e) Except as expressly provided in this subsection, this section shall have no applicability to works other than those specified in subsection (b).

(1) Owners of copyright in nondramatic literary works and public broadcasting entities may, during the course of voluntary negotiations, agree among themselves, respectively, as to the terms and rates of royalty payments without liability under the antitrust laws (within the meaning of section 12 of title 15). Any such terms and rates of royalty payments shall be effective upon filing in the Copyright Office, in accordance with regulations that the Register of Copyrights shall prescribe.

(2) On January 3, 1980, the Register of Copyrights, after consulting with authors and other owners of copyright in nondramatic literary works and their representatives, and with public broadcasting entities and their representatives, shall submit to the Congress a report setting forth the extent to which voluntary licensing arrangements have been reached with respect to the use of nondramatic literary works by such broadcast stations. The report should also describe any problems that may have arisen, and present legislative or other recommendations, if warranted.

(f) Nothing in this section shall be construed to permit, beyond the limits of fair use as provided by section 107, the unauthorized dramatization of a nondramatic musical work, the production of a transmission program drawn to any substantial extent from a published compilation of pictorial, graphic, or sculptural works, or the unauthorized use of any portion of an audiovisual work.

(g) As used in this section, the term "public broadcasting entity" means a noncommercial educational broadcast station as defined in section 397 of title 47 and any nonprofit institution or organization engaged in the activities described in clause (2) of subsection (d).

Chapter 2.—COPYRIGHT OWNERSHIP AND TRANSFER

Sec.
201. Ownership of copyright.
202. Ownership of copyright as distinct from ownership of material object.
203. Termination of transfers and licenses granted by the author.
204. Execution of transfers of copyright ownership.
205. Recordation of transfers and other documents.

§ 201. Ownership of copyright

(a) INITIAL OWNERSHIP.—Copyright in a work protected under this title vests initially in the author or authors of the work. The authors of a joint work are coowners of copyright in the work.

(b) WORKS MADE FOR HIRE. In the case of a work made for hire, the employer or other person for whom the work was prepared is considered the author for purposes of this title, and, unless the parties have expressly agreed otherwise in a written instrument signed by them, owns all of the rights comprised in the copyright.

(c) CONTRIBUTIONS TO COLLECTIVE WORKS.—Copyright in each separate contribution to a collective work is distinct from copyright in the collective work as a whole, and vests initially in the author of the contribution. In the absence of an express transfer of the copyright or of any rights under it, the owner of copyright in the collective work is presumed to have acquired only the privilege of reproducing and distributing the contribution as part of that particular collective work, any revision of that collective work, and any later collective work in the same series.

(d) TRANSFER OF OWNERSHIP.—

(1) The ownership of a copyright may be transferred in whole or in part by any means of conveyance or by operation of law, and may be bequeathed by will or pass as personal property by the applicable laws of intestate succession.

(2) Any of the exclusive rights comprised in a copyright, including any subdivision of any of the rights specified by section 106, may be transferred as provided by clause (1) and owned separately. The owner of any particular exclusive right is entitled, to the extent of that right, to all of the protection and remedies accorded to the copyright owner by this title.

(e) INVOLUNTARY TRANSFER.—When an individual author's ownership of a copyright, or of any of the exclusive rights under a copyright, has not previously been transferred voluntarily by the individual author, no action by any governmental body or other official or organization purporting to seize, expropriate, transfer, or exercise rights of ownership with respect to the copyright, or any of the exclusive rights under a copyright, shall be given effect under this title.

§ 202. Ownership of copyright as distinct from ownership of material object

Ownership of a copyright, or of any of the exclusive rights under a copyright, is distinct from ownership of any material object in which the work is embodied. Transfer of ownership of any material object, including the copy or phonorecord in which the work is first fixed, does not of itself convey any rights in the copyrighted work embodied in the object; nor, in the absence of an agreement, does transfer of ownership of a copyright or of any exclusive rights under a copyright convey property rights in any material object.

§ 203. Termination of transfers and licenses granted by the author

(a) CONDITIONS FOR TERMINATION.—In the case of any work other than a work made for hire, the exclusive or nonexclusive grant of a transfer or license of copyright or of any right under a copyright, executed by the author on or after January 1, 1978, otherwise than by will, is subject to termination under the following conditions:

(1) In the case of a grant executed by one author, termination of the grant may be effected by that author or, if the author is dead, by the person or persons who, under clause (2) of this subsection, own and are entitled to exercise a total of more than one-half of that author's termination interest. In the case of a grant executed by two or more authors of a joint work, termination of the grant may be effected by a majority of the authors who executed it; if any of such authors is dead, the termination interest of any such author may be exercised as a unit by the person or persons who, under clause (2) of this subsection, own and are entitled to exercise a total of more than one-half of that author's interest.

(2) Where an author is dead, his or her termination interest is owned, and may be exercised, by his widow or her widower and his or her children or grandchildren as follows:

(A) the widow or widower owns the author's entire termination interest unless there are any surviving children or grandchildren of the author, in which case the widow or widower owns one-half of the author's interest;

(B) the author's surviving children, and the surviving children of any dead child of the author, own the author's entire termination interest unless there is a widow or widower, in which case the ownership of one-half of the author's interest is divided among them;

(C) the rights of the author's children and grandchildren are in all cases divided among them and exercised on a per stirpes basis according to the number of such author's children represented; the share of the children of a dead child in a termination interest can be exercised only by the action of a majority of them.

(3) Termination of the grant may be effected at any time during a period of five years beginning at the end of thirty-five years from the date of execution of the grant; or, if the grant covers the right of publication of the work, the period begins at the end of thirty-five years from the date of publication of the work under the grant or at the end of forty years from the date of execution of the grant, whichever term ends earlier.

(4) The termination shall be effected by serving an advance notice in writing, signed by the number and proportion of owners of termination interests required under clauses (1) and (2) of this subsection, or by their duly authorized agents, upon the grantee or the grantee's successor in title.

(A) The notice shall state the effective date of the termination, which shall fall within the five-year period specified by clause (3) of this subsection, and the notice shall be served not less than two or more than ten years before that date. A copy of the notice shall be recorded in the Copyright Office before the effective date of termination, as a condition to its taking effect.

(B) The notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation.

(5) Termination of the grant may be effected notwithstanding any agreement to the contrary, including an agreement to make a will or to make any future grant.

(b) EFFECT OF TERMINATION.—Upon the effective date of termination all rights under this title that were covered by the terminated grant revert to the author, authors and other persons owning termination interests under clauses (1) and (2) of subsection (a), including those owners who did not join in signing the notice of termination under

clause (4) of subsection (a), but with the following limitations:

(1) A derivative work prepared under authority of the grant before its termination may continue to be utilized under the terms of the grant after its termination, but this privilege does not extend to the preparation after the termination of other derivative works based upon the copyrighted work covered by the terminated grant.

(2) The future rights that will revert upon termination of the grant become vested on the date the notice of termination has been served as provided by clause (4) of subsection (a). The rights vest in the author, authors, and other persons named in, and in the proportionate shares provided by, clauses (1) and (2) of subsection (a).

(3) Subject to the provisions of clause (4) of this subsection, a further grant, or agreement to make a further grant, of any right covered by a terminated grant is valid only if it is signed by the same number and proportion of the owners, in whom the right has vested under clause (2) of this subsection, as are required to terminate the grant under clauses (1) and (2) of subsection (a). Such further grant or agreement is effective with respect to all of the persons in whom the right it covers has vested under clause (2) of this subsection, including those who did not join in signing. If any person dies after rights under a terminated grant have vested in him or her, that person's legal representatives, legatees, or heirs at law represent him or her for purposes of this clause.

(4) A further grant, or agreement to make a further grant, of any right covered by a terminated grant is valid only if it is made after the effective date of the termination. As an exception, however, an agreement for such a further grant may be made between the persons provided by clause (3) of this subsection and the original grantee or such grantee's successor in title, after the notice of termination has been served as provided by clause (4) of subsection (a).

(5) Termination of a grant under this section affects only those rights covered by the grant that arise under this title, and in no way affects rights arising under any other Federal, State, or foreign laws.

(6) Unless and until termination is effected under this section, the grant, if it does not provide otherwise, continues in effect for the term of copyright provided by this title.

§ 204. Executive of transfers of copyright ownership

(a) A transfer of copyright ownership, other than by operation of law, is not valid unless an instrument of conveyance, or a note or memorandum of the transfer, is in writing and signed by the owner of the rights conveyed or such owner's duly authorized agent.

(b) A certificate of acknowledgement is not required for the validity of a transfer, but is prima facie evidence of the execution of the transfer if—

(1) in the case of a transfer executed in the United States, the certificate is issued by a person authorized to administer oaths within the United States; or

(2) in the case of a transfer executed in a foreign country, the certificate is issued by a diplomatic or consular officer of the United States, or by a person authorized to administer oaths whose authority is proved by a certificate of such an officer.

§ 205. Recordation of transfers and other documents

(a) CONDITIONS FOR RECORDATION.—Any transfer of copyright ownership or other document pertaining to a copyright may be recorded in the Copyright Office if the document filed for recordation bears the actual signature of the person who executed it, or if it is accompanied by a sworn or official certification that it is a true copy of the original, signed document.

(b) CERTIFICATE OF RECORDATION.—The Register of Copyrights shall, upon receipt of a document as provided by subsection (a) and of the fee provided by section 708, record the document and return it with a certificate of recordation.

(c) RECORDATION AS CONSTRUCTIVE NOTICE.—Recordation of a document in the Copyright Office gives all persons constructive notice of the facts stated in the recorded document, but only if—

(1) the document, or material attached to it, specifically identifies the work to which it pertains so that, after the document is indexed by the Register of Copyrights, it would be revealed by a reasonable search under the title or registration number of the work; and

(2) registration has been made for the work.

(d) RECORDATION AS PREREQUISITE TO INFRINGEMENT SUIT.—No person claiming by virtue of a transfer to be the owner of a copyright or of any exclusive right under copyright is entitled to institute an infringement action under this title until the instrument of transfer under which such person claims has been recorded in the Copyright Office, but suit may be instituted after such recordation on a cause of action that arose before recordation.

(c) PRIORITY BETWEEN CONFLICTING TRANSFERS.—As between two conflicting transfers, the one executed first prevails if it is recorded in the manner required to give constructive notice under subsection (c), within one month after its execution in the United States or within two months after its execution outside the United States, or at any time before recordation in such manner of the later transfer. Otherwise the later transfer prevails if recorded first in such manner, and if taken in good faith, for valuable consideration or on the basis of a binding promise to pay royalties, and without notice of the earlier transfer.

(f) PRIORITY BETWEEN CONFLICTING TRANSFER OF OWNERSHIP AND NONEXISTENCE LICENSE.—A nonexclusive license, whether recorded or not, prevails over a conflicting transfer of copyright ownership if the license is evidenced by a written instrument signed by the owner of the rights licensed or such owner's duly authorized agent, and if—

(1) the license was taken before execution of the transfer; or

(2) the license was taken in good faith before recordation of the transfer and without notice of it.

Chapter 3.—DURATION OF COPYRIGHT

Sec.
301. Preemption with respect in other laws.
302. Duration of copyright: Works created on or after January 1, 1978.
303. Duration of copyright: Works created but not published or copyrighted before January 1, 1978.
304. Duration of copyright: Subsisting copyrights.
305. Duration of copyright: Terminal date.

§ 301. Preemption with respect to other laws

(a) On and after January 1, 1978, all legal or equitable rights that are equivalent to any of the exclusive rights within the general scope of copyright as specified by section 106 in works of authorship that are fixed in a tangible medium of expression and come within the subject matter of copyright as specified by sections 102 and 103, whether created before or after that date and whether published or unpublished, are governed exclusively by this title. Thereafter, no person is entitled to any such right or equivalent right in any such work under the common law or statutes of any State.

(b) Nothing in this title annuls or limits any rights or remedies under the common law or statutes of any State with respect to—

(1) subject matter that does not come within the subject matter of copyright as specified by sections 102 and 103, including works of authorship not fixed in any tangible medium of expression; or

(2) any cause of action arising from undertakings commenced before January 1, 1978; or

(3) activities violating legal or equitable rights that are not equivalent to any of the exclusive rights within the general scope of copyright as specified by section 106, including rights against misappropriation not equivalent to any of such exclusive rights, breaches of contract, breaches of trust, trespass, conversion, invasion of privacy, defamation, and deceptive trade practices such as passing off and false representation.

(c) With respect to sound recordings fixed before February 15, 1972, any rights or remedies under the common law or statutes of any State shall not be annulled or limited by this title until February 15, 2047. The preemptive provisions of subsection (a) shall apply to any such rights and remedies pertaining to any cause of action arising from undertakings commenced on and after February 15, 2047. Notwithstanding the provisions of section 303, no sound recording fixed before February 15, 1972, shall be subject to copyright under this title before, on, or after February 15, 2047.

(d) Nothing in this title annuls or limits any rights or remedies under any other Federal statute.

§ 302. Duration of copyright; Works created on or after—January 1, 1978

(a) IN GENERAL.—Copyright in a work created on or after January 1, 1978, subsists from its creation and, except as provided by the following subsections, endures for a term consisting of the life of the author and fifty years after the author's death.

(b) JOINT WORKS.—In the case of a joint work prepared by two or more authors who did not work for hire, the copyright endures for a term consisting of the life of the last surviving author and fifty years after such last surviving author's death.

(c) ANONYMOUS WORKS, PSEUDONYMOUS WORKS, AND WORKS MADE FOR HIRE.—In the case of an anonymous work, a pseydonymous work, or a work made for hire, the copyright endures for a term of seventy-five years from the year of its first publication, or a term of one hundred years from the year of its creation, whichever expires first. If, before the end of such term, the identity of one or more of the authors of an anonymous or pseudonymous work is revealed in the records of a registration made for that work under subsections (a) or (d) of section 408, or in the records provided by this subsection, the copyright in the work endures for the term specified by subsections (a) or (b), based on the life of the author or authors whose identity has been revealed. Any person having an interest in the copyright in an anonymous or pseudonymous work may at any time record, in records to be maintained by the Copyright Office for that purpose, a statement identifying one or more authors of the work; the statement shall also identify the person filing it, the nature of that person's interest, the source of the information recorded, and the particular work affected, and shall comply in form and content with requirements that the Register of Copyrights shall prescribe by regulation.

(d) RECORDS RELATING TO DEATH OF AUTHORS.—Any person having an interest in a copyright may at any time record in the Copyright Office a statement of the date of death of the author of the copyrighted work, or a statement that the author is still living on a particular date. The statement shall identify the person filing it, the nature of that person's interest, and the source of the information recorded, and shall comply in form and content with requirements that

the Register of Copyrights shall prescribe by regulation. The Register shall maintain current records of information relating to the death of authors of copyrighted works, based on such recorded statements and, to the extent the Register considers practicable, on data contained in any of the records of the Copyright Office or in other reference sources.

(c) PRESUMPTION AS TO AUTHOR'S DEATH.—After a period of seventy-five years from the year of first publication of a work, or a period of one hundred years from the year of its creation, whichever expires first, any person who obtains from the Copyright Office a certified report that the records provided by subsection (d) disclose nothing to indicate that the author of the work is living, or died less than fifty years before is entitled to the benefit of a presumption that the author has been dead for at least fifty years. Reliance in good faith upon this presumption shall be a complete defense to any action for infringement under this title.

§ 303. Duration of copyright: Works created but not published or copyrighted before January 1, 1978

Copyright in a work created before January 1, 1978, but not theretofore in the public domain or copyrighted, subsists from January 1, 1978, and endures for the term provided by section 302. In no case, however, shall the term of copyright in such a work expire before December 31, 2002; and if the work is published on or before December 31, 2002, the term of copyright shall not expire before December 31, 2027.

§ 304. Duration of copyright: Subsisting copyrights

(a) COPYRIGHTS IN THEIR FIRST TERM ON JANUARY 1, 1978.—Any copyright, the first term of which is subsisting on January 1, 1978, shall endure for twenty-eight years from the date it was originally secured; *Provided*, That in the case of any posthumous work or of any periodical, cyclopedic, or other composite work upon which the copyright was originally secured by the proprietor thereof, or of any work copyrighted by a corporate body (otherwise than as assignee or licensee of the individual author) or by an employer for whom such work is made for hire, the proprietor of such copyright shall be entitled to a renewal and extension of the copyright in such work for the further term of forty-seven years when application for such renewal and extension shall have been made to the Copyright Office and duly registered therein within one year prior to the expiration of the original term of copyright: *And provided further*, That in the case of any other copyrighted work, including a contribution by an individual author to a periodical or to a cyclopedic or other composite work, the author of such work, if still living, or the widow, widower, or children of the author, if the author be not living, of if such author, widow, widower, or children be not living, then the author's executors, or in the absence of a will, his or her next of kin shall be entitled to a renewal and extension of the copyright in such work for a further term of forty-seven years when application for such renewal and extension shall have been made to the Copyright Office and duly registered therein within one year prior to the expiration of the original term of copyright: *And provided further*, That in default of the registration of such application for renewal and extension, the copyright in any work shall terminate at the expiration of twenty-eight years from the date copyright was originally secured.

(b) COPYRIGHTS IN THEIR RENEWAL TERM OR REGISTERED FOR RENEWAL BEFORE JANUARY 1, 1978.—The duration of any copyright, the renewal term of which is subsisting at any time between December 31, 1976, and December 31, 1977, inclusive, or for which renewal registration is made between December 31, 1976, and December 31, 1977, inclusive, is extended to endure for a term of seventy-five years from the date copyright was originally secured.

(c) TERMINATION OF TRANSFERS AND LICENSES COVERING EXTENDED RENEWAL TERM.—In the case of any copyright subsisting in either its first or renewal term on January 1, 1978, other than a copyright in a work made for hire, the exclusive or nonexclusive grant of a transfer or license of the renewal copyright or any right under it, executed before January 1, 1978, by any of the persons designated by the second proviso of subsection (a) of this section, otherwise than by will, is subject to termination under the following conditions:

(1) In the case of a grant executed by a person or persons other than the author, termination of the grant may be effected by the surviving person or persons who executed it. In the case of a grant executed by one or more of the authors of the work, termination of the grant may be effected, to the extent of a particular author's share in the ownership of the renewal copyright, by the author who executed it or, if such author is dead, by the person or persons who, under clause (2) of this subsection, own and are entitled to exercise a total of more than one-half of that author's termination interest.

(2) Where an author is dead, his or her termination interest is owned, and may be exercised, by his widow or her widower and his or her children or grandchildren as follows:

(A) the widow or widower owns the author's entire termination interest unless there are any surviving children or grandchildren of the author, in which case the widow or widower owns one-half of the author's interest;

(B) the author's surviving children, and the surviving children of any dead child of the author, own the author's entire termination interest unless there is a widow or widower, in which case the ownership of one-half of the author's interest is divided among them;

(C) the rights of the author's children and grandchildren are in all cases divided among them and exercised on a per stirpes basis according to the number of such author's children represented; the share of the children of a dead child in a termination interest can be exercised only by the action of a majority of them.

(3) Termination of the grant may be effected at any time during a period of five years beginning at the end of fifty-six years from the date copyright was originally secured, or beginning on January 1, 1978, whichever is later.

(4) The termination shall be effected by serving an advance notice in writing upon the grantee or the grantee's successor in title. In the case of a grant executed by a person or persons other than the author, the notice shall be signed by all of those entitled to terminate the grant under clause (1) of this subsection, or by their duly authorized agents. In the case of a grant executed by one or more of the authors of the work, the notice as to any one author's share shall be signed by that author or his or her duly authorized agent or, if that author is dead, by the number and proportion of the owners of his or her termination interest required under clauses (1) and (2) of this subsection, or by their duly authorized agents.

(A) The notice shall state the effective date of the termination, which shall fall within the five-year period specified by clause (3) of this subsection, and the notice shall be served not less than two or more than ten years before that date. A copy of the notice shall be recorded in the Copyright Office before the effective date of termination, as a condition to its taking effect.

(B) The notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation.

(5) Termination of the grant may be effected notwithstanding any agreement to the contrary, including an agreement to make a will or to make any future grant.

(6) In the case of a grant executed by a person or persons other than the author, all rights under this title that were covered by the terminated grant revert, upon the effective date of termination, to all of those entitled to terminate the grant under clause (1) of this subsection. In the case of a grant executed by one or more of the authors of the work, all of a particular author's rights under this title that were covered by the terminated grant revert, upon the effective date of termination, to that author or, if that author is dead, to the persons owning his or her termination interest under clause (2) of this subsection, including those owners who did not join in signing the notice of termination under clause (4) of this subsection. In all cases the reversion of rights is subject to the following limitations:

(A) A derivative work prepared under authority of the grant before its termination may continue to be utilized under the terms of the grant after its termination, but this privilege does not extend to the preparation after the termination of other derivative works based upon the copyrighted work covered by the terminated grant.

(B) The future rights that will revert upon termination of the grant become vested on the date the notice of termination has been served as provided by clause (4) of this subsection.

(C) Where the author's rights revert to two or more persons under clause (2) of this subsection, they shall vest in those persons in the proportionate shares provided by that clause. In such a case, and subject to the provisions of subclause (D) of this clause, a further grant, or agreement to make a further grant, of a particular author's share with respect to any right covered by a terminated grant is valid only if it is signed by the same number and proportion of the owners, in whom the right has vested under this clause, as are required to terminate the grant under clause (2) of this subsection. Such further grant or agreement is effective with respect to all of the persons in whom the right it covers has vested under this subclause, including those who did not join in signing it. If any person dies after rights under a terminated grant have vested in him or her, that person's legal representatives, legatees, or heirs at law represent him or her for purposes of this subclause.

(D) A further grant, or agreement to make a further grant, of any right covered by a terminated grant is valid only if it is made after the effective date of the termination. As an exception, however, an agreement for such a further grant may be made between the author or any of the persons provided by the first sentence of clause (6) of this subsection, or between the persons provided by subclause (C) of this clause, and the original grantee or such grantee's successor in title, after the notice of termination has been served as provided by clause (4) of this subsection.

(E) Termination of a grant under this subsection affects only those rights covered by the grant that arise under this title, and in no way affects rights arising under any other Federal, State, or foreign laws.

(F) Unless and until termination is effected under this subsection, the grant, if it does not provide otherwise, continues in effect for the remainder of the extended renewal term.

§ 305. Duration of copyright: Terminal date

All terms of copyright provided by sections 302 through 304 run to the end of the calendar year in which they would otherwise expire.

Chapter 4.—COPYRIGHT NOTICE, DEPOSIT, AND REGISTRATION

Sec.
401. Notice of copyright: Visually perceptible copies.
402. Notice of copyright: Phonorecords of sound recordings.
403. Notice of copyright: Publications incorporating United States Government works.
404. Notice of copyright: Contributions to collective works.
405. Notice of copyright: Omission of notice.
406. Notice of copyright: Error in name or date.
407. Deposit of copies or phonorecords for Library of Congress.
408. Copyright registration in general.
409. Application for registration.
410. Registration of claim and issuance of certificate.
411. Registration as prerequisite to infringement suit.
412. Registration as prerequisite to certain remedies for infringement.

§ 401. Notice of copyright: Visually perceptible copies

(a) General Requirement.—Whenever a work protected under this title is published in the United States or elsewhere by authority of the copyright owner, a notice of copyright as provided by this section shall be placed on all publicly distributed copies from which the work can be visually perceived, either directly or with the aid of a machine or device.

(b) Form of Notice.—The notice appearing on the copies shall consist of the following three elements:

(1) the symbol © (the letter C in a circle), or the word "Copyright", or the abbreviation "Copr."; and

(2) the year of first publication of the work; in the case of compilations or derivative works incorporating previously published material, the year date of first publication of the compilation or derivative work is sufficient. The year date may be omitted where a pictorial, graphic, or sculptural work, with accompanying text matter, if any, is reproduced in or on greeting cards, postcards, stationery, jewelry, dolls, toys, or any useful articles; and

(3) the name of the owner of copyright in the work, or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner.

(c) Position of Notice.—The notice shall be affixed to the copies in such manner and location as to give reasonable notice of the claim of copyright. The Register of Copyrights shall prescribe by regulation, as examples, specific methods of affixation and positions of the notice on various types of works that will satisfy this requirement, but these specifications shall not be considered exhaustive.

§ 402. Notice of copyright: Phonorecords of sound recordings

(a) General Requirement.—Whenever a sound recording protected under this title is published in the United States or elsewhere by authority of the copyright owner, a notice of copyright as provided by this section shall be placed on all publicly distributed phonorecords of the sound recording.

(b) Form of Notice.—The notice appearing on the phonorecords shall consist of the following three elements:

(1) the symbol ℗ (the letter P in a circle); and

(2) the year of first publication of the sound recording; and

(3) the name of the owner of copyright in the sound recording, or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner; if the producer of the sound recording is named on the phonorecord labels or containers, and if no other name appears in conjunction with the notice, the producer's name shall be considered a part of the notice.

(c) Position of Notice.—The notice shall be placed on the surface of the phonorecord, or on the phonorecord label or container, in such manner and location as to give reasonable notice of the claim of copyright.

§ 403. Notice of copyright: Publications incorporating United States Government works

Whenever a work is published in copies or phonorecords consisting preponderantly of one or more works of the United States Government, the notice of copyright provided by sections 401 or 402 shall also include a statement identifying, either affirmatively or negatively, those portions of the copies or phonorecords embodying any work or works protected under this title.

§ 404. Notice of copyright: Contributions to collective works

(a) A separate contribution to a collective work may bear its own notice of copyright, as provided by sections 401 through 403. However, a single notice applicable to the collective work as a whole is sufficient to satisfy the requirements of sections 401 through 403 with respect to the separate contributions it contains (not including advertisements inserted on behalf of persons other than the owner of copyright in the collective work), regardless of the ownership of copyright in the contributions and whether or not they have been previously published.

(b) Where the person named in a single notice applicable to a collective work as a whole is not the owner of copyright in a separate contribution that does not bear its own notice, the case is governed by the provisions of section 406(a).

§ 405. Notice of copyright: Omission of notice

(a) Effect of Omission on Copyright.—The omission of the copyright notice prescribed by sections 401 through 403 from copies or phonorecords publicly distributed by authority of the copyright owner does not invalidate the copyright in a work if—

(1) the notice has been omitted from no more than a relatively small number of copies or phonorecords distributed to the public; or

(2) registration for the work has been made before or is made within five years after the publication without notice, and a reasonable effort is made to add notice to all copies or phonorecords that are distributed to the public in the United States after the omission has been discovered; or

(3) the notice has been omitted in violation of an express requirement in writing that, as a condition of the copyright owner's authorization of the public distribution of copies or phonorecords, they bear the prescribed notice.

(b) Effect of Omission on Innocent Infringers.—Any person who innocently infringes a copyright, in reliance upon an authorized copy or phonorecord from which the copyright notice has been omitted, incurs no liability for actual or statutory damages under section 504 for any infringing acts committed before receiving actual notice that registration for the work has been made under section 408, if such person proves that he or she was misled by the omission of notice. In a suit for infringement in such a case the court may allow or disallow recovery of any of the infringer's profits attributable to the infringement, and may enjoin the continuation of the infringing undertaking or may require, as a condition for permitting the continuation of the infringing undertaking, that the infringer pay the copyright owner a reasonable license fee in an amount and on terms fixed by the court.

(c) Removal of Notice.—Protection under this title is not affected by the removal, destruction, or obliteration of the notice, without the authorization of the copyright owner, from any publicly distributed copies or phonorecords.

§ 406. Notice of copyright: Error in name or date

(a) Error in Name.—Where the person named in the copyright notice on copies or phonorecords publicly distributed by authority of the copyright owner is not the owner of copyright, the validity and ownership of the copyright are not affected. In such a case, however, any person who innocently begins an undertaking that infringes the copyright has a complete defense to any action for such infringement if such person proves that he or she was misled by the notice and began the undertaking in good faith under a purported transfer or license from the person named therein, unless before the undertaking was begun—

(1) registration for the work had been made in the name of the owner of copyright; or

(2) a document executed by the person named in the notice and showing the ownership of the copyright had been recorded.

The person named in the notice is liable to account to the copyright owner for all receipts from transfers or licenses purportedly made under the copyright by the person named in the notice.

(b) Error in Date.—When the year date in the notice on copies or phonorecords distributed by authority of the copyright owner is earlier than the year in which publication first occurred, any period computed from the year of first publication under section 302 is to be computed from the year in the notice. Where the year date is more than one year later than the year in which publication first occurred, the work is considered to have been published without any notice and is governed by the provisions of section 405.

(c) Omission of Name or Date.—Where copies or phonorecords publicly distributed by authority of the copyright owner contain no name or no date that could reasonably be considered a part of the notice, the work is considered to have been published without any notice and is governed by the provisions of section 405.

§ 407. Deposit of copies or phonorecords for Library of Congress

(a) Except as provided by subsection (c), and subject to the provisions of subsection (e), the owner of copyright or of the exclusive right of publication in a work published with notice of copyright in the United States shall deposit, within three months after the date of such publication—

(1) two complete copies of the best edition; or

(2) if the work is a sound recording, two complete phonorecords of the best edition, together with any printed or other visually perceptible material published with such phonorecords.

Neither the deposit requirements of this subsection nor the acquisition provisions of subsection (e) are conditions of copyright protection.

(b) The required copies of phonorecords shall be deposited in the Copyright Office for the use or disposition of the Library of Congress. The Register of Copyrights shall, when requested by the depositor and upon payment of the fee prescribed by section 708, issue a receipt for the deposit.

(c) The Register of Copyrights may by regulation exempt any categories of material from the deposit requirements of this section, or require deposit of only one copy or phonorecord with respect to any categories. Such regulations shall provide either for complete exemption from the deposit requirements of this section, or for alternative forms of deposit aimed at providing a satisfactory archival record of a work without imposing

practical or financial hardships on the depositor, where the individual author is the owner of copyright in a pictorial, graphic, or sculptural work and (i) less than five copies of the work have been published, or (ii) the work has been published in a limited edition consisting of numbered copies, the monetary value of which would make the mandatory deposit of two copies of the best edition of the work burdensome, unfair, or unreasonable.

(d) At any time after publication of a work as provided by subsection (a), the Register of Copyrights may make written demand for the required deposit on any of the persons obligated to make the deposit under subsection (a). Unless deposit is made within three months after the demand is received, the person or persons on whom the demand was made are liable—

(1) to a fine of not more than $250 for each work;

(2) to pay into a specially designated fund in the Library of Congress the total retail price of the copies or phonorecords demanded, or, if no retail price has been fixed, the reasonable cost to the Library of Congress of acquiring them; and

(3) to pay a fine of $2,500, in addition to any fine or liability imposed under clauses (1) and (2), if such person willfully or repeatedly fails or refuses to comply with such a demand.

(e) With respect to transmission programs that have been fixed and transmitted to the public in the United States but have not been published, the Register of Copyrights shall, after consulting with the Librarian of Congress and other interested organizations and officials, establish regulations governing the acquisition, through deposit or otherwise, of copies or phonorecords of such programs for the collections of the Library of Congress.

(1) The Librarian of Congress shall be permitted, under the standards and conditions set forth in such regulations, to make a fixation of a transmission program directly from a transmission to the public, and to reproduce one copy or phonorecord from such fixation for archival purposes.

(2) Such regulations shall also provide standards and procedures by which the Register of Copyrights may make written demand, upon the owner of the right of transmission in the United States, for the deposit of a copy or phonorecord of a specific transmission program. Such deposit may, at the option of the owner of the right of transmission in the United States, be accomplished by gift, by loan for purposes of reproduction, or by sale at a price not to exceed the cost of reproducing and supplying the copy or phonorecord. The regulations established under this clause shall provide reasonable periods of not less than three months for compliance with a demand, and shall allow for extensions of such periods and adjustments in the scope of the demand or the methods for fulfilling it, reasonably warranted by the circumstances. Willful failure or refusal to comply with the conditions prescribed by such regulations shall subject the owner of the right of transmission in the United States to liability for an amount, not to exceed the cost of reproducing and supplying the copy or phonorecord in question, to be paid into a specially designated fund in the Library of Congress.

(3) Nothing in this subsection shall be construed to require the making or retention, for purposes of deposit, of any copy or phonorecord of an unpublished transmission program, the transmission of which occurs before the receipt of a specific written demand as provided by clause (2).

(4) No activity undertaken in compliance with regulations prescribed under clauses (1) or (2) of this subsection shall result in liability if intended solely to assist in the acquisition of copies or phonorecords under this subsection.

§ 408. Copyright registration in general

(a) REGISTRATION PERMISSIVE.—At any time during the subsistence of copyright in any published or unpublished work, the owner of copyright or of any exclusive right in the work may obtain registration of the copyright claim by delivering to the Copyright Office the deposit specified by this section, together with the application and fee specified by sections 409 and 708. Subject to the provisions of section 405(a), such registration is not a condition of copyright protection.

(b) DEPOSIT FOR COPYRIGHT REGISTRATION.—Except as provided by subsection (c), the material deposited for registration shall include—

(1) in the case of an unpublished work, one complete copy or phonorecord;

(2) in the case of a published work, two complete copies or phonorecords of the best edition;

(3) in the case of a work first published outside the United States, one complete copy or phonorecord as so published;

(4) in the case of a contribution to a collective work, one complete copy or phonorecord of the best edition of the collective work.

Copies or phonorecords deposited for the Library of Congress under section 407 may be used to satisfy the deposit provisions of this section, if they are accompanied by the prescribed application and fee, and by any additional identifying material that the Register may, by regulation, require. The Register shall also prescribe regulations establishing requirements under which copies or phonorecords acquired for the Library of Congress under subsection (e) of section 407, otherwise than by deposit, may be used to satisfy the deposit provisions of this section.

(c) ADMINISTRATIVE CLASSIFICATION AND OPTIONAL DEPOSIT.—

(1) The Register of Copyrights is authorized to specify by regulation the administrative classes into which works are to be placed for purposes of deposit and registration, and the nature of the copies or phonorecords to be deposited in the various classes specified. The regulations may require or permit, for particular classes, the deposit of identifying material instead of copies or phonorecords, the deposit of only one copy or phonorecord where two would normally be required, or a single registration for a group of related works. This administrative classification of works has no significance with respect to the subject matter of copyright or the exclusive rights provided by this title.

(2) Without prejudice to the general authority provided under clause (1), the Register of Copyrights shall establish regulations specifically permitting a single registration for a group of works by the same individual author, all first published as contributions to periodicals, including newspapers, within a twelve-month period, on the basis of a single deposit, application, and registration fee, under all of the following conditions—

(A) if each of the works as first published bore a separate copyright notice, and the name of the owner of copyright in the work, or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner was the same in each notice; and

(B) if the deposit consists of one copy of the entire issue of the periodical or of the entire section in the case of a newspaper, in which each contribution was first published; and

(C) if the application identifies each work separately, including the periodical containing it and its date of first publication.

(3) As an alternative to separate renewal registrations under subsection (a) of section 304, a single renewal registration may be made for a group of works by the same individual author, all first published as contributions to periodicals, including newspapers, upon the filing of a single application and fee, under all of the following conditions:

(A) the renewal claimant or claimants, and the basis of claim or claims under section 304(a), is the same for each of the works; and

(B) the works were all copyrighted upon their first publication, either through separate copyright notice and registration or by virtue of a general copyright notice in the periodical issue as a whole; and

(C) the renewal application and fee are received not more than twenty-eight or less than twenty-seven years after the thirty-first day of December of the calendar year in which all of the works were first published; and

(D) the renewal application identifies each work separately, including the periodical containing it and its date of first publication.

(d) CORRECTIONS AND AMPLIFICATIONS.—The Register may also establish, by regulation, formal procedures for the filing of an application for supplementary registration, to correct an error in a copyright registration or to amplify the information given in a registration. Such application shall be accompanied by the fee provided by section 708, and shall clearly identify the registration to be corrected or amplified. The information contained in a supplementary registration augments but does not supersede that contained in the earlier registration.

(e) PUBLISHED EDITION OF PREVIOUSLY REGISTERED WORK.—Registration for the first published edition of a work previously registered in unpublished form may be made even though the work as published is substantially the same as the unpublished version.

§ 409. Application for registration

The application for copyright registration shall be made on a form prescribed by the Register of Copyrights and shall include—

(1) the name and address of the copyright claimant;

(2) in the case of a work other than an anonymous or pseudonymous work, the name and nationality or domicile of the author or authors, and, if one or more of the authors is dead, the dates of their deaths;

(3) if the work is anonymous or pseudonymous, the nationality or domicile of the author or authors;

(4) in the case of a work made for hire, a statement to this effect;

(5) if the copyright claimant is not the author, a brief statement of how the claimant obtained ownership of the copyright;

(6) the title of the work, together with any previous or alternative titles under which the work can be identified;

(7) the year in which creation of the work was completed;

(8) if the work has been published, the date and nation of its first publication;

(9) in the case of a compilation or derivative work, an identification of any pre-existing work or works that it is based on or incorporates, and a brief, general statement of the additional material covered by the copyright claim being registered;

(10) in the case of a published work containing material of which copies are required by section 601 to be manufactured in the United States, the names of the persons or organizations who performed the processes specified by subsection (c) of section 601 with respect to that material, and the places where those processes were performed; and

(11) any other information regarded by the Register of Copyrights as bearing upon the preparation or identification of the work or the existence, ownership, or duration of the copyright.

§ 410. Registration of claim and issuance of certificate

(a) When, after examination, the Register of Copyrights determines that, in accordance with the provisions of this title, the material deposited constitutes copyrightable subject matter and that the other legal and formal

requirements of this title have been met, the Register shall register the claim and issue to the applicant a certificate of registration under the seal of the Copyright Office. The certificate shall contain the information given in the application, together with the number and effective date of the registration.

(b) In any case in which the Register of Copyrights determines that, in accordance with the provisions of this title, the material deposited does not constitute copyrightable subject matter or that the claim is invalid for any other reason, the Register shall refuse registration and shall notify the applicant in writing of the reasons for such refusal.

(c) In any judicial proceedings the certificate of a registration made before or within five years after first publication of the work shall constitute prima facie evidence of the validity of the copyright and of the facts stated in the certificate. The evidentiary weight to be accorded the certificate of a registration made thereafter shall be within the discretion of the court.

(d) The effective date of a copyright registration is the day on which an application, deposit, and fee, which are later determined by the Register of Copyrights or by a court of competent jurisdiction to be acceptable for registration, have all been received in the Copyright Office.

§ 411. Registration as prerequisite to infringement suit

(a) Subject to the provisions of subsection (b), no action for infringement of the copyright in any work shall be instituted until registration of the copyright claim has been made in accordance with this title. In any case, however, where the deposit, application, and fee required for registration have been delivered to the Copyright Office in proper form and registration has been refused, the applicant is entitled to institute an action for infringement if notice thereof, with a copy of the complaint, is served on the Register of Copyrights. The Register may, at his or her option, become a party to the action with respect to the issue of registrability of the copyright claim by entering an appearance within sixty days after such service, but the Register's failure to become a party shall not deprive the court of jurisdiction to determine that issue.

(b) In the case of a work consisting of sounds, images, or both, the first fixation of which is made simultaneously with its transmission, the copyright owner may, either before or after such fixation takes place, institute an action for infringement under section 501, fully subject to the remedies provided by sections 502 through 506, if, in accordance with requirements that the Register of Copyrights shall prescribe by regulation, the copyright owner—

(1) serves notice upon the infringer, not less than ten or more than thirty days before such fixation, identifying the work and the specific time and source of its first transmission, and declaring an intention to secure copyright in the work; and

(2) makes registration for the work within three months after its first transmission.

§ 412. Registration as prerequisite to certain remedies for infringement

In any action under this title, other than an action instituted under section 411(b), no award of statutory damages or of attorney's fees, as provided by sections 504 and 505, shall be made for—

(1) any infringement of copyright in an unpublished work commenced before the effective date of its registration; or

(2) any infringement of copyright commenced after first publication of the work and before the effective date of its registration, unless such registration is made within three months after the first publication of the work.

Chapter 5.—COPYRIGHT INFRINGEMENT AND REMEDIES

Sec.
501. Infringement of copyright.
502. Remedies for infringement: Injunctions.
503. Remedies for infringement: Impounding and disposition of infringing articles.
504. Remedies for infringement: Damages and profits.
505. Remedies for infringement: Costs and attorney's fees.
506. Criminal offenses.
507. Limitations on actions.
508. Notification of filing and determination of actions.
509. Remedies for alteration of programing by cable systems.

§ 501. Infringement of copyright

(a) Anyone who violates any of the exclusive rights of the copyright owner as provided by sections 106 through 118, or who imports copies or phonorecords into the United States in violation of section 602, is an infringer of the copyright.

(b) The legal or beneficial owner of an exclusive right under a copyright is entitled, subject to the requirements of sections 205(d) and 411, to institute an action for any infringement of that particular right committed while he or she is the owner of it. The court may require such owner to serve written notice of the action with a copy of the complaint upon any person shown, by the records of the Copyright Office or otherwise, to have or claim an interest in the copyright, and shall require that such notice be served upon any person whose interest is likely to be affected by a decision in the case. The court may require the joinder, and shall permit the intervention, of any person having or claiming an interest in the copyright.

(c) For any secondary transmission by a cable system that embodies a performance or a display of a work which is actionable as an act of infringement under subsection (c) of section III, a television broadcast station holding a copyright or other license to transmit or perform the same version of that work shall, for purposes of subsection (b) of this section, be treated as a legal or beneficial owner if such secondary transmission occurs within the local service area of that television station.

(d) For any secondary transmission by a cable system that is actionable as an act of infringement pursuant to section 111(c)(3), the following shall also have standing to sue: (i) the primary transmitter whose transmission has been altered by the cable system; and (ii) any broadcast station within whose local service area the secondary transmission occurs.

§ 502. Remedies for infringement: Injunctions

(a) Any court having jurisdiction of a civil action arising under this title may, subject to the provisions of section 1498 of title 28, grant temporary and final injunctions on such terms as it may deem reasonable to prevent or restrain infringement of a copyright.

(b) Any such injunction may be served anywhere in the United States on the person enjoined; it shall be operative throughout the United States and shall be enforceable, by proceedings in contempt or otherwise, by any United States court having jurisdiction of that person. The clerk of the court granting the injunction shall, when requested by any other court in which enforcement of the injunction is sought, transmit promptly to the other court a certified copy of all the papers in the case on file in such clerk's office.

§ 503. Remedies for infringement: Impounding and disposition of infringing articles

(a) At any time while an action under this title is pending, the court may order the impounding, on such terms as it may deem reasonable, of all copies or phonorecords claimed to have been made or used in violation of the copyright owner's exclusive rights, and of all plates, molds, matrices, masters, tapes, film negatives, or other articles by means of which such copies or phonorecords may be reproduced.

(b) As part of a final judgment or decree, the court may order the destruction or other reasonable disposition of all copies or phonorecords found to have been made or used in violation of the copyright owner's exclusive rights, and of all plates, molds, matrices, masters, tapes, film negatives, or other articles by means of which such copies or phonorecords may be reproduced.

§ 504. Remedies for infringement: Damages and profits

(a) In General.—Except as otherwise provided by this title, an infringer of copyright is liable for either—

(1) the copyright owner's actual damages and any additional profits of the infringer, as provided by subsection (b); or

(2) statutory damages, as provided by subsection (c).

(b) Actual Damages and Profits.—The copyright owner is entitled to recover the actual damages suffered by him or her as a result of the infringement, and any profits of the infringer that are attributable to the infringement and are not taken into account in computing the actual damages. In establishing the infringer's profits, the copyright owner is required to present proof only of the infringer's gross revenue, and the infringer is required to prove his or her deductible expenses and the elements of profit attributable to factors other than the copyrighted work.

(c) Statutory Damages.—

(1) Except as provided by clause (2) of this subsection, the copyright owner may elect, at any time before final judgment is rendered, to recover, instead of actual damages and profits, an award of statutory damages for all infringements involved in the action, with respect to any one work, for which any one infringer is liable individually, or for which any two or more infringers are liable jointly and severally, in a sum of not less than $250 or more than $10,000 as the court considers just. For the purposes of this subsection, all the parts of a compilation or derivative work constitute one work.

(2) In a case where the copyright owner sustains the burden of proving, and the court finds, that infringement was committed willfully, the court in its discretion may increase the award of statutory damages to a sum of not more than $50,000. In a case where the infringer sustains the burden of proving, and the court finds, that such infringer was not aware and had no reason to believe that his or her acts constituted an infringement of copyright, the court in its discretion may reduce the award of statutory damages to a sum of not less than $100. The court shall remit statutory damages in any case where an infringer believed and had reasonable grounds for believing that his or her use of the copyrighted work was a fair use under section 107, if the infringer was: (i) an employee or agent of a nonprofit educational institution, library, or archives acting within the scope of his or her employment who, or such institution, library, or archives itself, which infringed by reproducing the work in copies or phonorecords; or (ii) a public broadcasting entity which or a person who, as a regular part of the nonprofit activities of a public broadcasting entity (as defined in subsection (g) of section 118) infringed by performing a published nondramatic literary work or by reproducing a transmission program embodying a performance of such a work.

§ 505. Remedies for infringement: Costs and attorney's fee

In any civil action under this title, the court in its discretion may allow the recovery of full costs by or against any party other than the United States or an officer thereof. Except as otherwise provided by this title, the court may also award a reasonable attorney's fee to the prevailing party as part of the costs.

§ 506. Criminal offenses

(a) CRIMINAL INFRINGEMENT.—Any person who infringes a copyright willfully and for purposes of commercial advantage or private financial gain shall be fined not more than $10,000 or imprisoned for not more than one year, or both: *Provided, however,* That any person who infringes willfully and for purposes of commercial advantage or private financial gain the copyright in a sound recording afforded by subsections (1), (2), or (3) of section 106 or the copyright in a motion picture afforded by subsections (1), (3), or (4) of section 106 shall be fined not more than $25,000 or imprisoned for not more than one year, or both, for the first such offense and shall be fined not more than $50,000 or imprisoned for not more than two years, or both, for any subsequent offense.

(b) SEIZURE, FORFEITURE, AND DESTRUCTION.—All copies or phonorecords manufactured, reproduced, distributed, sold, or otherwise used, intended for use, or possessed with intent to use in violation of subsection (a), and all plates, molds, matrices, masters, tapes, film negatives, or other articles by means of which such copies or phonorecords may be reproduced, shall be seized and forfeited to the United States. When any person is convicted of any violation of subsection (a), the court in its judgment of conviction may, in addition to the penalty therein prescribed, order either the destruction or other disposition of all infringing copies or phonorecords and all plates, molds, matrices, masters, tapes, film negatives, or other articles by means of which such copies or phonorecords may be reproduced. The applicable procedures relating to (1) the seizure, summary and judicial forfeiture and condemnation of vessels, vehicles, merchandise, and baggage for violations of the customs laws contained in title 19, (2) the disposition of such vessels, vehicles, merchandise, and baggage or the proceeds from the sale thereof, (3) the remission or mitigation of such forfeitures, (4) the compromise of claims, and (5) the award of compensation to informers in respect of such forfeitures, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as applicable and not inconsistent with the provisions of this section; except that such duties as are imposed upon any officer or employee of the Treasury Department or any other person with respect to the seizure and forfeiture of vessels, vehicles, merchandise, and baggage under the provisions of the customs laws contained in title 19 shall be performed with respect to seizure and forfeiture of all articles described in subsection (a) by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General.

(c) FRAUDULENT COPYRIGHT NOTICE.—Any person who, with fraudulent intent, places on any article a notice of copyright or words of the same purport that such person knows to be false, or who, with fraudulent intent, publicly distributes or imports for public distribution any article bearing such notice or words that such person knows to be false, shall be fined not more than $2,500.

(d) FRAUDULENT REMOVAL OF COPYRIGHT NOTICE.—Any person who, with fraudulent intent, removes or alters any notice of copyright appearing on a copy of a copyrighted work shall be fined not more than $2,500.

(e) FALSE REPRESENTATION.—Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 409, or in any written statement filed in connection with the application, shall be fined not more than $2,500.

§ 507. Limitations on actions

(a) CRIMINAL PROCEEDINGS.—No criminal proceeding shall be maintained under the provisions of this title unless it is commenced within three years after the cause of action arose.

(b) CIVIL ACTIONS.—No civil action shall be maintained under the provisions of this title unless it is commenced within three years after the claim accrued.

§ 508. Notification of filing and determination of actions

(a) Within one month after the filing of any action under this title, the clerks of the courts of the United States shall send written notification to the Register of Copyrights setting forth, as far as is shown by the papers filed in the court, the names and addresses of the parties and the title, author, and registration number of each work involved in the action. If any other copyrighted work is later included in the action by amendment, answer, or other pleading, the clerk shall also send a notification concerning it to the Register within one month after the pleading is filed.

(b) Within one month after any final order or judgment is issued in the case, the clerk of the court shall notify the Register of it, sending with the notification a copy of the order or judgment together with the written opinion, if any, of the court.

(c) Upon receiving the notifications specified in this section, the Register shall make them a part of the public records of the Copyright Office.

§ 509. Remedies for alteration of programing by cable systems

(a) In any action filed pursuant to section 111(c)(3), the following remedies shall be available:

(1) Where an action is brought by a party identified in subsection (b) or (c) of section 501, the remedies provided by sections 502 through 505, and the remedy provided by subsection (b) of this section; and

(2) Where an action is brought by a party identified in subsection (d) of section 501, the remedies provided by sections 502 and 505, together with any actual damages suffered by such party as a result of the infringement, and the remedy provided by subsection (b) of this section.

(b) In any action filed pursuant to section 111(c)(3), the court may decree that, for a period not to exceed thirty days, the cable system shall be deprived of the benefit of a compulsory license for one or more distant signals carried by such cable system.

Chapter 6.—MANUFACTURING REQUIREMENT AND IMPORTATION

Sec.
601. Manufacture, importation, and public distribution of certain copies.
602. Infringing importation of copies or phonorecords.
603. Importation prohibitions: Enforcement and disposition of excluded articles.

§ 601. Manufacture, importation, and public distribution of certain copies

(a) Prior to January 1, 1981, and except as provided by subsection (b), the importation into or public distribution in the United States of copies of a work consisting preponderantly of nondramatic literary material that is in the English language and is protected under this title is prohibited unless the portions consisting of such material have been manufactured in the United States or Canada.

(b) The provisions of subsection (a) do not apply—

(1) where, on the date when importation is sought or public distribution in the United States is made, the author of any substantial part of such material is neither a national nor a domiciliary of the United States or, if such author is a national of the United States, he or she has been domiciled outside the United States for a continuous period of at least one year immediately preceding that date; in the case of a work made for hire, the exemption provided by this clause does not apply unless a substantial part of the work was prepared for an employer or other person who is not a national or domiciliary of the United States or a domestic corporation or enterprise;

(2) where the United States Customs Service is presented with an import statement issued under the seal of the Copyright Office, in which case a total of no more than two thousand copies of any one such work shall be allowed entry; the import statement shall be issued upon request to the copyright owner or to a person designated by such owner at the time of registration for the work under section 408 or at any time thereafter;

(3) where importation is sought under the authority or for the use, other than in schools, of the Government of the United States or of any State or political subdivision of a State;

(4) where importation, for use and not for sale, is sought:

(A) by any person with respect to no more than one copy of any work at any one time;

(B) by any person arriving from outside the United States, with respect to copies forming part of such person's personal baggage; or

(C) by an organization operated for scholarly, educational, or religious purposes and not for private gain, with respect to copies intended to form a part of its library;

(5) where the copies are reproduced in raised characters for the use of the blind; or

(6) where, in addition to copies imported under clauses (3) and (4) of this subsection, no more than two thousand copies of any one such work, which have not been manufactured in the United States or Canada, are publicly distributed in the United States; or

(7) where, on the date when importation is sought or public distribution in the United States is made—

(A) the author of any substantial part of such material is an individual and receives compensation for the transfer or license of the right to distribute the work in the United States; and

(B) the first publication of the work has previously taken place outside the United States under a transfer or license granted by such author to a transferee or licensee who was not a national or domiciliary of the United States or a domestic corporation or enterprise; and

(C) there has been no publication of an authorized edition of the work of which the copies were manufactured in the United States; and

(D) the copies were reproduced under a transfer or license granted by such author or by the transferee or licensee of the right of first publication as mentioned in subclause (B), and the transferee or the licensee of the right of reproduction was not a national or domiciliary of the United States or a domestic corporation or enterprise.

(c) The requirement of this section that copies be manufactured in the United States or Canada is satisfied if—

(1) in the case where the copies are printed directly from type that has been set, or directly from plates made from such type, the setting of the type and the making of the plates have been performed in the United States or Canada; or

(2) in the case where the making of plates by a lithographic or photoengraving process is a final or intermediate step preceding the printing of the copies, the making of the plates has been performed in the United States or Canada; and

(3) in any case, the printing or other final process of producing multiple copies

and any binding of the copies have been performed in the United States or Canada.

(d) Importation or public distribution of copies in violation of this section does not invalidate protection for a work under this title. However, in any civil action or criminal proceeding for infringement of the exclusive rights to reproduce and distribute copies of the work, the infringer has a complete defense with respect to all of the nondramatic literary material comprised in the work and any other parts of the work in which the exclusive rights to reproduce and distribute copies are owned by the same person who owns such exclusive rights in the nondramatic literary material, if the infringer proves—

(1) that copies of the work have been imported into or publicly distributed in the United States in violation of this section by or with the authority of the owner of such exclusive rights; and

(2) that the infringing copies were manufactured in the United States or Canada in accordance with the provisions of subsection (c); and

(3) that the infringement was commenced before the effective date of registration for an authorized edition of the work, the copies of which have been manufactured in the United States or Canada in accordance with the provisions of subsection (c).

(e) In any action for infringement of the exclusive rights to reproduce and distribute copies of a work containing material required by this section to be manufactured in the United States or Canada, the copyright owner shall set forth in the complaint the names of the persons or organizations who performed the processes specified by subsection (c) with respect to that material, and the places where those processes were performed.

§ 602. Infringing importation of copies or phonorecords

(a) Importation into the United States, without the authority of the owner of copyright under this title, of copies or phonorecords of a work that have been acquired outside the United States is an infringement of the exclusive right to distribute copies or phonorecords under section 106, actionable under section 501. This subsection does not apply to—

(1) importation of copies or phonorecords under the authority or for the use of the Government of the United States or of any State or political subdivision of a State, but not including copies or phonorecords for use in schools, or copies of any audiovisual work imported for purposes other than archival use;

(2) importation, for the private use of the importer and not for distribution, by any person with respect to no more than one copy or phonorecord of any one work at any one time, or by any person arriving from outside the United States with respect to copies or phonorecords forming part of such person's personal baggage; or

(3) importation by or for an organization operated for scholarly, educational, or religious purposes and not for private gain, with respect to no more than one copy of an audiovisual work solely for its archival purposes, and no more than five copies or phonorecords of any other work for its library lending or archival purposes, unless the importation of such copies or phonorecords is part of an activity consisting of systematic reproduction or distribution, engaged in by such organization in violation of the provisions of section 108(g)(2).

(b) In a case where the making of the copies or phonorecords would have constituted an infringement of copyright if this title had been applicable, their importation is prohibited. In a case where the copies or phonorecords were lawfully made, the United States Customs Service has no authority to prevent their importation unless the provisions of section 601 are applicable. In either case, the Secretary of the Treasury is authorized to prescribe, by regulation, a procedure under which any person claiming an interest in the copyright in a particular work may, upon payment of a specified fee, be entitled to notification by the Customs Service of the importation of articles that appear to be copies or phonorecords of the work.

§ 603. Importation prohibitions: Enforcement and disposition of excluded articles

(a) The Secretary of the Treasury and the United States Postal Service shall separately or jointly make regulations for the enforcement of the provisions of this title prohibiting importation.

(b) These regulations may require, as a condition for the exclusion of articles under section 602—

(1) that the person seeking exclusion obtain a court order enjoining importation of the articles; or

(2) that the person seeking exclusion furnish proof, of a specified nature and in accordance with prescribed procedures, that the copyright in which such person claims an interest is valid and that the importation would violate the prohibition in section 602; the person seeking exclusion may also be required to post a surety bond for any injury that may result if the detention or exclusion of the articles proves to be unjustified.

(c) Articles imported in violation of the importation prohibitions of this title are subject to seizure and forfeiture in the same manner as property imported in violation of the customs revenue laws. Forfeited articles shall be destroyed as directed by the Secretary of the Treasury or the court, as the case may be; however, the articles may be returned to the country of export whenever it is shown to the satisfaction of the Secretary of the Treasury that the importer had no reasonable grounds for believing that his or her acts constituted a violation of law.

Chapter 7.—COPYRIGHT OFFICE

Sec.
701. The Copyright Office: General responsibilities and organization.
702. Copyright Office regulations.
703. Effective date of actions in Copyright Office.
704. Retention and disposition of articles deposited in Copyright Office.
705. Copyright Office records: Preparation, maintenance, public inspection, and searching.
706. Copies of Copyright Office records.
707. Copyright Office forms and publications.
708. Copyright Office fees.
709. Delay in delivery caused by disruption of postal or other services.
710. Reproductions for use of the blind and physically handicapped: Voluntary licensing forms and procedures.

§ 701. The Copyright Office: General responsibilities and organization

(a) All administrative functions and duties under this title, except as otherwise specified, are the responsibility of the Register of Copyrights as director of the Copyright Office of the Library of Congress. The Register of Copyrights, together with the subordinate officers and employees of the Copyright Office, shall be appointed by the Librarian of Congress, and shall act under the Librarian's general direction and supervision.

(b) The Register of Copyrights shall adopt a seal to be used on and after January 1, 1978, to authenticate all certified documents issued by the Copyright Office.

(c) The Register of Copyrights shall make an annual report to the Librarian of Congress of the work and accomplishments of the Copyright Office during the previous fiscal year. The annual report of the Register of Copyrights shall be published separately and as a part of the annual report of the Librarian of Congress.

(d) Except as provided by section 706(b) and the regulations issued thereunder, all actions taken by the Register of Copyrights under this title are subject to the provisions of the Administrative Procedure Act of June 11, 1946, as amended (c. 324, 60 Stat. 237, title 5, United States Code, chapter 5, subchapter II and chapter 7).

§ 702. Copyright Office regulations

The Register of Copyrights is authorized to establish regulations not inconsistent with law for the administration of the functions and duties made the responsibility of the Register under this title. All regulations established by the Register under this title are subject to the approval of the Librarian of Congress.

§ 703. Effective date of actions in Copyright Office

In any case in which time limits are prescribed under this title for the performance of an action in the Copyright Office, and in which the last day of the prescribed period falls on a Saturday, Sunday, holiday, or other nonbusiness day within the District of Columbia or the Federal Government, the action may be taken on the next succeeding business day, and is effective as of the date when the period expired.

§ 704. Retention and disposition of articles deposited in Copyright Office

(a) Upon their deposit in the Copyright Office under sections 407 and 408, all copies, phonorecords, and identifying material, including those deposited in connection with claims that have been refused registration, are the property of the United States Government.

(b) In the case of published works, all copies, phonorecords, and identifying material deposited are available to the Library of Congress for its collections, or for exchange or transfer to any other library. In the case of unpublished works, the Library is entitled, under regulations that the Register of Copyrights shall prescribe, to select any deposits for its collections or for transfer to the National Archives of the United States or to a Federal records center, as defined in section 2901 of title 44.

(c) The Register of Copyrights is authorized, for specific or general categories of works, to make a facsimile reproduction of all or any part of the material deposited under section 408, and to make such reproduction a part of the Copyright Office records of the registration, before transferring such material to the Library of Congress as provided by subsection (b), or before destroying or otherwise disposing of such material as provided by subsection (d).

(d) Deposits not selected by the Library under subsection (b), or identifying portions or reproductions of them, shall be retained under the control of the Copyright Office, including retention in Government storage facilities, for the longest period considered practicable and desirable by the Register of Copyrights and the Librarian of Congress. After that period it is within the joint discretion of the Register and the Librarian to order their destruction or other disposition; but, in the case of unpublished works, no deposit shall be knowingly and intentionally destroyed or otherwise disposed of during its term of copyright unless a facsimile reproduction of the entire deposit has been made a part of the Copyright Office records as provided by subsection (c).

(e) The depositor of copies, phonorecords, or identifying material under section 408, or the copyright owner of record, may request retention, under the control of the Copyright Office, of one or more of such articles for the full term of copyright in the work. The Register of Copyrights shall prescribe, by regulation, the conditions under which such requests are to be made and granted, and shall

fix the fee to be charged under section 708 (a)(11) if the request is granted.

§ 705. Copyright Office records: Preparation, maintenance, public inspection, and searching

(a) The Register of Copyrights shall provide and keep in the Copyright Office records of all deposits, registrations, recordations, and other actions taken under this title, and shall prepare indexes of all such records.

(b) Such records and indexes, as well as the articles deposited in connection with completed copyright registrations and retained under the control of the Copyright Office, shall be open to public inspection.

(c) Upon request and payment of the fee specified by section 708, the Copyright Office shall make a search of its public records, indexes, and deposits, and shall furnish a report of the information they disclose with respect to any particular deposits, registrations, or recorded documents.

§ 706. Copies of Copyright Office records

(a) Copies may be made of any public records or indexes of the Copyright Office; additional certificates of copyright registration and copies of any public records or indexes may be furnished upon request and payment of the fees specified by section 708.

(b) Copies or reproductions of deposited articles retained under the control of the Copyright Office shall be authorized or furnished only under the conditions specified by the Copyright Office regulations.

§ 707. Copyright Office forms and publications

(a) CATALOG OF COPYRIGHT ENTRIES.—The Register of Copyrights shall compile and publish at periodic intervals catalogs of all copyright registrations. These catalogs shall be divided into parts in accordance with the various classes of works, and the Register has discretion to determine, on the basis of practicability and usefulness, the form and frequency of publication of each particular part.

(b) OTHER PUBLICATIONS.—The Register shall furnish, free of charge upon request, application forms for copyright registration and general informational material in connection with the functions of the Copyright Office. The Register also has the authority to publish compilations of information, bibliographies, and other material he or she considers to be of value to the public.

(c) DISTRIBUTION OF PUBLICATIONS.—All publications of the Copyright Office shall be furnished to depository libraries as specified under section 1905 of title 44, and, aside from those furnished free of charge, shall be offered for sale to the public at prices based on the cost of reproduction and distribution.

§ 708. Copyright Office fees

(a) The following fees shall be paid to the Register of Copyrights:

(1) for the registration of a copyright claim or a supplementary registration under section 408, including the issuance of a certificate of registration, $10;

(2) for the registration of a claim to renewal of a subsisting copyright in its first term under section 304(a), including the issuance of a certificate of registration, $6;

(3) for the issuance of a receipt for a deposit under section 407, $2;

(4) for the recordation, as provided by section 205, of a transfer of copyright ownership or other document of six pages or less, covering no more than one title, $10; for each page over six and each title over one, 50 cents additional;

(5) for the filing, under section 115(b), of a notice of intention to make phonorecords, $6;

(6) for the recordation, under section 302(c), of a statement revealing the identity of an author of an anonymous or pseudonymous work, or for the recordation, under section 302(d), of a statement relating to the death of an author, $10 for a document of six pages or less, covering no more than one title; for each page over six and for each title over one, $1 additional;

(7) for the issuance, under section 601, of an import statement, $3;

(8) for the issuance, under section 706, of an additional certificate of registration, $4;

(9) for the issuance of any other certification, $4; the Register of Copyrights has discretion, on the basis of their cost, to fix the fees for preparing copies of Copyright Office records, whether they are to be certified or not;

(10) for the making and reporting of a search as provided by section 705, and for any related services, $10 for each hour or fraction of an hour consumed;

(11) for any other special services requiring a substantial amount of time or expense, such fees as the Register of Copyrights may fix on the basis of the cost of providing the service.

(b) The fees prescribed by or under this section are applicable to the United States Government and any of its agencies, employees, or officers, but the Register of Copyrights has discretion to waive the requirements of this subsection in occasional or isolated cases involving relatively small amounts.

(c) The Register of Copyrights shall deposit all fees in the Treasury of the United States in such manner as the Secretary of the Treasury directs. The Register may, in accordance with regulations that he or she shall prescribe, refund any sum paid by mistake or in excess of the fee required by this section; however, before making a refund in any case involving a refusal to register a claim under section 410(b), the Register shall deduct all or any part of the prescribed registration fee to cover the reasonable administrative costs of processing the claim.

§ 709. Delay in delivery caused by disruption of postal or other services

In any case in which the Register of Copyrights determines, on the basis of such evidence as the Register may by regulation require, that a deposit, application, fee, or any other material to be delivered to the Copyright Office by a particular date, would have been received in the Copyright Office in due time except for a general disruption or suspension of postal or other transportation or communications services, the actual receipt of such material in the Copyright Office within one month after the date on which the Register determines that the disruption or suspension of such services has terminated, shall be considered timely.

§ 710. Reproductions for use of the blind and physically handicapped: Voluntary licensing forms and procedures

The Register of Copyrights shall, after consultation with the Chief of the Division for the Blind and Physically Handicapped and other appropriate officials of the Library of Congress, establish by regulation standardized forms and procedures by which, at the time applications covering certain specified categories of nondramatic literary works are submitted for registration under section 408 of this title, the copyright owner may voluntarily grant to the Library of Congress a license to reproduce the copyrighted work by means of Braille or similar tactile symbols, or by fixation of a reading of the work in a phonorecord, or both, and to distribute the resulting copies or phonorecords solely for the use of the blind and physically handicapped and under limited conditions to be specified in the standardized forms.

Chapter 8.—COPYRIGHT ROYALTY COMMISSION

Sec.
801. Copyright Royalty Commission: Establishment and purpose.
802. Membership of the Commission.
803. Procedures of the Commission.
804. Institution and conclusion of proceedings.
805. Administrative support of the Commission.
806. Deduction of costs of proceedings.
807. Reports.
808. Effective date of final determinations.
809. Judicial review.

§ 801. Copyright Royalty Commission: Establishment and purpose

(a) There is hereby created a Copyright Royalty Commission.

(b) Subject to the provisions of this chapter, the purposes of the Commission shall be—

(1) to make determinations concerning the adjustment of reasonable copyright royalty rates as provided in sections 115 and 116, and to make determinations as to reasonable terms and rates of royalty payments as provided in section 118. Such determinations shall be based upon relevant factors occurring subsequent to the date of enactment of this Act;

(2) to make determinations concerning the adjustment of the copyright royalty rates in section 111 solely in accordance with the following provisions:

(A) The rates established by section 111 (d)(2)(B) may be adjusted to reflect (i) national monetary inflation or deflation or (ii) changes in the average rates charged cable subscribers for the basic service of providing secondary transmissions to maintain the real constant dollar level of the royalty fee per subscriber which existed as of the date of enactment of this Act: *Provided*, That if the average rates charged cable system subscribers for the basic service of providing secondary transmissions are changed so that the average rates exceed national monetary inflation, no change in the rates established by section 111(d)(2)(B) shall be permitted: And *provided further*, That no increase in the royalty fee shall be permitted based on any reduction in the average number of distant signal equivalents per subscriber. The Commission may consider all factors relating to the maintenance of such level of payments including, as an extenuating factor, whether the cable industry has been restrained by subscriber rate regulating authorities from increasing the rates for the basic service of providing secondary transmissions.

(B) In the event that the rules and regulations of the Federal Communications Commission are amended at any time after April 15, 1976, to permit the carriage by cable systems of additional television broadcast signals beyond the local service area of the primary transmitters of such signals, the royalty rates established by section 111(d)(2)(B) may be adjusted to insure that the rates for the additional distant signal equivalents resulting from such carriage are reasonable in the light of the changes effected by the amendment to such rules and regulations. In determining the reasonableness of rates proposed following an amendment of Federal Communications Commission rules and regulations, the Copyright Royalty Commission shall consider, among other factors, the economic impact on copyright owners and users: *Provided*, That no adjustment in royalty rates shall be made under this subclause with respect to any distant signal equivalent or fraction thereof represented by (i) carriage of any signal permitted under the rules and regulations of the Federal Communciations Commission in effect on April 15, 1976, or the carriage of a signal of the same type (that is, independent, network, or noncommercial educational) substituted for such permitted signal, or (ii) a television broadcast signal first carried after April 15, 1976, pursuant to an individual waiver of the rules and regulations of the Federal Communications Commission, as

such rules and regulations were in effect on April 15, 1976.

(C) In the event of any change in the rules and regulations of the Federal Communications Commission with respect to syndicated and sports program exclusivity after April 15, 1976, the rates established by section 111(d)(2)(B) may be adjusted to assure that such rates are reasonable in light of the changes to such rules and regulations, but any such adjustment shall apply only to the affected television broadcast signals carried on those systems affected by the change.

(D) The gross receipts limitations established by section 111(d)(2)(C) and (D) shall be adjusted to reflect national monetary inflation or deflation or changes in the average rates charged cable system subscribers for the basic service of providing secondary transmissions to maintain the real constant dollar value of the exemption provided by such section; and the royalty rate specified therein shall not be subject to adjustment; and

(3) to distribute royalty fees deposited with the Register of Copyrights under sections 111 and 116, and to determine, in cases where controversy exists, the distribution of such fees.

(c) As soon as possible after the date of enactment of this Act, and no later than six months following such date, the President shall publish a notice announcing the initial appointments provided in section 802.

§ 802. Membership of the Commission

(a) The Commission shall be composed of three members appointed by the President for a term of five years each; of the first three members appointed, two shall be designated to serve for five years from the date of the notice specified in section 801(c), and one shall be designated to serve for three years from such date, respectively. Commissioners shall be compensated at the highest rate now or hereafter prescribed for grade 18 of the General Schedule pay rates (5 U.S.C. 5332).

(b) The President shall appoint a Chairman.

(c) Any vacancy in the Commission shall not affect its powers and shall be filled, for the unexpired term of the appointment, in the same manner as the original appointment was made.

§ 803. Procedures of the Commission

(a) The Commission shall adopt regulations, not inconsistent with law, governing its procedure and methods of operation. Except as otherwise provided in this chapter, the Commission shall be subject to the provisions of the Administrative Procedure Act of June 11, 1946, as amended (c. 324, 60 Stat. 237, title 5, United States Code, chapter 5, subchapter II and chapter 7).

(b) Every final determination of the Commission shall be published in the Federal Register. It shall state in detail the criteria that the Commission determined to be applicable to the particular proceeding, the various facts that it found relevant to its determination in that proceeding, and the specific reasons for its determination.

§ 804. Institution and conclusion of proceedings

(a) With respect to proceedings under section 801(b)(1) concerning the adjustment of royalty rates as provided in sections 115 and 116, and with respect to proceedings under section 801(b)(2)(A) and (D)—

(1) on January 1, 1980, the Chairman of the Commission shall cause to be published in the Federal Register notice of commencement of proceedings under this chapter; and

(2) during the calendar years specified in the following schedule, any owner or user of a copyrighted work whose royalty rates are specified by this title, or by a rate established by the Commission, may file a petition with the Commission declaring that the petitioner requests an adjustment of the rate. The Commission shall make a determination as to whether the applicant has a significant interest in the royalty rate in which an adjustment is requested. If the Commission determines that the petitioner has a significant interest, the Chairman shall cause notice of this determination, with the reasons therefor, to be published in the Federal Register, together with notice of commencement of proceedings under this chapter.

(A) In proceedings under section 801(b)(2)(A) and (D), such petition may be filed during 1985 and in each subsequent fifth calendar year.

(B) In proceedings under section 801(b)(1) concerning the adjustment of royalty rates as provided in section 115, such petition may be filed in 1987 and in each subsequent tenth calendar year.

(C) In proceedings under section 801(b)(1) concerning the adjustment of royalty rates under section 116, such petition may be filed in 1990 and in each subsequent tenth calendar year.

(b) With respect to proceedings under subclause (B) or (C) of section 801(b)(2), following an event described in either of those subsections, any owner or user of a copyrighted work whose royalty rates are specified by section 111, or by a rate established by the Commission, may, within twelve months, file a petition with the Commission declaring that the petitioner requests an adjustment of the rate. In this event the Commission shall proceed as in subsection (a)(2), above. Any change in royalty rates made by the Commission pursuant to this subsection may be reconsidered in 1980, 1985, and in each fifth calendar year thereafter, in accordance with the provisions in section 801(b)(2)(B) or (C), as the case may be.

(c) With respect to proceedings under section 801(b)(1), concerning the determination of reasonable terms and rates of royalty payments as provided in section 118, the Commission shall proceed when and as provided by that section.

(d) With respect to proceedings under section 801(b)(3), concerning the distribution of royalty fees in certain circumstances under section 111 or 116, the Chairman of the Commission shall, upon determination by the Commission that a controversy exists concerning such distribution, cause to be published in the Federal Register notice of commencement of proceedings under this chapter.

(e) All proceedings under this chapter shall be initiated without delay following publication of the notice specified in this section, and the Commission shall render its final decision in any such proceeding within one year from the date of such publication.

§ 805. Administrative support of the Commission

(a) To assist in its work, the Commission may appoint a staff which shall be an administrative part of the Library of Congress, but which shall be responsible to the Commission for the administration of the duties entrusted to the staff.

(b) The Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5.

§ 806. Deduction of costs of proceedings

Before any funds are distributed pursuant to a final decision in a proceeding involving distribution of royalty fees, the Commission shall assess the reasonable costs of such proceeding.

§ 807. Reports

In addition to its publication of the reports of all final determinations as provided in section 803(b), the Commission shall make an annual report to the President and the Congress concerning the Commission's work during the preceding fiscal year, including a detailed fiscal statement of account.

§ 808. Effective date of final determinations

Any final determination by the Commission under this chapter shall become effective thirty days following its publication in the Federal Register as provided in section 803(b), unless prior to that time an appeal has been filed pursuant to section 809, to vacate, modify, or correct such determination, and notice of such appeal has been served on all parties who appeared before the Commission in the proceeding in question. Where the proceeding involves the distribution of royalty fees under section 111 or 116, the Commission shall, upon the expiration of such thirty-day period, distribute any royalty fees not subject to an appeal filed pursuant to section 809.

§ 809. Judicial review

Any final decision of the Commission in a proceeding under section 801(b) may be appealed to the United States Court of Appeals, within thirty days after its publication in the Federal Register, by an aggrieved party. The judicial review of the decision shall be had, in accordance with chapter 7 of title 5, on the basis of the record before the Commission. No court shall have jurisdiction to review a final decision of the Commission except as provided in this section.

TRANSITIONAL AND SUPPLEMENTARY PROVISIONS

SEC. 102. This Act becomes effective on January 1, 1978, except as otherwise expressly provided by this Act, including provisions of the first section of this Act. The provisions of sections 118, 304(b), and chapter 8 of title 17, as amended by the first section of this Act, take effect upon enactment of this Act.

SEC. 103. This Act does not provide copyright protection for any work that goes into the public domain before January 1, 1978. The exclusive rights, as provided by section 106 of title 17 as amended by the first section of this Act, to reproduce a work in phonorecords and to distribute phonorecords of the work, do not extend to any nondramatic musical work copyrighted before July 1, 1909.

SEC. 104. All proclamations issued by the President under section 1(e) or 9(b) of title 17 as it existed on December 31, 1977, or under previous copyright statutes of the United States, shall continue in force until terminated, suspended, or revised by the President.

SEC. 105. (a)(1) Section 505 of title 44 is amended to read as follows:

"§ 505. Sale of duplicate plates

"The Public Printer shall sell, under regulations of the Joint Committee on Printing to persons who may apply, additional or duplicate stereotype or electrotype plates from which a Government publication is printed, at a price not to exceed the cost of composition, the metal, and making to the Government, plus 10 per centum, and the full amount of the price shall be paid when the order is filed.".

(2) The item relating to section 505 in the sectional analysis at the beginning of chapter 5 of title 44 is amended to read as follows:

"505. Sale of duplicate plates.".

(b) Section 2113 of title 44 is amended to read as follows:

"§ 2113. Limitation on liability

"When letters and other intellectual productions (exclusive of patented material, published works under copyright protection, and unpublished works for which copyright registration has been made) come into the custody or possession of the Administrative of General Services, the United States or its agents are not liable for infringement of copyright or analogous rights arising out of use of the materials for display, inspection, research, reproduction, or other purposes.".

(c) In section 1498(b) of title 28, the

phrase "section 101(b) of title 17" is amended to read "section 504(c) of title 17".

(d) Section 543(a)(4) of the Internal Revenue Code of 1954, as amended, is amended by striking out "(other than by reason of section 2 or 6 thereof)".

(e) Section 3202(a) of title 39 is amended by striking out clause (5). Section 3206 of title 39 is amended by deleting the words "subsections (b) and (c)" and inserting "subsection (b)" in subsection (a), and by deleting subsection (c). Section 3206(d) is renumbered (c).

(f) Subsection (a) of section 290(e) of title 15 is amended by deleting the phrase "section 8" and inserting in lieu thereof the phrase "section 105".

(g) Section 131 of title 2 is amended by deleting the phrase "deposit to secure copyright," and inserting in lieu thereof the phrase "acquisition of material under the copyright law,".

SEC. 106. In any case where, before January 1, 1978, a person has lawfully made parts of instruments serving to reproduce mechanically a copyrighted work under the compulsory license provisions of section 1(e) of title 17 as it existed on December 31, 1977, such person may continue to make and distribute such parts embodying the same mechanical reproduction without obtaining a new compulsory license under the terms of section 115 of title 17 as amended by the first section of this Act. However, such parts made on or after January 1, 1978, constitute phonorecords and are otherwise subject to the provisions of said section 115.

SEC. 107. In the case of any work in which an ad interim copyright is subsisting or is capable of being secured on December 31, 1977, under section 22 of title 17 as it existed on that date, copyright protection is hereby etxended to endure for the term or terms provided by section 304 of title 17 as amended by the first section of this Act.

SEC. 108 The notice provisions of sections 401 through 403 of title 17 as amended by the first section of this Act apply to all copies or phonorecords publicly distributed on or after January 1, 1978. However, in the case of a work published before January 1, 1978, compliance with the notice provisions of title 17 either as it existed on December 31, 1977, or as amended by the first section of this Act, is adequate with respect to copies publicly distributed after December 31, 1977.

SEC. 109. The registration of claims to copyright for which the required deposit, application, and fee were received in the Copyright Office before January 1, 1978, and the recordation of assignments of copyright or other instruments received in the Copyright Office before January 1, 1978, shall be made in accordance with title 17 as it existed on December 31, 1977.

SEC. 110. The demand and penalty provisions of section 14 of title 17 as it existed on December 31, 1977, apply to any work in which copyright has been secured by publication with notice of copyright on or before that date, but any deposit and registration made after that date in response to a demand under that section shall be made in accordance with the provisions of title 17 as amended by the first section of this Act.

SEC. 111. Section 2318 of title 18 of the United States Code is amended to read as follows:

"§ 2318. Transportation, sale or receipt of phonograph records bearing forged or counterfeit labels

"(a) Whoever knowingly and with fraudulent intent transports, causes to be transported, receives, sells, or offers for sale in interstate or foreign commerce any phonograph record, disk, wire, tape, film, or other article on which sounds are recorded, to which or upon which is stamped, pasted, or affixed any forged or counterfeited label, knowing the label to have been falsely made, forged, or counterfeited shall be fined not more than $10,000 or imprisoned for not more than one year, or both, for the first such offense and shall be fined not more than $25,000 or imprisoned for not more than two years, or both, for any subsequent offense.

"(b) When any person is convicted of any violation of subsection (a), the court in its judgment of conviction shall, in addition to the penalty therein prescribed, order the forfeiture and destruction or other disposition of all counterfeit labels and all articles to which counterfeit labels have been affixed or which were intended to have had such labels affixed.".

SEC. 112. All causes of action that arose under title 17 before January 1, 1978, shall be governed by title 17 as it existed when the cause of action arose.

SEC. 113. (a) The Librarian of Congress (hereinafter referred to as the "Librarian") shall establish and maintain in the Library of Congress a library to be known as the American Television and Radio Archives (hereinafter referred to as the "Archives"). The purpose of the Archives shall be to preserve a permanent record of the television and radio programs which are the heritage of the people of the United States and to provide access to such programs to historians and scholars without encouraging or causing copyright infringement.

(1) The Librarian, after consultation with interested organizations and individuals, shall determine and place in the Archives such copies and phonorecords of television and radio programs transmitted to the public in the United States and in other countries which are of present or potential public or cultural interest, historical significance, cognitive value, or otherwise worthy of preservation, including copies and phonorecords of published and unpublished transmission programs—

(A) acquired in accordance with sections 407 and 408 of title 17 as amended by the first section of this Act; and

(B) transferred from the existing collections of the Library of Congress; and

(C) given to or exchanged with the Archives by other libraries, archives, organizations, and individuals; and

(D) purchased from the owner thereof.

(2) The Librarian shall maintain and publish appropriate catalogs and indexes of the collections of the Archives, and shall make such collections available for study and research under the conditions prescribed under this section.

(b) Notwithstanding the provisions of section 106 of title 17 as amended by the first section of this Act, the Librarian is authorized with respect to a transmission program which consists of a regularly scheduled newscast or on-the-spot coverage of news events and, under standards and conditions that the Librarian shall prescribe by regulation—

(1) to reproduce a fixation of such a program, in the same or another tangible form, for the purposes of preservation or security or for distribution under the conditions of clause (3) of this subsection; and

(2) to compile, without abridgement or any other editing, portions of such fixations according to subject matter, and to reproduce such compilations for the purpose of clause (1) of this subsection; and

(3) to distribute a reproduction made under clause (1) or (2) of this subsection—

(A) by loan to a person engaged in research; and

(B) for deposit in a library or archives which meets the requirements of section 108 (a) of title 17 as amended by the first section of this Act,

in either case for use only in research and not for further reproduction or performance.

(c) The Librarian or any employee of the Library who is acting under the authority of this section shall not be liable in any action for copyright infringement committed by any other person unless the Librarian or such employee knowingly participated in the act of infringement committed by such person. Nothing in this section shall be construed to excuse or limit liability under title 17 as amended by the first section of this Act for any act not authorized by that title or this section, or for any act performed by a person not authorized to act under that title or this section.

(d) This section may be cited as the "American Television and Radio Archives Act".

SEC. 114. There are hereby authorized to be appropriated such funds as may be necessary to carry out the purposes of this Act, except that no more than $500,000 shall be appropriated annually for the operations of the Copyright Royalty Commission.

SEC. 115. If any provision of title 17, as amended by the first section of this Act, is declared unconstitutional, the validity of the remainder of the title is not affected.

Mr. KASTENMEIER (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

AMENDMENT OFFERED BY MR. KASTENMEIER

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

The Clerk read as follows:

Amendment offered by Mr. KASTENMEIER: On page 168 delete line 16 through 19, and renumber the following section accordingly.

Mr. KASTENMEIER. Mr. Chairman, I will only take a moment to say that this amendment conforms with the agreement made with the Committee on Rules as a result of the point of order raised by the Committee on the Budget; namely, that the appropriation provision had not been authorized or approved by the deadline of May 15, of this year.

Accordingly, consistent with the agreement made, the subcommittee urges the deletion of this provision.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. KASTENMEIER).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. YATRON

Mr. YATRON. Mr. Chairman, I offer amendments, and I ask unanimous consent that they be considered en bloc, and I ask unanimous consent that, since they were not properly presented in the RECORD, they be considered at this time notwithstanding that fact.

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

Mr. RHODES. Mr. Chairman, reserving the right to object, I did not understand what the gentleman asked for.

The CHAIRMAN. Will the gentleman from Pennsylvania repeat his unanimous consent request?

Mr. YATRON. Mr. Chairman, I understand that my amendments were not properly presented in the RECORD.

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

Mr. RHODES. I yield to the gentleman from Wisconsin (Mr. KASTENMEIER).

Mr. KASTENMEIER. Mr. Chairman, it is my understanding that the amendments were drafted to be put into the committee print rather than the Union Calendar print, and it is this technical deficiency to which the gentleman alludes and asks unanimous consent that that error or that inconsistency be waived, together with the fact that, having five amendments, as I understand it, the gentleman from Pennsylvania (Mr. YATRON) is also asking that they be considered en bloc.

Mr. RHODES. Mr. Chairman, I withdraw my reservation of objection.

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

Mr. McCLORY. Mr. Chairman, further reserving the right to object, will the gentleman state whether or not they are in compliance, nevertheless, with the rule and that they were filed? I think the rule requires that they be filed three days in advance, but they were merely technically filed with respect the bill and not the substitute that is now before us?

Mr. KASTENMEIER. Mr. Chairman, if the gentleman will yield to me, I will say that I know the five amendments were printed in the RECORD otherwise consistent with the rule, and it was not my intention to make a point of order on the question of insufficiency.

Mr. McCLORY. Mr. Chairman, I withdraw my reservation of objection.

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

Mr. BAUMAN. Mr. Chairman, reserving the right to object, are these amendments now in form so that they can be presented to us as the gentleman is now going to present them? This conformity is not going to be left to the Clerk or anyone else?

Mr. KASTENMEIER. If the gentleman will yield to me, I would say to the gentleman from Maryland that it is my understanding that they are otherwise in form to be consistent with the print of the bill now under consideration.

Mr. BAUMAN. Mr. Chairman, I withdraw my reservation of objection.

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

There was no objection.

The Clerk will report the amendments.

The Clerk reads as follows:

Amendments offered by Mr. YATRON: On page 102, line 3, insert a new paragraph as follows:

"(v) Where the community of the cable system is not, in whole or in part, within the local service area of three independent stations and one noncommercial educational station, the royalty fee imposed under paragraph (i) above shall include payment for a sufficient number of additional independent stations or a noncommercial educational station to provide the above complement of station signals to such cable system."

On page 106, strike lines 20 through the word "authorizations" in line 29 and substitute the following: "The 'local service area of a primary transmitter' in the case of a television broadcast station, for the purposes of this Title, comprises the area in which the primary transmitter can be or is received by the direct interception of a free space radio wave emission by such broadcast television station, provided such television station antenna is located within 120 miles from the community of the cable system."

On page 144, line 30, strike out all of clause (ii) subsection (d).

On page 159, line 14, strike out all of subparagraph (A), and reletter subparagraph (B) as (A) and subparagraph (D) on page 160 as (B).

On page 160, line 21, strike out all of subparagraph (C).

Mr. YATRON (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

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

There was no objection.

Mr. YATRON. Mr. Chairman, and Members of the House, today, in the few minutes allotted to me, I want to speak on the copyright bill which we are presently considering on behalf of some 35 million viewers throughout our Nation, who will be affected by its provisions, including over 4 million or better than 27 percent of all of the Pennsylvania television viewers—none of whom up to this moment, have ever been directly informed by anyone, as to how this bill will affect them financially and otherwise in the years ahead. In my own district, this bill will affect the cable subscribers in some 106 communities or over 76,000 homes and more than one-quarter million viewers—more than half of all my constituents.

In this day of consumer concern and protection, no one in this Congress can, in good conscience, disregard the real parties in the interest of this legislation—the television viewers.

Under the copyright revision bill before the House, the basic concept is to impose copyright liability only on the reception and transmission of distant signals, and for the privilege of transmitting such signals. The accepted premise of this basic concept, is that no copyright liability should be imposed for the reception and transmission of local signals. And yet, because the bill unfortunately adopts the definition of "local" signals under the FCC rules as of April 15, 1976, its effect on cable viewers is to impose copyright fees for signals which are, in fact, local signals, received off the air.

This result comes about from the artificial application of the FCC rules defining local and distant signals, for policy purposes, to determine copyright liability. It is well recognized that many more signals can be received and are received by conventional rooftop antennas, off-the-air, than the "local" signals, under the FCC regulation.

Let me emphasize that this amendment does not affect the basic premise of the bill but, in fact, properly implements the premise. All cable television systems will still pay the basic copyright fee, including the special treatment for very small systems.

The amendment does not, in any way, affect the payment of copyright for truly distant signals, or the rate of payment for such signals.

The amendment for proper treatment of local and distant signals, will correct the definition to correspond to actual reception conditions, and result in an equality of treatment for off-the-air reception, whether by conventional rooftop antenna, or by the master antenna of a cable television system. This eliminates discrimination among television viewers in the same community, for the same reception.

Some areas of the country have available 14 different television signals, some have one, and a small area has none. Cable television can provide the means for equal television reception for all viewers. It has the capability for providing a minimum choice of signals, for television viewers.

It must be remembered that the copyright owners make use of the public airwaves, for broad dissemination of their copyright property, which greatly increases financial returns.

At the same time, the copyright owners do not pay for the use of the public airwaves, nor do they contribute to the cost of cable television facilities which are necessary in many areas, to provide satisfactory reception of broadcast signals.

The amendment proposed to section 111(d)(2)(b) would include within the basic copyright royalty fee of .00675 a minimum number of signals in order to insure a basic complement of signals to all viewers.

The complement would include, in addition to the national networks, three independent stations and one noncommercial educational station. This amendment avoids the creation of a discriminated segment of the viewing public, because of copyright.

Let me emphasize that this amendment does not encroach upon the regulatory authority of the FCC.

It relates only to establishing the copyright royalty fee, leaving the regulatory aspects for resolution by the FCC, or the appropriate committee of Congress.

I respectfully submit to you, Mr. Chairman, that unfair and discriminatory treatment of so many of our television viewers could be removed by the adoption of my amendments.

Mr. KASTENMEIER. Mr. Chairman, I rise in opposition to the amendments.

Mr. Chairman, I would like to compliment the gentleman from Pennsylvania (Mr. YATRON) on his presentation in offering these amendments; but the amendments themselves are totally destructive of the bill and the purpose of the bill.

The bill, it must be remembered, is a copyright bill. What the gentleman's amendments do is this: We have established the principle of "distant" and

"local" markets, for example, as the basis for the cable royalty formula of the bill. The gentleman would replace that entirely.

Furthermore, Mr. Chairman, the second amendment of the gentleman from Pennsylvania would redefine the local-service area for a primary transmitter to something far larger than the 35-mile radius which would normally be the case under existing FCC regulations.

Mr. VAN DEERLIN. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. Yes, I yield to the gentleman from California.

Mr. VAN DEERLIN. Mr. Chairman, of course, it is with great reluctance that I join in opposing the amendments offered by our good friend, the gentleman from Pennsylvania (Mr. YATRON), with whom I suppose I vote 95 percent of the time.

Mr. Chairman, with respect to this particular amendment, No. 2, to which the gentleman from Wisconsin (Mr. KASTENMEIER) has referred, it changes the radius of the local service area from 35 miles to 120 miles. This, of course, encroaches, as the committee was very careful not to do in the preparation of this bill, not only on the jurisdiction of the Federal Communications Commission, but also upon the jurisdiction of the Committee on Interstate and Foreign Commerce.

Mr. Chairman, the amendment would invite such ridiculous results as New York stations coming into Philadelphia as local signals or Los Angeles signals—God forbid—coming into San Diego as local signals.

Therefore, Mr. Chairman, I must join in opposing these amendments which, I understand perfectly well, are offered for a constituency which is well served by the gentleman from Pennsylvania (Mr. YATRON). It happens that these amendments would not well serve the completion of this vitally important and long-overdue copyright legislation.

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

Mr. KASTENMEIER. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I thank the distinguished chairman for yielding.

I merely want to compliment my good friend, the gentleman from Pennsylvania (Mr. YATRON), for his excellent presentation. He has a district similar to mine, which is mountainous and has to depend upon cable television, if it has any television whatever.

Furthermore, over the years, of course, the copyrights, I believe, were intended at first to last 17 years; but from time to time we have extended copyrights on down to grandchildren and great grandchildren, far and beyond the length to which they really should have been extended. I do not think they should go on forever.

Mr. Chairman, I thank the distinguished gentleman from Wisconsin for yielding.

Mr. KASTENMEIER. Mr. Chairman, to conclude the point I wanted to make, namely, that the series of five amendments offered by the gentleman from Pennsylvania would destroy the carefully worked out balance we achieved between many of the cable systems that are in total agreement with this bill, and the proprietors of copyrighted material.

I recognize that there are some cable systems which would still rather not have to pay anything at all, but I would urge that the committee realize that this bill provides royalty payments of about $8½ million for cable systems. With about 11 million viewers that is perhaps 80 cents a year per viewer for material that now costs the cable systems nothing. They essentially engage in retransmission. So that I suggest that the arrangement we have worked out is not only fair, but given the difficulties among the affected industries, the integrity of these formulas should be maintained. Accordingly, Mr. Chairman, I urge the defeat of these amendments.

Mr. DANIELSON. Mr. Chairman I rise in opposition to the amendment.

The CHAIRMAN. The Chair would advise the gentleman from California that under the rule governing the consideration of this bill, only one 5-minute speech in favor of, and one 5-minute speech in opposition to each amendment is in order. Under the rule, the gentleman could be recognized only by unanimous consent for a pro forma amendment or for a second speech in opposition to the amendment.

Mr. DANIELSON. Then, Mr. Speaker, I ask unanimous consent that I may be permitted to proceed.

The CHAIRMAN. The Chair would inquire for what length of time? I could not hear the gentleman.

Mr. DANIELSON. Mr Speaker, I ask unanimous consent that I may be recognized for 5 minutes.

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

There was no objection.

PARLIAMENTARY INQUIRY

Mr. RAILSBACK Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. Does the gentleman from California, Mr. DANIELSON, yield for a parliamentary inquiry?

Mr. DANIELSON. Mr. Chairman, I yield.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. RAILSBACK. Mr. Speaker, I wonder if it would not be a good idea to get clear exactly the text of the rule we are proceeding under? I knew there was the requirement that the amendments be printed in the record, but I had no idea that this would limit debate to the traditional 5 minutes for the proponent and 5 minutes for the opponent.

The CHAIRMAN (Mr. SMITH of Iowa). The Chair will state that the rule reads:

> No amendment to said amendment shall be in order except amendments offered by direction of the Committee on the Judiciary and germane amendments printed in the Congressional Record at least three calendar days prior to the start of the consideration of said bill for amendment, but said amendments shall not be subject to amendment except those offered by direction of the Committee on the Judiciary.

It does not make any exception for pro forma amendments, and therefore pro forma amendments are not in order. The rule also states that amendments to amendments cannot be offered by anyone other than the Committee on the Judiciary. However, the Members can, by unanimous consent, secure the right to proceed.

Mr. DANIELSON. Mr. Chairman, I am having difficulty hearing the Chair.

The CHAIRMAN. The Chair will state that the rule is as follows:

> . . . said amendments shall not be subject to amendment except those offered by direction of the Committee on the Judiciary.

The rule does not make any exception for pro forma amendments. Therefore pro forma amendments are not in order.

However the Chair will state that the gentleman from California (Mr. DANIELSON) did seek and receive unanimous consent to proceed for 5 minutes.

Mr. DANIELSON. Mr. Chairman, since the 5 minutes have almost expired, may I have my time back again?

The CHAIRMAN. The gentleman from California is recognized.

Mr. DANIELSON. Mr. Chairman, I am not making a pro forma amendment, but I rose in opposition to the amendment.

Mr. Chairman, I wish to have the record reflect that the otherwise very cogent reasons offered by the gentleman from Pennsylvania (Mr. YATRON) were considered at great length in the committee as we worked over this bill. We took them into account by providing a special, small system adjustment in the fees to be paid and we considered practically every objection. I believe we have done an equitable job of arranging for the payment of royalties.

The bill S. 22 is an exceedingly complex bill. Among many other things it would establish new rights and liabilities in the copyright liability of cable television, a subject which until now has not been covered by legislation. The subject is somewhat controversial, largely because it is new, and I feel that it requires added discussion.

At the threshold we must be aware that we are dealing with a property right. Copyright is a property right. It is often referred to as "intellectual property". It was known and honored in the common law. It was specifically recognized by the Founding Fathers in the Constitution, and the regulation of copyright was among the powers delegated to the Congress. Article I, section 8, clause 8.

As with more familiar forms of property, copyright can be bargained for, bought and sold, it can be the subject of a gift, it can be licensed for a specific use or period of time. It is subject to testamentary disposition and the laws of succession.

As a form of property, copyright is also afforded the protection of the Constitution and our laws, including the injunctions of the fifth and 14th amendments which declare that no person shall be deprived of property without due process of law, nor shall private property be taken for public use without just compensation. The Constitution also provides that authors and inventors are

to have the exclusive right to their respective writings and discoveries.

For more than 1½ years the Judiciary Committee has been working on the copyright revision bill. The most controversial, difficult, and extensive part of that work has been the granting of a compulsory license and the development of a formula for the imposition and allocation of copyright royalty charges placed upon the secondary transmission by cable television systems of copyrighted programing which is broadcast by television stations.

In more familiar transactions in property there is no need for Government to intervene. In the free market buyers and sellers are able to bargain for and to reach prices which are acceptable to all concerned. The same is usually true in the case of business transactions involving copyrighted properties. However, the unique character and role of cable television is such that the committee has been compelled to depart from traditional practices. The bill subjects broadcasts of copyrighted programing to a compulsory license vested in cable systems which retransmit—secondarily transmit—those broadcasts to their subscribers, it imposes a royalty charge on certain of those secondary transmissions, and provides a means for the payment and distribution of the royalty charges by the users and to the owners.

In working out this formula, the commitee has arrived at a solution which, I sumbit, is workable and is fair and equitable to both the owners and the users of copyrighted materials and which also protects and serves the public interest.

Over the years it has been decided, and it is now settled, that it is the "performance" of a copyrighted work which gives rise to the liability to pay a royalty to the owner of the copyright. It has also been decided that the broadcast of a work by radio or television constitutes a "performance" and invokes copyright liability. The vastness and anonymity of the audience, the uncontrollable public access to programing once broadcast, the inability to identify and to impose a direct charge upon the viewers, our public policy that "the airwaves belong to the public," all of these gave rise to complex royalty problems arising out of radio and television broadcasts, but most of those problems have been resolved. The advent of cable television reopened and compounded those problems, and added another. What is the nature of the service provided by a cable system? Is it a "performance" which invokes copyright liability? Admittedly its role is passive, for it does not control the original broadcast. It is argued that cable merely intercepts the signal which has already been broadcast and then carries it to the subscriber's television receiver. It is argued that cable is merely an extension of the viewer's antenna. But the copyright owners and the copyright licensees argue that the cable systems are distributing the broadcast signals to a vastly greater audience than the broadcaster could reach and that this constitutes a "performance" and should invoke a copyright liability.

Being compelled to work with the existing copyright law, which was enacted in 1909, before radio and television, let alone cable, the Supreme Court has had a difficult time deciding the cases and controversies involving copyright which have heretofore arisen between copyright owners, broadcasters and cable television systems. In the Fortnightly and Teleprompter cases the Supreme Court held that the role played by cable was not that of a performer but, rather, the passive role of the viewer and as an extension of the viewer's antenna and that since this did not constitute a "performance" copyright liability was not invoked. In my opinion those were correct decisions under the facts of those cases. If the cable system does no more than intercept a broadcast signal and deliver it to the subscriber's television receiver, within the broadcasting station's local market area, then the cable system is only an extension of the viewer's antenna, should not be considered as a "performer" of the copyrighted material and no liability to pay a royalty should attach.

Under such circumstances the copyright owner has been able to bargain for a royalty payment with the knowledge that the performance may be viewed and heard by all persons within the local market area. Also, the broadcast station which purchases the right to use the copyrighted material is in an excellent position to estimate the number of viewers/listeners who will witness the performance and is able to bargain for the mix of royalties which he pays and advertising rates which he charges which will meet his commercial needs.

Today cable is able to do more, and often does more, than merely to intercept a signal and deliver it to the subscriber's receiving set located within the local market area of the primary tranmitter. With advances in the state of the art, cable sysems are now able to transmit signals by cable, microwave and satellite, almost without limit as to distance. They are governed, as they should be, by the Federal Communications Commission and other regulatory and franchising agencies but are restricted very little by technological limitations. Cable now can, and does, transmit signals far beyond the local market area. In the bill we refer to these as "distant signals," Admittedly they serve the public interest.

The copyright laws should not limit the extent to which cable serves the public interest. Although the Founding Fathers could not contemplate the size of the geographical distribution of the audience which can be reached by cable they certainly did not contemplate an arbitrary limitation on either of those factors. And it should be remembered that they delegated to the Congress the power to regulate copyright in order "to promote the progress of science and the useful arts."

Cable has a yet unrealized capability to broaden our horizons and to bring education, information, and entertainment to people everywhere. Surely this is in the public interest and for the public benefit. The copyright laws should not be used to restirct or impair that flow of knowledge. To the extent that regulation is necessary it can be accomplished through the FCC and through State and local utility commissions and similar bodies. Such regulation is not the proper role of the copyright laws.

Remembering that copyright is a property right we must also remember that the owner cannot be deprived of his property without due process of law nor can it be taken for public use without just compensation. This is where the most difficult problems arose in working out the copyright bill. We wished to permit and encourage the broader dissemination of communications through cable while being fair and equitable to the owners and users of copyrighted materials and at the same time protecting the public interest. The committee process is now complete and the committee has presented a bill which gives cable a compulsory license to intercept and retransmit—secondarily transmit—television and radio broadcasts. It recognizes the passive, "antenna," role of cable in secondary transmissions within the local market area, and imposes no liability to pay copyright royalties for those "local" transmissions. The bill, however, recognizes that when cable secondarily transmits signals to a place beyond the local market area, then it is doing something extra, it is adding something which would not exist but for the role of the cable system. This something extra, which is distant signal transmitting, impinges upon the property rights of the copyright owner who is thereby, to some extent, deprived of his property and denied the exclusive right to his property which is guaranteed by the Constitution and our laws and he is entitled to just compensation. This "something extra" could be considered as a "performance," or as an alternative to a performance.

The bill therefore imposes a schedule of royalty charges upon the secondary transmission of distant signals. The charges which are imposed, and the manner of their imposition, is set forth in detail in the body of the committee report; so is the method by which they are to be distributed to the copyright owners. Provision is made for future adjustments to the royalty schedules because the setting of royalties is unduly burdensome for a legislative body and should not be one of the problems of the Congress.

It may seem that a compulsory license is a drastic invasion of the rights of private property. Yet, when we remember that a cable system is passive in its program selection and must intercept and distribute whatever the primary transmitter transmits then we must recognize that it is impossible and impractical for the cable system to negotiate for a license with the copyright owner in advance of transmitting the programing. At the same time item-by-item negotiating between users and owners of copyright prior to each performance would be so burdensome as to destroy this valuable means of communication and would also effectively deny a valuable market to the copyright owners. Those facts have long since been recognized by copyright owners and the broadcast and entertainment industries which use such organizations as ASCAP and BMI as mediums through which they adjust their copyright liabilities and benefits.

I submit that the royalty fee schedule which the committee has agreed upon is fair and equitable to all concerned. There are those who disagree and feel that so-called rural cable systems are

called upon to pay higher fees than urban cable systems.

It has been asserted that cable systems in nonmetropolitan areas bear the burden of royalty payments while urban systems will pay minimal fees. I respectfully disagree with this point of view.

THE SMALL SYSTEM ADJUSTMENT

Under the fee schedule proposed in this bill all systems with up to $160,000 in revenue semiannually—$320,000 annually—will pay under a sliding scale based on revenue, not on the number of distant signals carried. This small system adjustment was enacted specifically to avoid excessive impact on small, rural systems. These systems, because they are located in areas without adequate local service, import a large number of distant signals. Payment based solely on the number of distant signals would be onerous. Thus, the "adjustment".

Under the formula in this bill, systems with revenue over $320,000 per year will pay royalties based on the number and type of distant signals. Distant independent stations count as one full distant signal while distant network stations count as one-fourth of one distant signal. Among other reasons, this significantly lower cost for network stations was instituted to avoid undue burden on those larger rural systems carrying a great many distant networks. Due to the relative scarcity of independent stations, carriage of networks by rural systems usually greatly overshadows the carriage of independents.

Under current FCC regulations, urban cable systems are authorized to import a maximum of three distant independent signals. Some cable operators have argued that this limitation effectively diminishes the copyright burden on major market systems. It is vitally important to note that payment is based on both number and type of signal. Because independent signals each count as one full distant signal, an urban system will pay for three full distant signals. Rural systems will generally carry network stations, being able to carry 12 distant network signals—an unrealistic and unlikely situation—before bearing the same liability as an urban system.

LOCAL SIGNALS—THE 150-MILE PROPOSAL

It has been suggested that all signals imported from markets less than 150 miles distant should be considered local for purposes of fee determination. This change in definition would affect only those systems with annual revenue over $160,000 semiannually—$320,000 annual revenue—and therefore paying on the basis of distant signal carriage rather than the amount of revenue. The 150-mile local definition would cause several problems:

One hundred and fifty miles is considerably beyond any currently accepted or established market definition. For example, under this definition Washington, D.C., signals would be "local"—and therefore not liable for copyright—through most of southeastern Pennsylvania. Likewise, New York City would be considered local throughout much of that State.

Cable systems which are not located within 150 miles of an urban area—systems in many parts of the country—would bear an undue burden. For example, the majority of systems in Pennsylvania are located so that they are within 150 miles of either Philadelphia, New York, Washington, D.C., Baltimore, or Pittsburgh. In other areas of the country, without such a proliferation of urban centers, signals are simply not available within 150 miles.

By decreasing—for many systems—the number of signals considered distant and thus liable for copyright, the total amount of dollars paid into the copyright royalty "pot" would be greatly decreased. In order to keep the "pot" at the proposed $8.5 million, the payment burden would have to be shifted to those systems not fortunate enough to be located within 150 miles of the primary transmitter. In such cases systems located beyond 150 miles would incur a larger copyright burden.

LOCAL SIGNALS—"OFF THE AIR" PROPOSAL

The same arguments which apply to the suggestion that 150 miles be considered the cut off point between distant and local signals also apply to the suggestion that distant signals be considered as those which cannot be received "off the air." To include as "local signals" those receivable off the air by direct interception of a free space radio wave would permit signals received from over 100 miles distance using a 1,000-foot antenna to be considered "local signals" even though such places are clearly beyond the local market area of the primary transmitter.

LOCAL SIGNALS—"LOCAL SERVICE AREA" SOLUTION

The distinction between local and distant signals as used in the committee bill draws heavily on the FCC's experience in defining what should be considered local signals.

Local signals are signals received within the geographical market area to which a broadcaster directs his programing and which serves as the basis for his advertising revenues. When a copyright owner sells his work to a given broadcaster, he must assume that the work may be viewed and heard by all persons within that broadcaster's local service area and the royalty which he charges will be based upon that assumption. However, neither he nor the broadcaster can control the retransmission of his work by a cable system to a distance area which would ordinarily constitute a separate market for his work. For this reason, the committee has provided compensation to the copyright owner for signals retransmitted—secondarily transmitted—beyond the local market area. To define the term "local signals" by accepting either the 150-mile proposal or the concept that any signal which can be received off the air by an antenna mounted atop a high tower would be purely arbitrary. It would be inconsistent with commercial practice in the broadcast and advertising industries. It would deny fair compensation to copyright owners, and would place an unfair financial burden on cable systems located distant from urban areas. For this reason, the committee has provided compensation to the copyright owner for signals retransmitted—secondary transmission—beyond the local service area.

Mr. GOODLING. Mr. Chairman, I ask unanimous consent that I may be permitted to proceed for 5 minutes.

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

There was no objection.

Mr. GOODLING. Mr. Chairman, I would hope that regardless of how things are going here that the conference, if it is in the scope of the conference, at least, would certainly look into this situation, however, because anyone, I would think, who lives in a rural area would have some real concern about this legislation because, unless the lawyers connected with cable TV are incorrect, it would appear there is going to be a tremendous increase so far as the expenses to rural people are concerned with reference to this particular provision.

I think it is important that everybody realize that the letter we received from the Cable Television Association was very misleading, because the Cable Television Association, to the best of my knowledge, only represents about 60 percent of the cable television operators. The other 40 percent seem to have some real concern about this legislation. I am also under the impression that only about 70 percent of that 60 percent that belong agree with the legislation. So it would be my hope that we look at it very carefully; otherwise, I think we are going to find out sometime later that it is going to be rather expensive for people who live in rural areas.

Mr. PATTISON of New York. Mr. Chairman, will the gentleman yield on that point?

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

Mr. PATTISON of New York. I thank the gentleman for yielding.

We added a special exemption for small systems. Small systems making gross revenues of approximately $320,000 or less per year pay a maximum of 1 percent of all of their revenues—1 percent of all their revenues—no matter how many signals they have, and one-half of 1 percent on the first $160,000. So it is one-half of 1 percent on the first $160,000 and 1 percent on the next $160,000, no matter how many signals they have. A system to be eligible for that can have about 3,000 subscribers. Most systems we are talking about have in rural areas 600, 700, or 800 subscribers. They are well within that exemption, and they will pay a minimum amount, a couple hundred dollars a year for their subscription.

So we have really taken care of those small subscribers, the small systems in the rural areas, very generously.

Mr. GOODLING. I can only say again I am not the lawyer, but some of the lawyers working on this in reading the legislation indicated, for instance, in one area in my district that the original form as it came from S. 22 in the Senate would cost them about $1,700, and the bill that we now have indicates it would cost $8,600. If there is any truth to that, then all I can say is it is going to be a tre-

mendous increase for the users in that particular area.

Mr. PATTISON of New York. If the gentleman would yield further, if the gentleman has a ssytem paying $8,600, it is not a small rural system; it is a large system with thousands and thousands of subscribers.

Mr. GOODLING. Under the new legislation?

Mr. PATTISON of New York. Under this legislation.

Mr. GOODLING. I can only say, then, that the lawyers for those cable TV companies apparently cannot understand the legislation.

Mr. PATTISON of New York. That may be true.

Mr. GOODLING. Mr. Chairman, I yield back the remainder of my time.

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

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Pennsylvania. I think one of the biggest difficulties with this bill is the fact that we do have a lot of attorneys working on it. I do not see what difference it makes what size a CATV is, whether it has got 200 members, 2,000 members, or 5,000 members. Does the gentleman mean to tell me if one TV owner here has a program and he gets it directly off the air, he does not have to pay anything; but the next door neighbor who is on CATV has to pay a fee indirectly or directly? It just does not make any sense.

Mr. PATTISON of New York. Mr. Chairman, will the gentleman yield?

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

Mr. PATTISON of New York. I thank the gentleman for yielding.

The subscriber who is receiving a local signal will pay no rate at all, not even if he gets it off of CATV, because the local system does not pay for what it gets within the local service area. All it pays for is imported service.

Mr. VIGORITO. Does not the individual with a set not on CATV import signals?

Mr. PATTISON of New York. If the gentleman would yield further, a person who is on a set that does not get CATV cannot import a signal beyond the local service area. His antenna cannot pick up a signal beyond the local service area. One cannot have a television antenna in New York and pick up Philadelphia; he can only pick up New York stations. So the fact is that the local signal is not paid for under this system. We have exempted the local signal for the very reason the gentleman is speaking about because it is not fair.

Mr. VIGORITO. Then why are the CATV companies against it? They are claiming they are paying a tax that the individual TV owner does not have to pay.

Mr. PATTISON of New York. I can assure the gentleman that the vast majority of the CATV associations are in favor of this bill, the small and the large. There are several CATV associations which are in favor of it. There is the large one, the National Cable Television Association, which is 100 percent behind this bill. There is the Cable Television Association of America, CATA, which has not opposed this bill. Some of its members have, but CATA is basically in favor of this legislation because of the small systems exemption.

Mr. VIGORITO. Mr. Speaker, I urge the House to support the amendment offered by the gentleman from Pennsylvania.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

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

Mr. MYERS of Indiana. Mr. Chairman, I am afraid we are hung up on the word "local." That word in this instance means anyone who is within 35 miles range from the TV station. If one is beyond the 35-mile range unfortunately he is going to have to pay something.

Mr. VIGORITO. Why should they pay anything?

Mr. MYERS of Indiana. I agree with the gentleman from Pennsylvania. If one has a constituent who is living 50 miles away, he pays for living beyond that distance of 35 miles, but that little old lady in tennis shoes has to pay something extra because she lives beyond the 50 miles.

Mr. VIGORITO. The amount is immaterial. It is the principle of the thing.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Pennsylvania.

The question was taken; and on a division (demanded by Mr. GOODLING) there were—ayes 12, noes 30.

So the amendments were rejected.

AMENDMENT OFFERED BY MR. ENGLISH

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

The Clerk read as follows:

Amendment offered by Mr. ENGLISH: Strike section III(c) (4) beginning on line 35, page 99 and continuing through line 13 of page 100.

Mr. ENGLISH. Mr. Chairman, in discussing the provisions of S. 22 with several of my constituents, it became clear that changes in the bill would be necessary in order for the bill to be more equitable toward CATV operators, especially in the rural areas of our Nation.

As S. 22 is currently written, cable television operators are prohibited from receiving and distributing foreign TV signals, specifically Mexican and Canadian, to their customers outside the geographical limitation set down in this section, while systems within the boundaries would be allowed to use these signals.

In many States, foreign TV signals provide a source of important educational and foreign language programing to cable systems.

The Federal Communications has clearly stated that the type of rebroadcast of foreign signals which would be prohibited by section III(c) (4) of S. 22 performs a valuable community service; and it is clear that some rural cable systems would have no realistic alternative source of this programing.

The amendment I am proposing to S. 22 would delete section III(c) (4) which would establish this unfair regulation. I urge my colleagues to mandate the continued availability of foreign programing to cable systems by supporting this amendment to S. 22.

Mr. KASTENMEIER. Mr. Chairman, I rise in opposition. The amendment proposed by the gentleman has the effect of extending the license to carry Mexican and Canadian signals throughout the entire United States. This is an entirely unacceptable resolution of the question.

The Senate bill provides for no importation of signals whatsoever from Canada or from Mexico.

Mr. Chairman, we tried to balance the competing values of preserving those cable systems who presently utilize and import signals from Canada and Mexico; but for the future what we would be doing is extending a market potential without restriction throughout the entire United States, if we accede to the gentleman's amendment.

What the committee bill does is to permit, in many cases, off the air taking of signals, in the future from Canada and Mexico. This means that the border areas will continue to have access to these signals, but certainly they will not be able to use them to penetrate the rest of the markets in the United States. We are very sensitive to this question, because potentially we have a situation where American owners of copyright materials, movies and the like, could have their materials sold in Europe or elsewhere in the world and have these materials reintroduced into the United States under a compulsory license under this particular bill.

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

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

Mr. RAILSBACK. Mr. Chairman, I concur in what the gentleman has said and point out that the United States is the single largest exporter of copyrighted works in the world. If we do this, then there is every reason to think other countries would treat us the same and it would have a very adverse impact on the U.S. copyright owner.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma (Mr. ENGLISH).

The amendment was rejected.

AMENDMENT OFFERED BY MR. ENGLISH

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

The Clerk read as follows:

Amendment offered by Mr. ENGLISH: Amend section III (c) (2) on page 98, line 39, striking "willful or repeated" and inserting "willful and repeated"; and on page 99, line 8 of Section III (c) (2), insert after the semicolon, "provided, where there is a dispute as to the permissibility of carriage of a particular signal, the transmission is actionable only after resolution of the dispute by the Federal Communications Commission."

Mr. ENGLISH. Mr. Chairman, as cable television has grown over the past decade, the rules and regulations governing cable operations have become increasingly complex, making it difficult for regulators and CATV operators alike to carry out their responsibilities under the law.

I am proposing two technical changes to S. 22 which will help clarify this dif-

ficult situation. The first revision would change the test for actionable misuse of secondary broadcasts from "willful or repeated" violations to "willful and repeated" misuse. The carriage of impermissible signals need not be willful but merely repeated. The repeated violation may occur without any knowledge that the signals, due to complex syndicated rules, may not be permissible. This change would clarify an operator's responsibilities and remove the inadvertent transmission from liability.

The second revision I suggest in this amendment would allow the FCC to arbitrate disputes over the permissibility of carrying a particular secondary signal on a cable system. The language I am proposing today would prevent action from being taken in a disputed case until the FCC has determined whether or not a violation has actually occurred.

Mr. Chairman, I believe that these small technical changes will decrease the confusion which might arise in the implementation of S. 22 and I urge the adoption of this amendment.

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

Mr. Chairman, the phrase "willful or repeated" is described fully in the committee report on page 93. It is designed to protect a cable system from being subjected to full copyright liability for innocent or casual acts. "Willful" means intentional and "repeated" means not only more than once but denotes a degree of aggravated negligence.

Under the amendment, an intentional act would have to be repeated before it becomes actionable. This gives a cable system unlimited freedom to violate the statute. If a cable system acts willfully, it should be held accountable whether that action is only once or consists of a repeated pattern.

The second part of this amendment is similar to the amendment put forward by Congressman ROONEY. It differs only in that the cable system would pay the compulsory license fee—under Rooney there would be no payment at all—while the FCC resolves a dispute as to whether the signals are permissible under its rules. The arguments against the Rooney amendment are equally applicable here.

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

Mr. RAILSBACK. I yield to the gentleman from Oklahoma.

Mr. ENGLISH. Mr. Chairman, I would like to point out that in addition to what the gentleman has just said, and with which I agree fully, this provision would absolutely emasculate the protection we put into the copyright orders which we have been very careful about. We have been very careful to make sure that the inadvertent, mistaken use of a signal will not impose liability, but the fact is that what this amendment would do would be to allow a cable system to willfully use, for instance, a sports event, even though it did not do it repeatedly, and get away with it. The worst that could happen to it would be that ultimately it would have to pay the compulsory license, which is kind of like having the only penalty for stealing a 5-cent pack of gum, the paying a nickel.

So that, it would encourage all kinds of use of signals that are not authorized by the FCC without any copyright liability and with minimum or simply no restitution at all.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma (Mr. ENGLISH).

The amendment was rejected.

AMENDMENT OFFERED BY MR. DODD

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

The Clerk read as follows:

Amendment offered by Mr. DODD: Page 109, line 22, strike out "one copy or phonorecord" and insert in lieu thereof "ten copies or phonorecords".

Page 109, line 23, insert immediately before the comma the following: "or to permit the use of any such copy or phonorecord by any governmental body or nonprofit organization entitled to transmit a performance of a work under section 110(8)".

Page 109, line 24, strike out "the" the first place it appears and insert in lieu thereof "any such".

Page 109, line 25, insert immediately after the comma the following: "or by a governmental body or nonprofit organization entitled to transmit a performance of a work under section 110(8),".

Page 109, line 26, strike out "and".

Page 109, line 27, strike out "the" and insert in lieu thereof "any such".

Page 109, line 29, strike out the period and insert in lieu thereof "; and ".

Page 109, immediately below line 29, insert the following new paragraph:

(3) the governmental body or nonprofit organization permitting any use of any such copy or phonorecord by any governmental body or nonprofit organization under this subsection does not make any charge for such use.

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

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

There was no objection.

Mr. DODD. Mr. Chairman, I rise for the purpose of offering an amendment to section 112(d) of S. 22, the copyright law revision. Let me first of all commend my colleague, Mr. KASTENMEIER, for the enormous amount of work that he has put into this bill in his capacity as chairman of the Subcommittee on Courts and Civil Liberties which drafted this legislation, and also for the quality of the end product which has already received great acclaim for its precision and thoroughness.

Section 110(8) of the bill that we are considering today entitles governmental bodies and nonprofit organizations to transmit performances of nondramatic literary works without first obtaining a copyright license, as long as such performances are designed specifically for the blind and other visually handicapped individuals, and as long as these performances are broadcast without intention of commercial advantage.

What my amendment does is to carry this exemption one step further in order to maximize the benefit provided to the handicapped. Very simply, it allows governmental bodies and nonprofit organizations serving the blind to make up to 10 copies of any performance of a nondramatic literary work, and to exchange such copies with its sister organizations at no charge.

It will take only a few minutes, Mr. Chairman, to present to you and to my colleagues the need for this small adjustment to the bill.

There are presently 41 cities in 18 States which have nonprofit organizations providing radio readings and information services to the blind and visually handicapped. Unfortunately, but understandably, the quality and quantity of equipment and volunteer services available in each location is very uneven. Many of these organizations suffer from acute shortages of either people or materials.

Allowing for the duplication of performances for transmission, and for their exchange, would seem to be a very easy way of surmounting some of the worst obstacles faced by these nonprofit organizations. The inestimable benefit received by the handicapped as a result of these organizations warrants making it possible for the less fortunate in funding and personnel to obtain transmission material from the larger and better equipped organizations at no cost.

In sum, my amendment is aimed at increasing the availability of broadcasts which seek to furnish the visually handicapped with a little of what they may otherwise miss. It would allow for the better use of scarce resources.

I urge all of my colleagues on the floor to support it as well. Its adoption would be deeply appreciated across the country by both nonprofit organizations and the handicapped themselves.

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

Mr. DODD. I am delighted to yield.

Mr. KASTENMEIER. Mr. Chairman, on this side we have had an opportunity to examine this amendment, and I believe we can accept it in its present form. The limitation in it makes it acceptable to us.

Mr. DODD. I thank the gentleman.

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

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

Mr. RAILSBACK. Mr. Chairman, we also have had a chance on this side to consider the amendment, and have no objection to it.

Mr. DODD. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut (Mr. DODD).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ROONEY

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

The CHAIRMAN. Will the gentleman ask unanimous consent that his amendment be modified to reflect the proper page and line?

Mr. ROONEY. Mr. Chairman, I make that request.

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

There was no objection.

The CHAIRMAN. The Clerk will report the amendment, as modified.

The Clerk read as follows:

Amendment offered by Mr. ROONEY: Page 98, after line 9, insert the following:

"(5) The right of a cable system to carry a particular signal or to operate in a particular community is pending in a proceeding before the Commission until 30 days after the issue is resolved against the cable system and the proceeding is no longer subject to appeal."

Mr. ROONEY. Mr. Chairman, the purpose of this amendment is to avoid transferring issues in pending cases before the Commission from the Commission's administrative processes to infringement actions in the courts. It would be much better to let the Federal Communications Commission settle these pending regulatory issues of the right to carry particular signals or to operate a system in a particular community under its rules than to authorize them to be decided by a court in an infringement suit.

Unless this amendment is adopted, cable systems involved in pending cases may be forced because of fear of an infringement determination under the Copyright Act by a court to abandon their right to carry a particular signal or to operate in a particular community rather than continue to seek a determination of those issues by the Federal Communications Commission under the Communications Act and the regulations adopted thereunder.

This amendment will also aid in preserving the agreement between the Commerce Committee and the Judiciary Committee entered into on April 11, 1967, to maintain the respective jurisdiction of the Judiciary and Interstate and Foreign Commerce Committees.

Mr. Chairman, I ask that this amendment be adopted.

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

Mr. Chairman, I realize that this amendment may affect a system in the gentleman's district, and I appreciate why he would suggest the amendment; nevertheless, the purpose of his amendment really is to exempt from liability the cable system which carries unauthorized signals until 30 days after the FCC either issues an order adverse to the system or until all judicial appeals have been exhausted.

In other words, this would give any system involved in some sort of litigation with the FCC a free ride for an indefinite period of time. But more importantly, Mr. Chairman, the bill itself does not go into effect until January 1, 1978. I suggest this is the end of September 1976. Those particular pending matters in the gentleman's district, and elsewhere, should well be resolved by then, and we should not make the entire bill a prisoner of the problem of one or two or several cable systems that have problems with the FCC and orders relating to it, because copyright liability is quite independent of what action is pending before the FCC. The copyright liability this system is entitled to is compulsory, in any event. It cannot be denied to the system, and so the system should not be free from compliance.

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

Mr. KASTENMEIER. I yield to the

Mr. RAILSBACK. I thank the gentleman for yielding.

Mr. Chairman, I certainly agree with what the subcommittee chairman has said.

Also, let me just make the point that on page 93 of the committee report it is made very clear that, where a cable system in good faith enters into a dispute with the FCC over whether the carriage of certain signals is permissible, the cable system is not subject to full copyright liability. In other words, it is only where there is a willful or a repeated violation.

Mr. KASTENMEIER. Mr. Chairman, I urge defeat of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlemen from Pennsylvania, (Mr. ROONEY) as modified.

The amendment as modified was rejected.

AMENDMENT OFFERED BY MR. OBERSTAR

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

The Clerk read as follows:

Amendment offered by Mr. OBERSTAR:

Page 97, line 16, strike out the period and insert in lieu thereof a semicolon.

Page 97, immediately below line 16, insert the following new clause:

"(9) performance of a dramatic literary work, by or in the course of a transmission specifically designed for and primarily directed to the persons referred to in clause (8) of this section, if the performance is made without any purpose of direct or indirect commercial advantage and its transmission is made through the facilities of any radio subcarrier authorization referred to in clause (8) (iii) of this section."

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

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

There was no objection.

Mr. OBERSTAR. Mr. Chairman, I, too, want to join in complimenting the chairman of the subcommittee and the members of the subcommittee for doing a splendid job and performing the detailed and laborious work involved in bringing this much needed revision of copyright legislation to the House floor.

However, the legislation is deficient in one respect, and that is what this amendment would attempt to correct. It simply and very basically would allow radio reading services for the blind and physically handicapped to air plays or dramatic readings without first securing permission from the playwright. That, we know, is a time-consuming process, and it falls short of the goal in many instances.

This amendment would conform with identical language adopted in the other body which provides that it is not an infringement of copyright to perform or produce literary work productions for broadcast purposes for the blind on noncommercial educational radio and television stations. I emphasize the words, "noncommercial educational radio and television."

We recognize that playwrights should not be deprived of royalties which are their right, but yet we feel it is reasonable to exempt the use of dramatic works by nonprofit groups which are serving blind and otherwise handicapped audiences.

Those of us who offer and who support this amendment—and I am joined in this by my colleague, the gentleman from Minnesota (Mr. FRASER)—feel that it does not make sense, just to insure that royalties are met, to retain the provisions now in the committee print.

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

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

Mr. GUDE. Mr. Chairman, I rise in support of the amendment offered by Congressman OBERSTAR, permitting the transmital of dramatic literary works by those organizations authorized to use a radio subcarrier authorization, such as radio reading services.

The Washington Ear, Inc., the radio reading service in the Washington, D.C., area, which transmits over the subcarrier of WETA-FM, is an excellent example of the kind of organization that this amendment would benefit. The Washington Ear is received only by those persons possessing special receivers adapted to receive this subcarrier. In order to obtain such a receiver, the person desiring it must complete an application to the Washington Ear stating that that person is visually handicapped. No person having the power of sight may be in possession of such a receiver and no normal AM-FM radio can receive the Washington Ear.

This means that the audience served by the Washington Ear is a select one, consisting only of visually handicapped persons. These people, who may obtain a receiver for free, are unable to utilize the written word for their communications. Therefore, this radio reading service fills what otherwise would be a void in their lives by presenting newspapers, magazines, and books in the oral form for their appreciation.

Likewise, due to the visual handicap, these persons are unable to fully appreciate the performance of dramatic literary works: that is, plays. One might think that a play can be understood simply by listening to it, but a sighted person cannot fully appreciate how much his eyes tell him in addition to the spoken word. Visually handicapped persons cannot appreciate sets, actions, expressions. The radio reading services could, with this amendment, augment the normal script of a dramatic work to the point where the listener can fully appreciate the performance.

I am advised that finances do not enter into this question. The normal copyright laws pertaining to newspapers, magazines, and books have been waived for radio reading services, thereby enabling them to quickly reproduce these written volumes for their listeners' appreciation. No royalty payments are required by the radio reading services for this activity because of their special service nature.

Likewise, I am advised that playrights have agreed not to request royalty payments for their use of their works over radio reading services. However, there is still the requirement, without this amendment, that copyright regulations be obeyed before a dramatic work can be presented. This could seriously delay the

presentation of a contemporary work to the point that it would no longer be of topical interest to the services' listeners.

Radio reading services have enough problems reaching their audience. They are primarily volunteer activities, their finances are strained to stay on the air, they have insufficient staff to comply with special requests in order to expand the programs they offered tehir handicapped audience.

I urge my colleagues to join in supporting this valuable amendment, which provision was previously accepted by the Senate when it considered this legislation.

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman for his support of my amendment.

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

Mr. OBERSTAR. I yield to the gentleman from Minnesota.

Mr. FRASER. Mr. Chairman, I want to thank the gentleman for offering this amendment.

I think it is important to recognize that this amendment, No. 1, deals only with the blind and the physically handicapped. Second, it simply enlarges an exemption that is already written in the bill for nondramatic works. This would simply add dramatic works that could also be listened to over these closed-circuits by blind people.

Third, there is no profit here. There are no lost royalties or revenues to the playrights because these are audiences that cannot under any circumstances be expected to get to the regular places where these plays are going to be performed.

I would also make the point that for some reason the broader exemption which we seek appears to have been in the bill as we received it from the other body. They did not put the exemption of dramatic works in their bill. For some reason our committee has wanted to narrow that exemption, and there does not seem to me to be any justification for it except for some historic attachment to this very high degree of protection that dramatic works are supposed to enjoy. However, there is no reason for it in practice or in commonsense.

This enlarged exemption would bring the bill in conformity with the bill that we got from the other body. I will repeat that this is for the blind and the physically handicapped, those who are stuck in their homes. This is for closed-circuit transmissions.

Mr. Chairman, I might add that I have had the opportunity in Minnesota to visit our radio system for the blind. It is a remarkable facility. It affects a few thousand people in our State who are housebound. It is their only real source of news and information.

Mr. Chairman, I think that giving this very modest, enlarged exemption so as to bring the bill in conformity with the bill from the other body makes a lot of sense.

I hope that the committee will support this amendment by the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman very much for his very clear and forthright statement of support.

The amendment that we are offering has support from the Corporations of Public Broadcasting, the Association of Public Radio Stations, the American Foundation for the Blind; and we urge support for the 3 million blind and handicapped persons throughout the Nation.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. OBERSTAR) has expired.

Mr. FRASER. Mr. Chairman, I ask unanimous consent that the gentleman from Minnesota be permitted to speak for 2 additional minutes.

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

Mr. RHODES. Mr. Chairman, reserving the right to object, the hour is late. There was an agreement that we should leave at 9 o'clock at night. I am not going to object to this request, but I will object to any further extensions of time.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. The gentleman from Minnesota (Mr. OBERSTAR) is recognized for 2 additional minutes.

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman from Minnesota (Mr. FRASER) for the 2 additional minutes.

The Federal Government has taken many steps to relieve and eliminate the barriers for the physically and otherwise handicapped. We have provided for better access to Federal buildings, we have provided for better access to buses, and most of that has been initiated right here in the Congress.

What we are saying is that one more step is needed to help the blind and the other handicapped people to have a better share of and a better slice of life and a stimulation of the mind.

Mr. Chairman, that is what this amendment would give them, the opportunity to enjoy life better.

Therefore, Mr. Chairman, we urge support for this very modest and very necessary and compassionate amendment.

Mr. PATTISON of New York. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this seems like a minor amendment. It will take care of people who need help.

The fact of the matter is that this is a very fundamental change in the law of copyright if this amendment should be adopted.

First of all, we should understand that under current law nonprofit performances of most everything are exempt except nonprofit performances of dramatic works. They have never been exempt because of the very nature of dramatic works. Dramatic works must be performed. People do not read them. The fact of the matter is that they have never been exempt in the copyright law of this country or that of any other country, nonprofit or otherwise.

Second, Mr. Chairman, the purpose of this section of the bill, to which I had an amendment which was accepted in the subcommittee, is to make certain things available in print for handicapped people, blind people, and people otherwise handicapped, newspapers, information, all kinds of things that are not of any use to anybody else. One can read. He does not listen to a newspaper being read over the air or a magazine being read over the air or even a book being read over the air unless he is blind.

Mr. Chairman, in the section that is under amendment now there is no exemption, for instance, for music. That is because music is available. Music is available to anybody. One can turn on his radio, turn a dial, and he will get music.

To a great extent, Mr. Chairman, dramatic works are also available. There is a market for dramatic works, and people listen to them. Dramatic works are available to the blind. They can get them on the CBS Mystery Theater, the soap operas, and so forth. They can get all of those other things.

Mr. Chairman, it is not necessary to make this possible for the blind. The problem of the radio station is that when a program is put out on the air, we do not know to whom it is going or who is going to hear it. I realize that it can go out on a subcarrier station specifically designed for blind people, but those things will be available to all people all over the country in future years.

Mr. Chairman, this amendment will impact on the traditional authors rights. The only thing he has is literary rights, the right to prohibit other people from using his work without payment.

Therefore, Mr. Chairman, this amendment, although I know it is for the blind and that it seems to be doing something that is good, the fact is it would fundamentally affect the Copyright Law, and it would be a mistake for this committee to adopt it, thinking they were doing the blind a great favor in doing it.

Mr. Chairman, I would like to add one other point, and then I will yield to the gentleman from Minnesota (Mr. FRASER). That point is this: Most of the dramatic works that are performed on any radio station are in the public domain. One does not need permission in that respect. Other dramatic works are available from authors. Authors are very generous. One needs preparation before a dramatic work is put on or performed. In the case of an author, it is true that he might want to be paid for the use of his work. However, in reading a book or a newspaper, one has relatively long lead time. All one has to do is write to the author. He will write back and say, "Go ahead and use it." Again, if he wants to make a profit, he will charge for its use.

Mr. Chairman, in other cases, such as with respect to the Library of Congress, marvelous things have been done for free. We can be sure that authors will be generous in this respect, too; but we must not impose this on the authors or with respect to dramatic works by, in effect, giving the compulsory license which we are granting here.

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

Mr. PATTISON of New York. I yield to the gentleman from Minnesota.

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

Mr. Chairman, I want to make sure that the gentleman from New York agrees that if our amendment is accepted, it would not touch the basic question of dramatic works being read for nonprofit use. This is limited just to the blind and the physically handicapped under a subcarrier system. The gentleman from New York agrees with that; is that correct?

Mr. PATTISON of New York. That is correct, I do.

Mr. FRASER. Does the gentleman know Dr. Marvin Rockwell who directs the Washington Ear on Station WETA?

Mr. PATTISON of New York. I know him very well.

Mr. FRASER. I would say to the gentleman from New York that Dr. Rockwell has indicated that it takes 6 or 8 months to get permission to have one of these plays on one of these subcarrier channels and by that time the opportunities are passed. They ought to be able to get volunteer actors to read them over the radio but without this amendment it is enormously difficult to do that.

Mr. PATTISON of New York. Of course, we have given the right in subsection 112 to record so the leadtime is of very little consequence as far as 6 or 8 months. It might happen occasionally. But we do not need that in order to read Shakespeare and most of the other plays that people who are blind are familiar with. So this would not be used, anyway and I do not think it is possible, anyway. So that this is such a fundamental attack on the copyright holders rights that it really is not worth doing and it should be rejected.

Mr. FRASER. Would the gentleman not agree that under the amendment there are no royalty losses?

Mr. PATTISON of New York. Not today, perhaps, but there will be in the future.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. OBERSTAR).

The amendment was rejected.

AMENDMENT OFFERED BY MR. SEIBERLING

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

The Clerk read as follows:

Amendment offered by Mr. SEIBERLING: Page 127, line 16, strike ", including" and all that follows down through line 20, and insert in lieu thereof a period.

Mr. SEIBERLING. Mr. Chairman, my amendment is intended to save the "Federal preemption" of State law section, which is section 301 of the bill, from being inadvertently nullified because of the inclusion of certain examples in the exemptions from preemption.

This amendment would simply strike the examples listed in section 301(b)(3).

The amendment is strongly supported by the Justice Department, which believes that it would be a serious mistake to cite as an exemption from preemption the doctrine of "misappropriation." The doctrine was created by the Supreme Court in 1922, and it has generally been ignored by the Supreme Court itself and by the lower courts ever since.

Inclusion of a reference to the misappropriation doctrine in this bill, however, could easily be construed by the courts as authorizing the States to pass misappropriation laws. We should not approve such enabling legislation, because a misappropriation law could be so broad as to render the preemption section meaningless.

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

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

Mr. RAILSBACK. Mr. Chairman, may I ask the gentleman from Ohio, for the purpose of clarifying the amendment that by striking the word "misappropriation," the gentleman in no way is attempting to change the existing state of the law, that is as it may exist in certain States that have recognized the right of recovery relating to "misappropriation"; is that correct?

Mr. SEIBERLING. That is correct. All I am trying to do is prevent the citing of them as examples in a statute. We are, in effect, adopting a rather amorphous body of State law and codifying it, in effect. Rather I am trying to have this bill leave the State law alone and make it clear we are merely dealing with copyright laws, laws applicable to copyrights.

Mr. RAILSBACK. Mr. Chairman, I personally have no objection to the gentleman's amendment in view of that clarification and I know of no objections from this side.

Mr. SEIBERLING. I thank the gentleman.

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

Mr. SEIBERLING. I will be glad to yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Chairman, I too have examined the gentleman's amendment and was familiar with the position of the Department of Justice. Unfortunately, the Justice Department did not make its position known to the committee until the last day of markup.

Mr. SEIBERLING. I understand.

Mr. KASTENMEIER. However, Mr. Chairman, I think that the amendment the gentleman is offering is consistent with the position of the Justice Department and accept it on this side as well.

Mr. SEIBERLING. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. SEIBERLING).

The amendment was agreed to.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MCFALL) having resumed the chair, Mr. SMITH of Iowa, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the Senate bill (S. 22) an act for the general revision of the copyright law, title 17 of the United States Code, and for other purposes, pursuant to House Resolution 1550, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

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

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted in the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

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

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

The SPEAKER pro tempore. The question is on the passage of the Senate bill.

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

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 316, nays 7, answered "present" 3, not voting 104, as follows:

[Roll No. 800]

YEAS—316

Abdnor	Cederberg	Florio
Abzug	Chappell	Flowers
Addabbo	Clausen, Don H.	Flynt
Alexander	Clawson, Del	Foley
Allen	Cleveland	Ford, Mich.
Ambro	Cochran	Ford, Tenn.
Anderson, Calif.	Cohen	Fountain
Anderson, Ill.	Collins, Ill.	Fraser
Andrews, N.C.	Collins, Tex.	Frenzel
Andrews, N. Dak.	Conable	Frey
Archer	Conte	Fuqua
Ashbrook	Corman	Gaydos
Aspin	Cornell	Gilman
AuCoin	Cotter	Ginn
Badillo	Crane	Grassley
Baldus	D'Amours	Hagedorn
Baucus	Daniel, Dan	Hall, Ill.
Bauman	Daniel, R. W.	Hall, Tex.
Beard, Tenn.	Danielson	Hamilton
Bedell	Davis	Hannaford
Bennett	de la Garza	Hansen
Bergland	Delaney	Harkin
Bevill	Dellums	Harrington
Biester	Dent	Harris
Bingham	Derwinski	Harsha
Blanchard	Devine	Hayes, Ind.
Blouin	Dickinson	Hechler, W. Va.
Boland	Dodd	Heckler, Mass.
Bolling	Downey, N.Y.	Hefner
Bonker	Downing, Va.	Hightower
Bowen	Drinan	Holt
Brademas	Duncan, Oreg.	Holtzman
Breaux	Duncan, Tenn.	Horton
Breckinridge	du Pont	Hubbard
Brinkley	Early	Hungate
Brodhead	Eckhardt	Hutchinson
Brooks	Edgar	Hyde
Brown, Ohio	Edwards, Ala.	Ichord
Broyhill	Edwards, Calif.	Jacobs
Buchanan	Eilberg	Jeffords
Burgener	Emery	Jenrette
Burke, Calif.	English	Johnson, Calif.
Burke, Fla.	Erlenborn	Jones, Okla.
Burke, Mass.	Evans, Ind.	Jones, Tenn.
Burleson, Tex.	Evins, Tenn.	Jordan
Burlison, Mo.	Fary	Kasten
Burton, John	Fascell	Kastenmeier
Butler	Fenwick	Kazen
Byron	Findley	Kelly
Carney	Fish	Kemp
Carr	Fisher	Ketchum
Carter	Fithian	Keys
	Flood	Kindness
		Koch

Krebs	Myers, Ind.	Satterfield
Lagomarsino	Myers, Pa.	Scheuer
Latta	Natcher	Schroeder
Leggett	Nedzi	Sebelius
Lehman	Nichols	Seiberling
Lent	Nolan	Sharp
Levitas	Nowak	Shipley
Lloyd, Calif.	Oberstar	Shriver
Lloyd, Tenn.	Obey	Simon
Long, La.	O'Brien	Sisk
Long, Md.	O'Hara	Skubitz
Lott	O'Neill	Smith, Iowa
Lujan	Ottinger	Snyder
Lundine	Patten, N.J.	Solarz
McClory	Patterson, Calif.	Spence
McCloskey	Pattison, N.Y.	Steed
McCormack	Perkins	Steiger, Wis.
McDade	Pettis	Stokes
McDonald	Pickle	Studds
McEwen	Pike	Symington
McFall	Poage	Symms
McHugh	Pressler	Talcott
McKay	Preyer	Taylor, Mo.
McKinney	Price	Taylor, N.C.
Madigan	Pritchard	Thone
Maguire	Quie	Thornton
Mahon	Quillen	Traxler
Mann	Railsback	Treen
Mathis	Randall	Tsongas
Mazzoli	Rangel	Ullman
Meeds	Regula	Van Deerlin
Melcher	Reuss	Vander Jagt
Metcalfe	Rhodes	Vander Veen
Mezvinsky	Richmond	Vanik
Mikva	Rinaldo	Vigorito
Milford	Risenhoover	Walsh
Miller, Calif.	Roberts	Wampler
Miller, Ohio	Robinson	Waxman
Mineta	Rodino	Whalen
Minish	Roe	White
Mitchell, N.Y.	Rogers	Whitehurst
Moakley	Roncalio	Wilson, Bob
Montgomery	Rooney	Winn
Moore	Rose	Wirth
Moorhead, Calif.	Rostenkowski	Wolff
Moorhead, Pa.	Roush	Wydler
Morgan	Rousselot	Wylie
Mosher	Roybal	Yates
Moss	Runnels	Yatron
Mottl	Russo	Young, Fla.
Murphy, Ill.	Santini	Young, Ga.
Murtha	Sarasin	Zablocki
		Zeferetti

NAYS—7

Dingell	Mollohan	Stratton
Goldwater	Paul	
Goodling	Staggers	

ANSWERED "PRESENT"—3

Armstrong	Gonzalez	Krueger

NOT VOTING—104

Adams	Hébert	Riegle
Annunzio	Heinz	Rosenthal
Ashley	Helstoski	Ruppe
Bafalis	Henderson	Ryan
Beard, R.I.	Hicks	St Germain
Bell	Hillis	Sarbanes
Biaggi	Hinshaw	Schneebeli
Boggs	Holland	Schulze
Broomfield	Howard	Shuster
Brown, Calif.	Howe	Sikes
Brown, Mich.	Hughes	Slack
Burton, Phillip	Jarman	Smith, Nebr.
Chisholm	Johnson, Colo.	Spellman
Clancy	Johnson, Pa.	Stanton, J. William
Clay	Jones, Ala.	Stanton, James V.
Conlan	Jones, N.C.	Stark
Conyers	Karth	Steelman
Coughlin	LaFalce	Steiger, Ariz.
Daniels, N.J.	Landrum	Stephens
Derrick	McCollister	Stuckey
Diggs	Madden	Sullivan
Esch	Martin	Teague
Eshleman	Matsunaga	Thompson
Evans, Colo.	Meyner	Udall
Forsythe	Michel	Waggonner
Giaimo	Mills	Weaver
Gibbons	Mink	Whitten
Gradison	Mitchell, Md.	Wiggins
Green	Moffett	Wilson, C. H.
Gude	Murphy, N.Y.	Wilson, Tex.
Guyer	Neal	Wright
Haley	Nix	Young, Alaska
Hammer-schmidt	Passman	Young, Tex.
Hanley	Pepper	
Hawkins	Peyser	
	Rees	

The Clerk announced the following pairs:

Mr. Annunzio with Mr. Jarman.

Mr. Murphy of New York with Mr. Gradison.

Mrs. Boggs with Mr. Peyser.

Mr. Nix with Mr. Esch.

Mr. Pepper with Mrs. Smith of Nebraska.

Mr. Matsunaga with Mr. Steelman.

Mr. Giaimo with Mr. Ruppe.

Mr. Hébert with Mr. Steiger of Arizona.

Mr. Helstoski with Mr. Henderson.

Mrs. Mink with Mr. Clancy.

Mr. Neal with Mr. Heinz.

Mr. Charles H. Wilson of California with Mr. McCollister.

Mr. Green with Mr. Bafalis.

Mr. Hawkins with Mr. Eshleman.

Mr. Teague with Mr. Beard of Rhode Island.

Mr. Biaggi with Mr. Derrick.

Mr. Adams with Mr. Brown of Michigan.

Mr. Phillip Burton with Mr. Gude.

Mr. Dominick V. Daniels with Mr. Bell.

Mr. Evans of Colorado with Mr. Hillis.

Mrs. Chisholm with Mr. LaFalce.

Mr. Haley with Mr. Broomfield.

Mr. Gibbons with Mr. Guyer.

Mr. Clay with Mr. Brown of California.

Mr. Hanley with Mr. Hammerschmidt.

Mr. Hicks with Mr. Conlan.

Mrs. Spellman with Mr. Howe.

Mr. Conyers with Mr. Holland.

Mr. Howard with Mr. Johnson of Pennsylvania.

Mr. St Germain with Mr. Karth.

Mr. Diggs with Mr. Hughes.

Mr. Waggonner with Mr. Jones of Alabama.

Mr. Udall with Mr. Landrum.

Mrs. Meyner with Mr. Madden.

Mr. Moffett with Mr. Jones of North Carolina.

Mr. Passman with Mr. Martin.

Mr. Wright with Mr. Mills.

Mr. Sikes with Mr. Riegle.

Mr. Shuster with Mr. Rosenthal.

Mr. Whitten with Mr. Michel.

Mr. Slack with Mr. Mitchell of Maryland.

Mr. Stephens with Mr. Ryan.

Mr. Schulze with Mr. Sarbanes.

Mr. Rees with Mr. Ashley.

Mr. Stark with Mr. James V. Stanton.

Mr. Thompson with Mr. Stuckey.

Mr. J. William Stanton with Mrs. Sullivan.

Mr. Weaver with Mr. Wiggins.

Mr. Young of Alaska with Mr. Charles Wilson of Texas.

Mr. STAGGERS changed his vote from "yea" to "nay."

Messrs. SEBELIUS and BEDELL changed their vote from "nay" to "yea."

So the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

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

The SPEAKER pro tempore (Mr. McFALL). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

APPOINTMENT OF CONFEREES ON S. 22, COPYRIGHT LAW REVISION

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 22) for the general revision of the Copyright Law, title 17 of the United States Code, and for other purposes, with House amendments thereto, insist on the House amendments and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin? The Chair hears none, and appoints the following conferees: Messrs. KASTENMEIER, DANIELSON, DRINAN, BADILLO, PATTISON of New York, RAILSBACK, and WIGGINS.

LEGISLATIVE PROGRAM

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

Mr. RHODES. Mr. Speaker, I take this time to inquire of the distinguished majority leader as to what we might expect for the rest of the evening and for tomorrow.

Mr. O'NEILL. Mr. Speaker, will the distinguished minority leader yield?

Mr. RHODES. I will be happy to yield.

Mr. O'NEILL. Mr. Speaker, I will ask unaminous consent that when the House adjourns tonight, it adjourn to meet tomorrow morning at 10 o'clock.

We will begin the program with the synthetic fuel rule. Following that, we will have the Private Calendar. Following the Private Calendar, we will go back to the synthetic fuel bill.

There will be a noon recess, at which time we will meet the President of Liberia in a joint session. When the President of Liberia has left the Chamber, we will come back with the synthetic fuel bill and conclude consideration.

It is the expectation of the Speaker that we will finish that bill tomorrow. I do not want to prejudge anything, but personally I will be voting for the rule on synthetic fuels. If it does not prevail, we will go into the Lobby Act. At the conclusion of the Lobby Act, we would be through for the day.

I would have to presume that the synthetic fuels rule will pass, and so I would hope we would be able to get a second television set for the back rooms in order that we may be able to watch the debate tomorrow night. I hope the results of the debates are the same as they were in 1960.

Mr. RHODES. Mr. Speaker, does the gentleman have any idea as to when this whole fiasco might end tomorrow?

Mr. O'NEILL. The Speaker has given the chairman, the gentleman from Texas (Mr. TEAGUE), the date to complete the bill. So we are anticipating that we will complete the synthetic fuels bill. If by any chance it is defeated on the rule, then we will take up the lobby bill. Any way we look at it, I would have to say we will be here until a reasonable hour tomorrow evening.

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

Mr. RHODES. I yield to the gentleman from California (Mr. KETCHUM).

Mr. KETCHUM. I thank the gentleman for yielding.

Mr. Speaker, could the minority leader tell me, is there truth in the rumor that the Humphrey-Hawkins bill is coming before us for a vote?

Mr. RHODES. Mr. Speaker, I would yield to the distinguished majority leader to answer that question.

Mr. O'NEILL. No. I anticipate we will have that about the second week in February.

Mr. RHODES. Mr. Speaker, I appreciate hearing the majority leader say

that, because I have been telling people around the country that Humphrey-Hawkins will be considered only if we do have a Democratic Congress.

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

Mr. RHODES. I yield to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. I thank the gentleman for yielding.

Mr. Speaker, could we in some way give the floor to the pro tempore majority leader, or can we do something to straighten out the confusion in the Democratic caucus ranks, because as I understand the situation, the gentleman from California (Mr. PHILLIP BURTON) has lost his mantle to the gentleman from New York. If we could straighten out that situation, the rest of us would know what to do.

Mr. OTTINGER. Mr. Speaker, if the gentleman will yield, there is an easy way to get home early tomorrow night, and that is to defeat the synthetic fuels rule.

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

Mr. RHODES. I yield to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. I thank the gentleman for yielding.

Mr. Speaker, I want to ask the distinguished majority leader if he can tell us if there will be a possibility of having any further suspension bills either on Thursday or on Monday. Some of the bills have not been reached.

Mr. O'NEILL. If the distinguished gentleman will yield, there are no plans at the present time to go to suspensions. It is my understanding from the Senate that only bills of major importance will be considered by them and only bills that have already been passed by them will be considered. I believe there are about 30 bills left on the Suspension Calendar, plus the fact that there are at least 50 more which have been asked to be placed on the list, and there is no possible way we could consider them and still adjourn by Friday next.

Things are always subject to change, but the present plan of the Speaker is not to have another day for the consideration of suspensions.

HOUR OF MEETING ON TOMORROW

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 10 o'clock a.m. tomorrow.

The SPEAKER pro tempore (Mr. MCFALL). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO FILE SUPPLEMENTAL REPORT ON H.R. 15372

Mr. VAN DEERLIN. Mr. Speaker, on behalf of the Committee on Interstate and Foreign Commerce, I ask unanimous consent that the committee be permitted to file a supplemental report to accompany the bill H.R. 15372.

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

There was no objection.

ALASKAN OIL, DISTRIBUTION DIFFICULTIES COME TO LIGHT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. MCKINNEY) is recognized for 5 minutes.

Mr. MCKINNEY. Mr. Speaker, yesterday, Interior Department and FEA officials testified before the Senate Interior Committee concerning the anticipated "glut" of Alaskan oil on the west coast. Yesterday also found the front page of the New York Times carrying an article entitled "California Snubs Alaska Oil, U.S. Forced To Reconsider." Again the focus of interest was the inability and unwillingness of the west coast to receive and distribute the oil from the trans-Alaskan pipeline. Further, the Times article states that Washington was stunned by California's position.

Washington has absolutely no right to be stunned, Mr. Speaker, because since April of this year I have alerted my colleagues to the existence of distribution difficulties on six different occasions—through statements to the RECORD, letters to their offices, and testimony in committee. Nor do the Federal regulatory agencies have a right to be stunned, Mr. Speaker, because when I contacted them last April to ask for their assessment of this very situation, I was assured of their awareness of the problem and reassured in writing that resolution to the problem was well at hand.

In an effort to insure that indeed a solution was at hand, I introduced, in May of this year, a legislative proposal. My proposal would establish a regulatory consortium, including representatives of the FEA, FPC, and Department of the Interior, to combine their jurisdictions, and produce a single definitive plan for the distribution of Alaskan oil. The proposal would also temporarily suspend the export authority of the Trans-Alaskan Pipeline Authorization Act pending congressional approval of the regulators plan.

A smattering of support accompanied the initial introduction of my bill and despite gradually increasing support, many still view it as an attempt by a New England Congressman to promote the parochial needs of the New England region. However, Mr. Speaker, both the report of the Senate hearing and yesterday's article in the Times seem to support my original contention that the projected west coast "glut" could be the most serious challenge to energy independence that this country has experienced since the 1973 oil embargo. This country has anxiously awaited the delivery of the Prudhoe crude and the relief it would provide from dependency on foreign resources, since construction of the Alaskan pipeline began.

You may recall, Mr. Speaker, that section 114 of the Trans-Alaskan Pipeline Act expresses the intent of the legislation to alleviate this Nation's dependence on foreign oil and states that any exportation arrangement should not realize a cost to the total security of national energy supplies. As the Times article states the west coast position has led Washington to consider exporting the Alaskan crude to Japan in exchange for Persian Gulf oil. Such a plan would certainly not diminish our dependence on foreign imports. To deny the delivery contradicts the specified intent of the Trans-Alaskan Pipeline Act but could result in the most expensive show of ignorance and apathy in recent congressional history.

I again implore my colleagues, Mr. Speaker, to support a timely solution to this confused and potentially costly situation. I appeal to the Members of the New England Congressional Caucus and the newly formed Northeast-Midwest Economic Advancement Coalition to exhibit their purpose and worth by supporting the energy needs of those they represent and by promoting the immediate passage of corrective legislation.

COST OF CARTER'S PLATFORM: NEW ASSUMPTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. CONABLE) is recognized for 5 minutes.

Mr. CONABLE. Mr. Speaker, yesterday the Republican Policy Committee released an analysis of the projected additional costs of carrying out the 1976 Democratic Platform.

One reason we did this was because the Democrats had denied our charges that carrying out the platform pledges would be totally inconsistent with Carter's avowed intent to balance the Federal budget. In a Business Week interview, a Carter staffer said:

> We're not going to get involved in any numbers game until the Republicans come up with some credible numbers and analysis.

It now looks as if the numbers game is on. Yesterday, my colleague BROCK ADAMS, chairman of the House Budget Committee, responded to our study by saying that it double-counted.

Under the assumptions he now states, he is correct.

We are indebted to him for his clarification, since it helps our study to serve its intended purpose of finding out exactly how much of the Democratic Platform can be relied upon.

Does Carter mean to implement Humphrey-Hawkins, countercyclical aid, public employment, public works, direct stimulus, all of the above, some of the above or none of the above? Some $28.5 billion is at stake. We are sure the American voters would like to know.

Does Carter mean to have both welfare reform and a Federal takeover of State and local welfare costs, just one of these platform items, or neither?

Again, we and the American people would like an honest, candid answer.

It was also charged that the Republican study counted as additional Federal costs items that are already included in the Democratic Platform. If this is true, then the Democratic Platform is a highly misleading, deceptive document in its use of such modifiers as "increased," "additional," "full-funding," "expanded" and "greatly increased emphasis."

Most people would think these phrases indicate a change in policy from currently projected outlays to a higher level. If, as ADAMS says, these modifiers merely indicate holding programs to their presently projected levels, then the Carter platform stands as one of the most cynical and misleading political documents to come along in years.

We are indebted to him for setting the record straight—something the Carter campaign has thus far declined to do.

Subtracting all jobs programs and all welfare reform from our 1980 cost estimates leaves a projected $154.6 billion in additional spending for programs advocated in the Carter platform. Including the Humphrey-Hawkins jobs bill and the Griffiths welfare reform measure would result in a 1980 total of $166.5 billion. We still are not clear which of these two options Carter prefers, but it is reassuring to learn that he does not favor all of the items listed in his platform.

Mr. Speaker, I feel we are beginning to make some headway. Without changing the current programs, our projections show that our Federal budget will be running over $500 billion a year by 1980. Apparently the Carter proposals, as modified by Mr. ADAMS. will add at least $154.6 billion beyond that onto the backs of our American taxpayers. Perhaps still further dialog can reduce the threatened burden even more. If not, the American taxpayers should prepare for a tax increase, even after changing these assumptions, approaching 50 percent.

GERRY MISNER—A CHAMPION OF SPORTS, PHYSICAL FITNESS, PEOPLE AND QUALITY GOVERNMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DON H. CLAUSEN) is recognized for 15 minutes.

Mr. DON H. CLAUSEN. Mr. Speaker, a great friend of mine and a man I respected and admired very much, Mr. Gerald Misner, passed on to his reward after a long illness.

Gerry Misner was well known by many Members of the Congress and I know they join with me in paying tribute to this dynamic and very dedicated gentleman. One of those Members of Congress was an especially good friend of Gerry Misner. I am, of course, referring to our genial and revered President of the United States, Gerald R. Ford.

Gerry was the first congressional district chairman for my first campaigns to the Congress and spent a good portion of his life devoted to government and politics. This interest was spawned by his warm and genuine interest in others and in the policies of every level of government. He loved politics and association with this Nation's political leadership.

He had leadership qualities in abundance and also held numerous offices in the U.S. Lawn Tennis Association.

From our deep, close friendship I knew him as a strong, hard-driving man, but one who loved the human race. He was compassionate, forthright, conscientious and extremely able. He was a devoted family man. He was extremely proud of his lovely wife, Dolores, and their beautiful family.

During the last few years he faced and fought the debilitating effects of emphysema with the same dignity and constructive outlook that always characterized Gerry Misner.

I have lost a close personal friend and the State of California has lost one of its most outstanding citizens. But, Gerry Misner left us all with a legacy of friendship and warm memories. We are all the better for having known him and this is perhaps the best legacy a man can leave.

Most people have committed the Golden Rule to memory—Gerry Misner committed it to his life.

Mrs. Clausen joins me in expressing our deepest and most sincere sympathy to his wife, Dolores, and Gerry's children and grandchildren.

Mr. Speaker, I include at this point in the RECORD two articles pertaining to Gerry Misner:

[From the San Francisco Chronicle, Mar. 21, 1975]

MISNER: TENNIS AND POLITICS

(By Howard Carr)

Gerry Misner doesn't want to sound as if he and President Ford are close pals but they are acquaintances—friends, even—from way back.

Now pushing 73, Misner, of Tiburon, was president of the Northern California Tennis Association for two years (1954 and '55) after being veep for three years and, like Ford, has long had a deep interest in sports.

"I haven't talked to President Ford since he got the top job," Misner said the other day, "but I talked to him several times when he was a Congressman and we hit it off pretty good."

After Misner got out of tennis politics about 20 years ago, he got into "regular" politics—Republican politics, that is—and that's when he and Ford started running into each other.

"And let me tell you about tennis politics," Misner said, "The training I got in that was put to good use when we took off our gloves in regular politics."

He and Ford always got along fine, for several reasons: both were of the same political persuasion; both had the same first name; both were sports buffs, and both went to high school in Michigan.

"I was born in Elgin, Ill., but took most of my schooling here in California—Santa Monica, Eureka and way points," Misner said. "However, I finished high school in Benton Harbor, Mich., which was in the same athletic conference as Ford's high school (Grand Rapids). I was quite a few years ahead of him, though, so we never played against each other."

Misner, an agile youngster, participated in football, basketball, baseball and tennis at Benton Harbor and did play against Bennie Oosterbaan, a three-sport star at Muskegon High who went on to be an All-America end at Michigan.

Another Michigan All-American was Chuck Bernard, who was at Benton Harbor High a few years after Misner and kept Ford a second-string center at Michigan his first two varsity years.

Despite the in-fighting, Misner looks back fondly at both tennis politics and regular politics, in which he was Marin County's top Republican committeeman for several years.

In tennis, he and the late Jim Moffet and Roscoe Maples formed a triumvirate that represented Northern California interests nationally.

"They called us 'the Three-Ms' and I guess we came on kind of strong to those staid Easterners," Misner said, "but we were just doing our thing."

He said he and Moffet were factors in getting the USLTA to separate the California Tennis Association into Northern and Southern associations; in getting hard court tournaments recognized nationally, and in getting the USLTA to take a serious look at open tennis.

As for Maples, "He was a man who did a great deal with his money to help youngsters who couldn't have afforded it develop in tennis," Misner said.

Misner's activity was suddenly halted about two years ago by a heart attack that hospitalized him for 85 days and dropped his weight from 170 pounds to 115.

He turned the running of the family's fireproofing firm over to sons Jim, 27, and Doug, 23 ("He's the baby of our five children," Misner said, "if you can call a guy who's 6-3 a baby.") Now he takes life slow and easy under the watchful eye of wife Dolores.

And reflects on the merits of tennis.

"Last time I saw Ford when he was out here about four years ago, we agreed that tennis is a good sport for the federal physical fitness program because you can have a lot of people playing it in half a block of space whereas golf, for instance, requires much more room."

The two old friends shook on that.

[From the San Rafael Independent Journal, Feb. 6, 1976]

GERALD MISNER

Gerald E. Misner of San Rafael, former Republican Party leader in Marin and the state, died yesterday at a local convalescent hospital after a long illness. He was 73.

Misner, who was chairman of the Marin Republican Central Committee from 1963 to 1967, also served as a member of the state Republican Central Committee and as vice president of the State Republican County Chairmen's Association.

An avid tennis player, he was former regional director of the U.S. Lawn Tennis Association, a member of the Davis Cup Committee and past president of the Mill Valley Tennis Club.

A native of Elgin, Ill., Misner lived in Mill Valley, San Anselmo, Tiburon and San Rafael during his 37 years in Marin.

He was retired founder and president of Admiralty Manufacturing Co., located in Sausalito.

Misner attended Western Michigan University.

Surviving are his wife, Dolores of San Rafael; three daughters, JoAnne Wuelfing of San Leandro, Geraldine McCauley of Fairfax and Claudia Kriel of Mill Valley; three sons, James Misner of Mill Valley, Douglas Misner of Fairfax and Dr. Gordon Misner of St. Louis, Mo. He also leaves six grandchildren.

Mass of Christian Burial will be at 11 a.m. tomorrow at St. Anselm's Church in San Anselmo. Rosary will be recited at 8 p.m. today at Russell and Gooch Mortuary in Mill Valley. Private burial will be at Mount Tamalpais Cemetery in San Rafael.

NATIONAL EDUCATION ASSOCIATION: POLITICS FIRST, EDUCATION LAST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. ASHBROOK) is recognized for 60 minutes.

Mr. ASHBROOK. Mr. Speaker, the recent endorsement of the liberal Democratic slate of Carter-Mondale by the National Education Association—NEA—comes as no surprise to me. As an observer of this organization over the years, it is obvious that their thrust is political

not educational, and their goals are consistent with that endorsement. The NEA does not represent the average classroom teacher. It is possible that the more radical teacher elements in the big cities find the NEA union type tactics to their liking but not in our areas and, I feel, most areas of the country. Like most other organizations, their image is one thing and their substance is something else. The image of the American teacher is good, the substance of the NEA is anything but that, for it is at the forefront of virtually every organized liberal effort ranging from gun control and one-world thinking to budget-busting and deficit-creating new spending programs.

Its leaders hurl epithets and threats at those who stand in their way as did President Ryor in recently assailing teachers in my own State, calling them scabs. The NEA is accumulating a giant war chest for campaigns and will rank as the chief provider of political funds for liberal-left candidates in this country. It has none of the professional, dedicated qualities of the teachers we all remember. An Ollie Mae Parker, Willis Adams, or Pearl Danback would be an anachronism to these new power-hungry advocates of strikes, political activity and Federal control. School boards fit that same mold so they must go, too.

Again let me point out that the National Education Association is not the teachers of America. Indeed, it misrepresents the teachers of America. Most teachers are still free enterprise oriented, still believe in the basic traditions and values of our country and do not want strikes, guerrilla warfare, name calling and political power tactics. The NEA leaders would move the teachers in a direction of being just like dock workers rather than the professionally oriented solid citizen like Willis Adams and Ollie Parker we knew and revered.

Some will argue that the NEA started its leftward trend because of the pressure of the more radical American Federation of Teachers, a bona fide union which is strong in New York City and other big cities but of limited strength in the other areas of our country. There can be no doubt that President Ryor is always looking over his shoulder at Albert Shanker galloping up on his union charger but the NEA is basically what it has been for many years, just more open about it. How well I recall 10 years ago when NEA leaders would talk of strikes but never use the word "strike." Then they talked about sanctions. Their liberalism and distrust of local education has always been there, it is just now coming out in the open because the climate of opinion is such in our country today that virtually anything goes. Militancy, activism are appropriate now.

The NEA, like so many other unions, associations, and organizations, has a good case of Washingtonitis. It forgets those whom it would represent and fashions its policies on the shoals of the bureaucratic scrap heap here in the Capital. Too many liberal groups follow this course. They become a part of the Washington bureaucracy and sometimes it is difficult to distinguish them from the spenders, the regulators, and the social planners. They have forgotten, if they do not abhor, those squares, the old fashioned teachers back home.

The NEA and the Health, Education and Welfare bureaucrats are a virtual tweedledum and tweedledee. There is no appreciable difference. The NEA's big lie in the original debate over Federal aid to education was that there would be Federal money but no Federal control. Now the NEA advocates those very controls most teachers do not support and is in front of the advocates of forced busing, withholding of funds for racial balance reasons and would use Federal funds to force a type of education on taxpayers back home that neither they nor their local boards of education want. In short, the NEA has become a bureaucratic agency—of, by and for the bureaucrats rather than for the teachers, taxpayers and children. It is the adversary of local education and the advocate of a changed educational system which would be disastrous.

There is an almost incestuous relationship between NEA, the U.S. Office of Education, the various foundations and the National Science Foundation, Grants of taxpayers' money by the millions go to these same educational bureaucrats who study subjects like the dislocation of black eighth graders in metropolitan cities. Millions go down these ratholes which should be going to our schools. Millions are siphoned off at the top by thousands of grants and projects of meaningless value.

NEA GOES POLITICAL

The National Education Association is gearing up for a massive political effort in the 1976 elections. This effort will be directed at both the Federal and the State level. The goal will be to elect its friends and purge those who disagree with the legislative objectives of the organization.

For the first time a major push will be made in the race for President. Overturning its previous policy, the NEA has decided to endorse and actively support a Presidential candidate in the upcoming election. Of course, only one ticket for them—Carter-Mondale.

According to former NEA President Helen Wise, "It is our intent to translate our successes in the congressional elections of 1974 into a mandate to elect a friend of education to the White House in 1976." To provide funds for its candidate—who will be selected in September—NEA's political action committee will ask for a voluntary contribution from each of the organization's 1.8 million members.

NEA also plans an active role in congressional contests. Target categories have been established for 1976 House and Senate races. Top priority will be given to reelecting incumbents with good NEA voting records in marginal districts and defeating incumbents with bad NEA voting records.

NEA–PAC

The growth in NEA's political activism is a relatively recent development. It was not until 1972 that it formed a political action committee—NEA-PAC. In that year's elections, NEA claims that 141 out of 184 House candidates and 12 out of 19 Senate candidates receiving teacher support were elected to office.

NEA followed up its success in the 1974 elections. NEA-supported candidates won 229 out of 282 House races and 21 out of 28 Senate contests.

Overall, in 1974 NEA–PAC made financial contributions totaling almost $225,000. And this was only the tip of the iceberg. State and local association political action groups contributed $2.5 million to Federal, State and local races.

I think it is revealing to look at who the NEA supported. The December 1974 issue of the NEA Reporter shows the House and Senate candidates endorsed by NEA–PAC, including those who received financial contributions.

Out of the 323 candidates listed as receiving NEA support, 283 were Democrats. Only 40 were Republicans. That works out to a 7 to 1 ratio of Democrats over Republicans.

In California, for example, only 2 out of 33 were Republicans. In Indiana, 0 out of 10. In my home State of Ohio, only 1 out of 12 was a Republican. Most of NEA's financial support went to liberal democrats.

Such disproportionate levels of support call into question the nonpartisan claim of the NEA. Inasmuch as an NEA membership poll showed that 37 percent considered themselves Democrats and 37 percent Republicans and the rest independents, it also casts doubt on whether the NEA leadership is representing the views of the members.

LEGISLATIVE GOALS

One of NEA President Ryor's campaign promises was to work hard for continued development of the Coalition of American Public Employees. CAPE is an amalgamation of the NEA, the American Federation of State, County, and Municipal Employees, the National Treasury Employees Union, the American Nurses Association, the Physicians National Housestaff Association and the National Association of Social Workers.

A major goal of CAPE and the NEA is the passage of a Federal collective bargaining statute for public employees. This legislation would give public employees the right to organize and strike. In testifying before a subcommittee of the House Education and Labor Committee, Ryor testified that the strike "provides the most effective basis for dealing with the question of bargaining impasses." The bill would also open the door for compulsory union membership in Federal, State, municipal and local public employee groups, as well as teachers.

Public employee unions would be a disaster for our Nation. Essential government functions such as schools, sanitation departments and police and fire departments would be in the hands of private organizations unaccountable to the public. Areas of vital concern to the taxpayer could be closed without regard to duly elected public officials.

Local governments and public institutions no longer would be controlled by the people through their elected representatives. Instead, a clique of union bosses would determine the direction of government and the tax burden.

Public sector labor unions are not the only unwise legislative goal of the NEA. Another priority is strict gun control

legislation. According to a recent NEA resolution, the NEA "shall take immediate action to support and lobby for strict gun control legislation that limits the ownership of handguns."

The right to keep and bear arms is an important and constitutionally guaranteed prerogative of the American people. Infringement of this right would be a serious blow to individual freedom. We should have tougher treatment of criminals in this country rather than limiting the rights of law-abiding citizens.

The NEA has also worked against strong antibusing legislation. The June 1, 1974 Congressional Quarterly reports that Stanley McFarland, director of NEA's government relations department, was "flatly opposed to the House antibusing amendment."

According to Congressional Quarterly:

McFarland's staff considers Congress' continuing debate over anti-busing legislation to be one of its major legislative disappointments. NEA policy "recognizes that acceptable desegregation plans will include a variety of devices such as geographic realignment, pairing of schools, grade pairing and satellite schools. These arrangements may require that some students be bused."

Any way you look at it, forced busing has been a dismal failure. Even some of those who first advocated it—such as James Coleman, author of a major study on busing—have now changed their minds.

Busing was supposed to be one of those cure-alls that would improve both the quality and the scope of education. As numerous cities can testify, it has done neither.

The primary long-range legislative objective of NEA is to obtain more Federal funding of education. Presently, the Federal share is about 8 percent. NEA would like to raise that figure to at least one-third. Legislation has been introduced to achieve that goal.

Such a level of Federal funding is unrealistic as well as undesirable. The NEA bill would result in an additional $20 billion in Federal spending for education. Inasmuch as this year's budget deficit is already running in the $70 to $80 billion range, we can hardly afford to add billions more to that amount.

Perhaps even more important, one third Federal funding would almost certainly lead to greater Federal involvement in local education matters. This would be extremely unfortunate.

As I have repeatedly warned my colleagues in the House, Federal aid means Federal control. We have already seen this in such diverse instances as forced busing, the title IX sex discrimination regulations and the mandatory recordkeeping requirements on school discipline.

Washington, D.C., bureaucrats and the Congress view the giving of Federal dollars to a local school district as a first step toward Federal rule of the school system. Consequently the more the financing of education is moved to the Federal level the less control local communities will have over the education of their children. The traditional local control of schools will be replaced by Federal dictate.

This is not the only budget-busting proposal advocated by the NEA. In addition, the NEA backs what it calls "a major bill to provide comprehensive cradle-to-grave national health insurance."

Such a program could cost anywhere from $80 to $100 billion. This would match the entire estimated budget deficit for fiscal year 1976.

It is ridiculous for the Government to spend billions more when it cannot afford the programs that it already has. It is ridiculous to add another new and costly social program onto the backs of the American taxpayer. It can only mean higher taxes and increased inflation.

The NEA also supports passage of the Child and Family Services Act. This legislation would establish a comprehensive child development program run by the Federal Government. A new breaucracy would be set up—the Office of Child and Family Services—which would designate prime sponsors and administer the program.

I have opposed this bill since it first came up in 1971. It would authorize further Federal involvement in areas dealing with the family, particularly the parent-child relationship. This is an inappropriate area for the Federal Government.

SCHOOL OF THE FUTURE?

What should be the direction of education in the United States? Catherine Barrett, a past president of the National Education Association, has given us her vision of the future. Think about this "vision" in light of her statement that "we are determined to control the course of education."

According to Barrett:

We will need to recognize that the so-called "basic skills," which currently represent nearly the total effort in elementary schools, will be taught in one quarter of the present school day. The remaining time will be devoted to what is truly fundamental and basic—time for academic inquiry, time for students to develop their own interests, time for a dialogue between students and teachers. When this happens—and it's near—the teacher can rise to his true calling. More than a dispenser of information, the teacher will be a conveyor of values, a philosopher. Students will learn to write love letters and lab notes. We will help each child build his own rocket to his own moon."

Frankly, this is absurd. To deemphasize basic skills would be disastrous for our children and our Nation. If anything, greater stress should be placed on developing basic reading, writing and mathematical skills.

Colleges and universities are being swamped with students who cannot write coherent sentences or handle simple math. More and more they have had to establish remedial programs to make up for student deficiencies.

According to a recent article, placement tests administered to freshmen at Ohio State University show that 26 percent have not mastered high school mathematics and 30 percent cannot write on an acceptable college level. Consequently both the English and mathematics departments are preparing full-scale remedial programs.

It is ridiculous to have our institutions of higher education teaching skills that should have been learned years earlier. This is a waste of money and a waste of talent. Our children do not need philosophers, they need teachers.

Barrett has more to say:

Finally, if our children are to be human beings who think clearly, feel deeply, and act wisely, we will answer definitely the question "Who should make what decisions?" Teachers no longer will be victims of change; we will be agents of change.

This is hard to believe. Teachers supposedly are in the business of fostering the intellectual development of the child and instilling the values of the community and the Nation.

Barrett, however, would make the teacher an "agent of change." But a change to what? And why should the teacher or the NEA be the ones to decide rather than the parents of the child? It is really the job of the teacher to modify the child in order to change our society?

I think not. It is not the purpose of education to use the classroom as a vehicle for modifying the child and changing our society. Most teachers I know would agree.

FOOD STAMPS FOR TEACHERS

The NEA in 1975 urged teachers to apply for Federal food stamps. In a bulletin mailed to its State and local leaders, the NEA said:

Many working teachers are checking . . . and discovering that their income after expenses qualifies them to join the 17 million Americans now buying the stamps to stretch their grocery budgets.

The NEA went on to say,

No stigma should be attached to taking advantage of this program funded by the Nation's taxpayers.

HUMAN RELATIONS DAY

The NEA recommends that January 15 be proclaimed as Human Relations Day in memory of Martin Luther King. According to an NEA circular, King was "a minister, philosopher, Nobel Peace Prize winner, author of five books, warrior against barriers to human rights, and leader in the unending struggle for better human relations."

As part of the "suggested classroom activities" for that day, teachers are encouraged to "have a Martin Luther King display," "ask students to dramatize Dr. King winning the Nobel Prize," ask students to write and share in class an essay on "How I Learned About Prejudice," and "discuss 'freedom fighters' of all races."

Unfortunately this is pure propaganda. King was an advocate of violence and lawlessness. He preached an anti-American line that amounted to little more than radical drivel. To now portray him as a freedom fighter working for peace, human rights, and better human relations is to rewrite history.

A DECLARATION OF INTERDEPENDENCE

The NEA has come up with a program entitled "A Declaration of Interdependence: Education for a Global Community." Although supposedly designed to commemorate the Nation's Bicentennial the program makes a mockery of the meaning of the American Revolution.

The NEA booklet opens with the lines:

We hold these truths to be self-evident:
That 200 years after declaring our inde-

pendence, the American People are entering a new era.

That today we must acknowledge the interdependence of all peoples.

That education can be a vehicle through which peace and the principles of the American Revolution—life, liberty, the pursuit of happiness—may become the guidelines for human relationships on our planet.

That educators around the world are in a unique position to help bring about a harmoniously interdependent global community based on the principles of peace and justice.

That toward the end, the National Education Association can pursue a series of programs to prepare for major reform in education.

I find it ironic that as our country celebrates its 200th year of independence the NEA is proclaiming world interdependence. Most Americans cherish their independence. The internationalism espoused by the NEA is out of step with the thinking of the American people.

Most parents or taxpayers back home—indeed, most of the fine teachers I know who are professional and completely patriotic—don't see the radical nature of these social planning bureaucrats in the NEA and its network in the foundations and Government agencies. MACOS, the controversial textbook promoted by these Washington schemers, is about the ultimate in unconventional teaching. It tells of genocide, murder, adultery and virtually every mind-boggling situation. I have outlined this teaching monstrosity and will supply a full review of it on request. Consider this treatment of the politically controversial idea that the Nation ultimately will move to control population by increasing deaths or reducing births:

As the population crunch becomes more severe and as more is learned about the genetic basis of particular human traits, it is likely that there will be increasing advocacy of various sorts of eugenic measures [manipulation of genes].

It will be proposed . . . that society identify what are thought to be the most beneficial and most harmful existing genes, and that policies then be instituted to promote widespread reproduction of the former, while the latter are systematically culled out.

Such policies could be enforced with the aid of various types of coercion, ranging from propaganda and tax incentives to government licensing of the right to reproduce.

The suggestion is clearly there that while these ideas are too controversial now, the discussion should begin with the idea that in several decades the students will be able to identify and manipulate all human gene traits. No wonder basics are not so important.

NEA works hand in glove with many nationwide liberal-left coalition groups. In no area is this more obvious than their involvement in the so-called peace movement and with one world socialists. As a Bicentennial project NEA has emphasized the teaching of peace in the schools from kindergarten on up. A study of the radical material they have used, however, shows this is a ruse and really an attempt to change the values of the children, make them hostile to nationalism and Americanism and identify them with radical pacifists and antiwar leaders in this country.

One of the books promoted by the NEA is "Learning Peace" which is published by the radical leftist group, Jane Addams Peace Association, Philadelphia. It is intended to be used in grades 7–12 to teach "about" and "for" peace. The authors ask the students to choose "courageous spokesmen for peace" and tell how they helped promote peace and understanding. Such representative people as Joan Baez, Daniel Ellsberg, Linus Pauling, Benjamin Spock and so forth are their idols. Take this assignment the young scholar would get:

Thoreau once said: "If a man does not keep pace with his companions, perhaps it is because he hears a different drummer."

A. Investigate and assess the types of actions engaged in by the following individuals:

(*a*) Albert Bigelow, American Friends Service Committee, sailed into Pacific bomb-test area.

(*b*) Dr. Benjamin Spock, pediatrician and famous author, counseled resistance to draft.

(*c*) Rev. William Sloane Coffin Jr. counseled draft resistance.

(*d*) The Berrigan brothers and Sister McAlister burned draft records .

(*e*) Joan Baez withheld taxes used for war.

(*f*) Scott Herrick, American Friends Service Committee, exchanged children's art with children of Cuba; walked from San Francisco to Moscow; boarded a Polaris submarine.

(*g*) Jane Fonda presented anti-war shows to servicemen.

(*h*) Students and Buddhist monks set fire to themselves as a war protest.

(*i*) Dick Gregory said he would fast until peace came in Vietnam.

The course calls for acting or "role-playing" in promoting one of these spokesmen for peace. You guessed it, never a mention of the Russian bear or any Communist assaults on peace. It only comes from America.

The same tie can be shown between NEA and the psychological testing cult which would pry into the private lives of the student and ask such questions as "Are you ashamed of your father's job?" or "Do your mother and father argue?" These brainpicking tests have also been analyzed in depth in previous speeches I have made. My files run into the dozens of drawers on the NEA lobby which I have followed closely for the past decade. Only a few excerpts are given here.

POLITICAL JUGGERNAUT

NEA leaders are optimistic about the future. They envision even more political clout in the years ahead.

According to Stanley McFarland, director of NEA government relations:

Sometime in this decade the NEA is going to have more political resources, including volunteers and other campaign contributions, than any other single union—even more than the AFL–CIO. We may even do it by 1976.

Despite these resources, NEA's leaders may find that their effort to put a "friend of education" in the White House and more "friends of education" in the Congress backfires. I firmly believe that the American people, including most teachers, want elected leaders who are more than mere puppets for the NEA.

CONCLUSION

We have seen a decade of decline in our education. Not just in results but in the esteem that parents and taxpayers formerly had for their schools and for their teachers. The liberalism of the 1960's changed many things both in high school and college. The anti-war activists, drug culture faddists and street gang terrorists have virtually reconstituted the big city schools. I could recite in depth the recent report of a commission on violence in schools. It is shocking. While this phenomenon is largely one of our big city schools and not areas like my own Ohio District, the handwriting is on the wall. Unfortunately, the AFT and the NEA have been willing agents of this demise in the city, not antagonists of declining standards.

We are reaping the whirlwind. Parents know it. Most good teachers I know are aware of it. Civil rights goals have all to often resulted in lowered standards. Colleges are now in the backlash of this whirlwind. Policies of eased admissions, lower standards, fewer mandatory courses, no foreign language study and relaxed graduation requirements have taken hold around the country. High schools are next. You can be sure that NEA would not be fighting for the old values. Former NEA President James A. Harris put it this way:

Unfortunately, many of those who advocate a traditional education are also advocating the kind of education that equates . . . good citizenship with blind super-patriotism, and education itself with indoctrination to a rigid and racist system of thought that seeks to insulate the student from any new, perhaps unsettling, idea. . . .

Well, I advocate a traditional education and make no bones about it. The NEA liberals may think that their brand of educational perversion is just what the country needs but most parents, taxpayers and teachers will never agree.

Drugs, abortions, free love indolence, anarchy—all these can be justified under the euphemism of "differing life styles," a term the liberal education bureaucrats here love to bandy about. Most Americans want to call a halt to this NEA drivel and get back to education with a purpose. NEA bureaucrats think they know best and if they get their hands on the Federal tax dollars they want, local education will simply crumble before their phalanx of controls and modified curriculums.

There is a battle going on, right now, in this country over who shall control the schools. I believe the public, not the NEA, should control the schools. Taxpayers and teachers will have to get busy, however, lest the bureaucrats in Washington win and by bureaucrats I mean both the NEA hierarchy and the government bureaucrats.

HIGH HOLY DAYS 5737

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, September 25 is a significant day for those of the Jewish faith for its marks the begin-

ning of the Jewish religious New Year 5737.

I am happy to join my colleagues in the Congress and my constituents and friends of the Jewish faith in observing the advent of the Jewish high holy days beginning with Rosh Hashana on September 25 and 26 and ending with Yom Kippur on October 4.

Rosh Hashana is a most solemn day, distinguished by reflection, prayer, and penitence. It is a holy day on which Jews all over the world assemble in synagogues to ask God's forgiveness for man's sins and to pray for the unification of mankind. "Unite all of us in the bond of brotherhood" is the beginning of one of the beautiful, thousand-year-old prayers associated with this holy day.

On Rosh Hashana, or New Year, the shofar, or ram's horn is sounded. The blowing of the ram's horn on this day has a deep symbolism. It is considered so important that the day has been called "the day of the clarion call." Only a man of outstanding character is permitted to sound the shofar, and its shattering sound is meant to awaken man's conscience to renew his faith and to return to God.

October 4, the Day of Atonement, or Yom Kippur, is always observed solemnly. It is the climax of 10 days of penitence with which the Jewish New Year commences. This is the most sacred day of all—for on this day the Lord judges each individual. Jews fast all day, confess, and repent, and ask forgiveness from the Lord and from their fellow man. In turn, they freely forgive their neighbors and look forward to a good new life.

The Jewish tradition of setting apart 1 day in every year to concentrate to their utmost ability on the spiritual advancement of man is without parallel in the history of humanity. And the fact that for thousands of years Jews all over the world have united in prayer and repentance on the very same day is immeasurable in its significance, particularly when one realizes the impediments that have been in the way of Jewish religious observances and the oppressive religious persecution to which the Jews have been subjected for centuries.

Denial of freedom to worship, wherever and whenever it occurs, is a crime against our common humanity and a violation of the noblest aspirations of the spirit of man. In recent years the Soviet Union has imposed hindrances on the religious freedom of the Jews residing within the Soviet Union by placing major restrictions on the training of new clerics. Many of the Jews who seek to emigrate to Israel give the lack of religious freedom as a reason for renouncing their Soviet citizenship.

During the celebration of the Jewish high holidays, we recall once again the suffering endured by the Jewish people, and mankind's conscience cries out against the betrayal of human rights which they have tragically experienced.

As the Congressman for the 11th District of Illinois, where many of my friends and constituents of the Jewish faith reside, I take pleasure, with the advent of the High Holy Days 5737, in extending my greetings and best wishes to them for the new year.

ADMINISTRATIVE RULEMAKING REFORM ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. LEVITAS) is recognized for 5 minutes.

Mr. LEVITAS. Mr. Speaker, the voice of the American people spoke yesterday in the resounding vote in support of H.R. 12048, the Administrative Rulemaking Reform Act, which provides for congressional veto of administrative rules and regulations. That vote was 265 to 135. 165 Democrats voted in favor of this bill and only 100 opposed it; 100 Republicans voted in favor and only 35 opposed.

Because this bill had to be brought to the House floor under the restrictive procedure of a suspension of the rules, a two-thirds majority vote was required for passage rather than the usual simple majority. Even so, H.R. 12048 lacked only three votes for approval. A sufficient number of Members have already said that if they had to vote over again, they would have changed their vote in favor of H.R. 12048.

Opposing this bill with tough lobbying tactics were such formidable opponents as the AFL–CIO, other labor organizations and Ralph Nader's group. Also opposing the wishes of the American people were the National Association of Manufacturers and the administration and its own bureaucracy. Notwithstanding the imposing opposition of these special interest groups, the Members of the House, the representatives of the people, outvoted them by a margin of 130 votes. That speaks well for the independence and responsiveness of a vast majority of the Members of Congress who listened to their constituents.

A loud and unmistakable message was sent to the bureaucracy yesterday by the overwhelming vote in favor of H.R. 12048. The message reads that the American people expect a more responsive bureaucracy and expect their elected representatives to have a measure of control over it. I am sure that message will be heard by the bureaucrats. Whether it will be heeded, remains to be seen.

Now that the leadership of the House has seen the impressive vote on H.R. 12048, expressing the clear will of the Members, perhaps they will be more amenable to that will and permit this bill to come to the House floor under a regular rule to be voted on so that H.R. 12048 can be adopted by the usual simple majority which this bill will obviously receive.

Today, I call upon the leadership and the Rules Committee immediately to grant a rule to H.R. 12048 so that the House may work its expressed will. In the absence of a rule for consideration this year, I assure the Members and the American people that the Administrative Rulemaking Reform Act will be back next year. I intend to introduce it as a first order of business in the 95th Congress. Given the overwhelming approval it received yesterday, I am confident that renewed efforts will meet with success in the next Congress. It will attract even more support from the American people. Indeed, after explaining their vote to their constituents, I think many of our colleagues who voted in the negative will change their minds. If they are back with us next year, I encourage them to come around to the way of thinking that was expressed in the vote yesterday which reflects the mood of America.

In the meantime, until this legislation is enacted, we will continue the string of successes that I and several other of our colleagues have met in offering floor amendments to various pieces of regulatory legislation in order to attach the congressional veto concept of H.R. 12048 time after time. Until the bureaucracy takes this medicine all at once, then we will give it to them one dose at a time.

All progress does not come at once; major changes do not happen overnight. It appears that it may take more than one Congress to clean up the mess that it has built up over recent decades. But rest assured it will be cleaned up. A giant step in that right direction was taken by the overwhelming majority vote in favor of H.R. 12048 that occurred last night.

AGE DISCRIMINATION IN THE FEDERAL GOVERNMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 10 minutes.

Mr. PEPPER. Mr. Speaker, I am extremely gratified that the Education and Labor Subcommittee on Equal Opportunities, chaired by Representative GUS HAWKINS of California, held hearings last week on legislation by me and BILL RANDALL of Missouri, H.R. 14879 and H.R. 15342, to end age discrimination in employment in the Federal Government. As you know, Mr. RANDALL is chairman of the House Select Committee on Aging, and I serve as ranking majority member. We on the Select Committee on Aging are particularly pleased that this vital issue is achieving the attention it merits.

A number of bills with wide bipartisan support have been introduced to ban all public and private discrimination in employment because of age. I am a cosponsor of such legislation by Representative PAUL FINDLEY and others.

Hearings before our committee, and a report to be issued shortly, have indicated that chronological age alone is a poor indicator of ability to perform a job; that many workers can and do continue to work effectively beyond age 65; and that compulsory retirement often results in the loss of an individual's role and income. Compulsory retirement also causes loss of skills and experience from the work force.

Mr. Speaker, as our colleagues in the Congress are keenly aware, we have made great strides in equal opportunity for minorities and women in recent years; now it is time for the same equality of opportunity to be afforded to the aged.

The American Medical Association filed an amicus in a court case challenging mandatory retirement in the Department of Housing and Urban Development, Weisbrod against Lynn. The AMA amicus indicates that forcing persons to retire when they are able to and wish to continue to work is "a direct threat to the health and life expectancy of the

persons affected." The AMA emphasized that an employer's decision to retire a worker should be based on the same factors as the decision to hire, namely, the desire and ability to perform the job.

The National Senior Citizens Law Center, which I am pleased also testified at those critical hearings, has stated:

> In enacting the Age Discrimination In Employment Act of 1967, Congress sought to protect older persons still capable of working from being refused employment or being forced into retirement based arbitrarily on age. However, the Act protects only those between the ages of forty and sixty-five. Increasingly it is being recognized that the sixty-five age limitation is also arbitrary and that many people are capable of meaningful achievement well beyond that age.

These exemplify some of the reasons that I have opposed discrimination in employment because of age.

Not only in the area of retirement, but in hiring, job advancement, and all other aspects of employment, it is my firm belief that age discrimination, like racial and sexual discrimination, must be ended.

Pending the enactment of broad legislation, which I support, covering all public and private employment, I think the Federal Government should lead the way by eliminating discrimination in Federal employment for persons of all ages. That is the reason I have introduced, with cosponsors, the legislation under consideration.

There is ample precedent on the State level for this legislation. Sixteen States prohibit age discrimination with no upper age limit.

It is my intent that the legislation will apply to all workers employed at whatever age by the Federal Government as well as applicants for employment. It is also my intention that the bill eliminate the various existing mandatory retirement provisions by the Civil Service, the Foreign Service, the Comptroller General, and other jobs where no highly irregular risks exist—such as combat military officers, air traffic controllers, and others under specific regulations to be issued. It is my view that the "Bona fide occupational qualifications" waiver provision of the Age Discrimination in Employment Act, even for those under 65, has been abused. In addition, there is an exception in the current Age Discrimination in Employment Act which allows otherwise prohibited discrimination if part of a pension plan. Both these exceptions must be clarified, and it is my intention to establish legislative history here and now indicating Congress' intention that both these exceptions should be extremely limited. Pension plans have sometimes become excuses for firing people that wish to and are able to continue to work. Such individuals should have a choice to continue.

Figures we have obtained from Federal agencies indicate the following number of Federal employees to whom our bill would apply:

In December 1974, there were 29,067 Federal civilian employees age 65 and over who were still employed but not protected by the existing law, and who would be protected under H.R. 14879 and H.R. 15342. There were also, as of June 1975, 34,179 persons receiving Federal civil service retirement benefits who had been mandatorily retired. The Civil Service requires mandatory retirement for persons at 70 and does not hire persons over 65. Of course, the bill would not affect those who choose to retire, so that the actual number affected will be significantly less. This number does not include Federal employees mandatorily retired under other Federal retirement systems such as the Foreign Service Act, which has mandatory retirement at age 60 for most personnel and at 65 for career ambassadors and ministers, to which our bill would also apply.

In addition, the bill would protect Federal workers under age 40 who are also now excluded from protection under the current law. Just as it is arbitrary to exclude those over 65, it is equally important not to discriminate against any other age group as well. There were 948,113 Federal civilian employees under age 40 in December 1974.

Recent U.S. court cases challenging mandatory retirement — Weisbrod against Lynn, Massachusetts against Murgia, and Bradley against Kissinger—have to date held that, under current law, certain—but not necessarily all—mandatory retirement instances are legal and not unconstitutional, and that a change in the law is a policy matter for Congress to decide.

In Bradley against Kissinger, the court held that specific Federal mandatory retirement provisions such as those of the Foreign Service are not superseded by more general laws such as the Age Discrimination in Employment Act "unless there is clear indication that Congress intended to do so."

It is our intention to state exactly such a clear intent to abolish mandatory retirement in the Federal Government, subject to the ability of the individual, except in high risk hazardous occupations such as those cited earlier.

In my testimony, I included for the record certain alternative language which could be added as amendments to H.R. 14879 and 15342. The bill now provides a broad sweep approach to ending Federal age discrimination involving any personnel action, including hiring, advancement, mandatory retirement, and other employment actions. However, in case the committee should choose to make reference to specific laws now providing for mandatory retirement, I enclose for the record language which would relate to those supplementary laws.

During the February 9 hearing on age discrimination, Chairman HAWKINS pointed out the importance of age discrimination, which as he said, "obviously touches everyone of us eventually." At the same time, he accurately pointed out that there had been "very little public debate on the subject and very little interest demonstrated that would allow this committee to approach the subject with the expectation of immediate action, quite apart from what our individual views may be."

Let me just say that since that time, the House Select Committee on Aging, a new committee, has devoted a great deal of time and effort to this subject this year. We found it to be one of the most important areas within our investigative jurisdiction. We are not, as you know, a legislative committee; we can only recommend to the legislative committees. We hope prompt action will be taken on this legislation.

What we are proposing is by no means a partisan issue. The 1976 Republican National Platform called for an outright end to involuntary retirement. Former Secretary of Labor Willard Wirtz testified before our committee concerning the advantages of maintaining the elderly in the work force, and he advocated amending the Age Discrimination in Employment Act to bar mandatory retirement. I am pleased that national leaders in the field of aging and Federal employment are testifying today.

I have been in touch with Representative FINDLEY concerning my legislation, and he is in total agreement with the strategy that, pending enactment of an end to all age discrimination, the Federal Government should lead the way. Representative FINDLEY also informed me that, in his opinion, the over 60 cosponsors—of which I am one—of the broader legislation would support such a move. Many of our colleagues have already cosponsored our bill ending age discrimination in the Federal Government, and we will reintroduce the legislation shortly with the additional sponsors.

It is ironic that, year after year, the President must grant an exemption to the U.S. Commissioner on Aging, Dr. Arthur S. Flemming, now 71 years old, an extremely competent and dedicated public servant, so that he can remain on the job rather than be subject to mandatory retirement. It is not surprising that Commissioner Flemming himself is an ardent advocate of ending mandatory retirement.

But what if you are not an Arthur Flemming and you cannot obtain an exemption? You might return home, bored for the remainder of your life. You might say, as did William Bagwell, who was retired after 24 years of being a letter carrier and then an assistant postmaster, "I would have liked to go on."

In closing, let me just point out that at age 70, there was a man who was on the committee drafting and approving the Declaration of Independence.

At age 77, he was negotiating the peace treaty that ended the war with Great Britain.

At age 80, he was serving on the committee that drew up the Constitution of the United States of America.

At age 74, he wrote the following prescription for successful aging: "Keep up your spirits and you will keep up your bodies."

He was Benjamin Franklin, and under our current law, he would not have been eligible for these appointments to serve the Nation.

Mr. Speaker, I would like to express my deep gratitude to Sharon House and Karen Lewis of the Library of Congress for the tremendous amount of time and effort they spent preparing information for our committee and me on this critical subject.

We are hopeful that this important bill will be enacted either this year or early in the next Congress.

THE '76 CAPTIVE NATIONS WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, in selected reports over the past 2 months it has become clearly evident that the observance of the '76 Captive Nations Week, both here and abroad, has left indelible impressions for some time to come. A published compilation of these revealing reports would show, indeed, America's Bicentennial salute to the oppressed captive nations in Central Europe within the Soviet Union, in Asia, the Caribbean and also now in Africa. Advocates for the captive nations and their strategic link to our basic national security have for years been advancing morality in our foreign policy. Rationally, they go beyond this with a well thought out course of action aimed at peace and freedom through strength. Captive nations analysis combines the humanitarian, the moral, and the political in its broadest sense to realize this consummate end. The National Captive Nations Committee, headed by its honorary chairman, President George Meany of the AFL-CIO and chairman Dr. Lev E. Dobriansky of Georgetown University, has been in the forefront of this movement for a captive nations policy and all that this entails in our global policy based on peace and freedom through strength.

Regarding the '76 Captive Nations Week and its aftereffects, I bring to the attention of my colleagues the proclamation of Boston's city council, an article in APACL Bulletin on the Taipei observance, a relevant part of the Evans and Novak column of August 26, a statement by His Eminence, Paul Cardinal Yupin, a letter to the editor on "The Russian Myth and the Captive Nations," and a declaration from the Republic of China:

CITY OF BOSTON IN CITY COUNCIL—
RESOLUTION

Whereas, The United States Congress eighteen years ago enacted Public Law 86-90 which established "Captive Nations Week" as the third week in July and designated it as a period for official, annual recognition of those without the basic human right of self-determination; and

Whereas, The peoples of the captive nations, and their descendants and relatives here in America have never given up the dream that one day freedom and self government will return to Poland, Ukraine, Armenia, Byelorussia, Estonia, Latvia, Lithuania, Georgia, Azerbaijan, Turkestan, North Caucasus, Hungary, Czechia, Slovakia, Romania and others; and

Whereas, The United States of America in celebrating its Bicentennial as a free Republic takes note that too many people do not enjoy the blessings of liberty; NOW, THEREFORE, BE IT

Resolved, That the Boston City Council, in meeting assembled, officially recognizes the third week of July as "Captive Nations Week" through the reaffirmation of the policy of freedom, independence and national self-determination for all peoples; and, be it further

Resolved, That the United States should not limit interest and concern for captive nations to one week per year, but should urge that all Americans rededicate themselves to the support of freedom around the world in order to prevent the flame of freedom from being extinguished.

[From APACL Bulletin, August, 1976]

1976 CAPTIVE NATIONS WEEK OBSERVED IN TAIPEI

Some 50,000 people from all walks of life in the Republic of China gathered on July 23 in the Taipei Municipal Stadium to observe 1976 Captive Nations Week and to appeal to the free nations to lend allout support to the struggle for freedom by captive peoples behind the iron curtain.

The mass rally climaxing the Captive Nations Week activities in Taipei was presided over by Dr. Ku Cheng-kang, Honorary Chairman of the World Anti-Communist League.

President Yen Chia-kan delivered a speech at the rally. The President pointed out that the history of evolving human civilization is to be equated with humanity's overcoming of violence and with freedom's victory over slavery.

In the last two decades, he said, all the turmoils and troubles facing Asia and the other peoples of the world may be considered a prolongation of the tragedy that befell the Chinese mainland in the Communist usurpation.

The goal of the Chinese people, therefore, is not only to assist the enslaved people in regaining their freedom, but also to bring a halt to the Communists' continuing expansion and aggression against the free countries—to safeguard free peoples from further Communist slavery and persecution.

He guaranteed that "no matter how the world situation may change, our will to struggle forward will never waver and our anti-Communist undertakings will never cease."

In his remarks to the rally, Dr. Ku Cheng-kang claimed that a favorable anti-enslavement situation is fast developing and the objective conditions for the liberation of the enslaved peoples are shaping up at an accelerating pace.

He said that the free nations now know only too well that the Communist objectives of communizing the world and enslaving mankind will never change. On the other hand, he went on, the Communist forces are disintegrating and weakening.

Just as the anti-enslavement struggle on both sides of the iron curtain is entering a new stage, he said, the United States is celebrating its Bicentennial. The American war of independence has served as a good example of mankind's fight for freedom and against enslavement.

He pointed out that all people in the world now look up to the United States, the initiator of the Captive Nations Week, to give full expression to its traditional spirit and to support the enslaved people in their life-and-death struggle against Communism and for freedom. He urged that the United States abandon once and for all the dangerous tactics of "aligning with the Peiping regime to checkmate Soviet Russia," and render allout support to the enslaved peoples' fight for freedom.

He also called upon the free nations to smash all international Communist united front intrigues and strengthen the camp of the forces of freedom and make full use of their power to defeat the disintegrating and greatly weakened Communist forces.

Other speakers at the rally included U.S. Congressman Edward J. Derwinski; Eduardo Galil, Brazilian Congressman; J. T. Kolane, speaker of the National Assembly of the Kingdom of Lesotho; Mrs. Slava Stetsko, chairman of the Press Bureau of the Anti-Boleshevik Block Nations; Prof. Giorgio Roberti of the University of Rome.

Derwinski said that "Communism has created a completely artificial structure in the economic, educational and political programs dictated by red governments. Therefore they must resort to constant propaganda and self-deception. Trapped by their own rhetoric they cannot acknowledge the true reasons for their failures." The Congressman stressed that the world cannot exist half-slave and half-free, emphasizing that "Freedom for all people, Communism for none, is our battle cry."

Kolane called attention to what the Communists are doing in Africa where they are active and have already gained a foothold in some unfortunate countries. He said that Lesotho has become more vigilant in ridding the country of all subversive activities that usually culminate in Communist infiltration.

Galil pointed out that in Brazil and the majority of Latin American countries nationalism has succeeded for the time being in checking the immediate danger of the Communists seizing power. Nevertheless, he said, the struggle against international Communist forces cannot be founded solely on the idea of nationalism.

He urged the free countries to be aware of their historic mission and ready to give their full support to the captive peoples so that in the near future the whole world may see the complete destruction of Communist oppression, the victory of nationalistic ideas, the triumph of the basic values of human nature and the establishment of real world peace.

Mrs. Stetsko appealed for a strong, united front to be established consisting of all good, freedom-loving people determined to stand up for the defense of truth, justice, national independence and human freedom.

Roberti warned of a new strategy devised by the Communists in Western Europe to deceive the public that they are sponsoring a different kind of Communism from the one existing on the other side of the iron curtain. However, he was confident that the Communist empire is doomed to fall. "Recent history teaches us to beware of Communism. But ancient and modern history alike tells us that empires first grow and then crumble. Some of us may be too old to witness this, but it will happen!"

U.S. President Gerald R. Ford's 1976 Captive Nations Week proclamation was read at the gathering along with other messages and greetings from leaders all over the world.

The rally was the biggest of its kind ever held in Taipei. Also present at the rally were members of the diplomatic corps, freedom-seekers recently arriving in Taipei from the Chinese mainland and overseas Chinese.

Six programs were presented during the gathering expressing people's support to the anti-Communist struggle by their brethren on the Chinese mainland. Each was performed by more than 1,000 people.

The first program was performed by thousands of young women from Taipei. They formed five circles on the floor of the stadium symbolizing the unity of the free forces of the world's five continents, the unity of anti-Maoist and anti-Communist workers, peasants, students and cadres on the Chinese mainland and the five types of heroic struggles waged by the Chinese mainland people against the Communist despotic regime.

Then, a demonstration of Chinese martial arts was presented by the Chengkung Chinese Boxing Society showing the strength of the people and their indomitable resolution to uphold justice in line with the nation's outstanding tradition.

Other programs included "The Call of Freedom," "Strive for Man's Freedom," "March to the Mainland," and "Against Slavery, For Freedom."

The programs ended with more than 2,000 people from 26 religious, professional and student bodies forming the Chinese characters that stand for "Against Slavery, For Freedom" and the English letters "WACL" symbolizing that all freedom-loving people irrespective of race, nationality, creed, sex or age unite under the anti-Communist banner of the WACL to strive for freedom for all mankind.

The mass rally adopted a declaration appealing to the free nations to lend allout

support to the struggle for freedom by the captive peoples in Asia, Eastern Europe and Latin America and especially to lend moral and material support to the peoples in Vietnam, Cambodia and Laos, who have been shut behind the iron curtain and are being massacred and persecuted, so as to liberate them from further enslavement and help them regain freedom.

The declaration also appeals to the people on the Chinese mainland to rise up by taking advantage of the internal disintegration and current turmoil among the Chinese Communists as Mao Tse-tung lies on his deathbed to wage an allout struggle for freedom.

It emphasizes that the ultimate objective of Soviet Russia and the Peiping regime to communize the world will never change and the free world has to distinguish friends from foes so as to strengthen the anti-Communist camp and take resolute actions on all fronts.

During the Captive Nations Week, other observance activities in the Republic of China included a forum on international affairs, lectures by world anti-Communist leaders, a meeting of freedom-seekers from the Chinese mainland and gatherings of different religious groups.

[From the Washington Post, Aug. 26, 1976]

ABZUG-MOYNIHAN RACE: AT OPPOSITE POLES

(By Rowland Evans and Robert Novak)

Rep. Bella Abzug of New York rose on the floor of the House July 21 to dramatize a remarkable world view that makes her Senate primary duel with Daniel Patrick Moynihan a test of opposite poles in the Democratic Party.

That day was the annual observance of "Captive Nations Week," during which congressmen denounce tyranny by Communist governments, a ritual that Mrs. Abzug has disdained in the past. This time, obviously because of New York's Sept. 14 primary, she participated. The heart of her remarks follows:

"We must not forget the suffering generated as a result of the totalitarian regime gaining control in Germany in the 1930s. We should not forget the lesson of Vietnam, and the suffering caused by support for a totalitarian regime there. We should also not forget the lesson of India, and the recent events of this past year, during which individual rights were virtually abolished."

Mrs. Abzug mentioned no other country, ignoring the entire record of Communist oppression in Eastern Europe, Asia, the Soviet Union itself. The omission shocked not only conservative congressmen but her fellow liberal Manhattan Democrat, Rep. Edward Koch, who that same day called "50 million killings in the U.S.S.R." equal to Nazi genocide.

The reticence of Mrs. Abzug to criticize Communist governments has been as characteristic of her six years in Congress as her vote against every single defense bill during that time. Thus, as the Democrat most conspicuously on the extreme left, she is the antithesis on national security questions of her principal opponent in the primary, the equally flamboyant Moynihan. Since the five-way Democratic race has now boiled down to an Abzug-Moynihan dead heat, their struggle defines the basic polarity within the Democratic Party that was finessed by the party platform and Jimmy Carters' candidacy.

STATEMENT RELEASED TO THE PRESS AND TELEVISION, BY HIS EMINENCE, PAUL CARDINAL YUPIN, ARCHBISHOP OF NANKING, CHINA

Communism is the moral enemy of God and man. It is atheistic and intrinsically evil. Communism is the total negation of everything that the Catholic Church ever stood for: justice, human rights, freedom of religion, personal freedom and legitimate governments. It claims to promote a "classless society" but actually functions as a dictatorship of despots who exploit the toiling masses more viciously than any other tyrannical ruling class in the history of the world. From a platform of absolute oppression, communism unceasingly tries to mould the thinking of its victims. Communism has been provoking and conducting wars of oppression. In China alone communism has slaughtered more than 60 million innocent people. Millions more may perish following Mao's death.

There have been more christian martyrs in communist countries than in all history for the advent of communism.

The Church can no longer remain silent. By default we are contributing to the enslavement of millions whose future is bondage without hope.

You cannot be a christian and a communist. You cannot enter into detente with the devil. A Christian cannot be an accomplice to terrorism.

We are standing at the turning point of history. The fate of mankind hangs in the balance. We must stop compromising with communism. We must no longer indulge in the perversion of providing money and moral support for communist ventures. We must reassert the meaning of christianity against communist atheism.

Communists with neckties are merely smarter, but not less dangerous than communists in Mao jackets.

Finally, we must insure that the Church realizes that it is responsible to the faithful everywhere, including those oppressed by communist regimes. At this Eucharistic Congress in Philadelphia we pray for the suffering people of the whole world, especially for all the Captive Nations under communist yoke. As Chinese pilgrims from Free China, we cannot forget our brothers and sisters of Mainland China.

After 25 years of communist oppression on Mainland China the bell of freedom on April 6, 1976, was sounded in Peking when 100,000 Chinese at the Gate of Heavenly Peace Square (Tien An Men) opposed publicly the communist Government. They were the forerunners of other millions of Chinese people all over Mainland China now rebelling against the communist regime. We will send a message of consolation and encouragement to the persecuted Catholics on Mainland China. We pray daily for the ressurection of the Church of China.

[From America, Philadelphia, Aug. 12, 1976]

THE RUSSIA MYTH AND THE CAPTIVE NATIONS

(EDITOR'S NOTE: The below printed letter is a project that U.C.C.A. Branch Passaic-Bergen, in conjunction with the State of N.J. Coordinating Council, has sent out to over 55 newspapers and magazines from Connecticut to Washington, D.C.)

DEAR EDITOR: Every time we Americans hear the word "Russia" mentioned we see visions of "Ninochka," "Brothers Karamazov," "Dr. Zhivago," the Cultural Exchanges, and Olga Corbit. These pleasant and romantic images blind us to the reality of Red Russians' messianic role in the world. They also make our foreign policy ineffectual and impotent towards the USSR—an empire composed of many Captive Nations.

It was at Yalta that president Roosevelt, leader of the victorious allies, signed away all the non-Russian nations in Eastern Europe into the Russian orbit. Our basic ignorance of the nationalities problem in Eastern Europe helped create the largest imperialistic empire in the world.

During the brief intervals of WW I, and WW II, these nations were breaking away from the old Czarist empire and forming sovereign states. But, Communist Russia, in its desire to maintain the Czarist empire intact, quenched each abortive attempt at self-rule. Ukraine was one such country. Ukraine, whose history extends back into neolithic times, and includes a Medieval Kingdom, and Democratic Kozak State in the 16th-18th centuries, was conquered by the state of Moscovy in the 18th century. The express policy of the Czars, then as with the Kremlin leadership now, was to eradicate the Ukrainian national identity through a policy of ethno-genocide. In the chaos and breakup of the Czarist empire in 1917, Ukraine formed a national government and declared itself sovereign. Among many of the democratic ideals accepted by that government was the creation of an autonomous Jewish Congress, a first in European politics. Another such attempt at self-rule was made in 1939. Both attempts at modern statehood were short-lived as Red Russia "liberated" each successive country that tried to breakaway.

House Resolution 89-90, signed into public law by President Eisenhower in 1959, designates a week in July as "Captive Nations Week." This law recognizes the illegality of the Russian empire.

If we follow Red Russian expansionism for the last thirty years, we see that the list of Captive Nations has been growing steadily. Angola is the most recent. Is Italy next?

As we commemorate Captive Nations Week this year, July 18-24, we should realize that what happened thirty years ago, in a remote part of the world, cannot be shrugged away, because the threat is moving ever closer in our direction.

Knowledge of the true nature of the threat posed and the nature and weaknesses of Imperialistic Russia's domestic problems, will aid us in implementing a realistic policy toward neutralizing this threat to us and the world.

MYRON PINKOWSKY,
President.

DECLARATION—CAPTIVE NATIONS WEEK RALLY OF THE REPUBLIC OF CHINA

(Taipei, July 23, 1976)

People from all walks of life in the Republic of China and anti-Communist fighters who love freedom and champion the cause of justice from various parts of the free world gathered here at Taipei in support of the Captive Nations Week this year are jubilant over the new era that is opening in their fight against enslavement and for freedom at the very moment when the International Communist forces are disintegrating and retreating and the forces of freedom throughout the world are awakening and taking up the Communist challenge.

The mass rally firmly recognizes the fact that the Russian Communist forces, confronted as they are with the Chinese Communist struggle for hegemony, the rising liberalizing movement in the satellite nations, and the attempt to free themselves from Moscow's control on the part of the other Communist parties in non-Communist nations, are being isolated and are on the decline.

The mass rally firmly recognizes the fact that the Peiping regime's enslavement and persecution of the Chinese people on the mainland have stirred up their anti-Communist fury, that the anti-tyranny actions at Tien-An-Men have shaken the Iron Curtain to its foundations, that the Mao Tse-tung tyrannical regime is on its deathbed, and that the development of the Chinese Communists' internal anti-Mao struggle and the nation-wide anti-Communist revolution on the part of the Chinese people on the mainland will give rise to momentous changes resulting from the fight for freedom by one fourth of all humanity.

The mass rally firmly recognizes the fact that the ultimate objective of Soviet Russia and the Peiping regime to communize the world will never change. The mass rally should like to call the further attention of free nations to the fact that the Peiping regime is the source of all the troubles and confusion in Asia and the entire world and that if Asia is deprived of freedom and peace,

there can be no freedom and peace in other parts of the world. We must take full advantage of this critical moment when the current situation is turning in our favor and cooperate wholeheartedly with all the forces of freedom on both sides of the Iron Curtain to wage a common fight for the salvation of the captive peoples and create a new world order.

Therefore, the mass rally hereby solemnly proclaims to all free nations of the world and all the people throughout China the two main tnemes following:

First, let us clearly recognize our friend and foe, strengthen the anti-Communist camp, and take resolute joint anti-Communist action on all fronts.

Second, let us recognize that in order to overthrow the International Communist tyranny, we must first of all liberate the Chinese people on the mainland by consolidating all the strength of the Chinese people at home and abroad to serve as the advance guard in the fight for freedom and against enslavement.

On the basis of these common understandings and recognitions, the mass rally hereby appeals to the free nations and all the people in China to do the following:

First, we appeal to the free nations to take cognizance of how International Communist strategy makes use sometimes of military aggression and sometimes of international united front. We must never recognize the accomplished facts of aggression. We appeal to the free nations to abandon the double policy of anti-Communism on the one hand and pro-Communism on the other, to discard all illusions of "aligning with the Peiping regime to checkmate Soviet Russia," and to carry out the policy of peace through strength so as to make world peace based on freedom and justice a reality.

Second, we appeal to the free nations to lend allout support to the struggle for freedom by the captive peoples in Asia, Eastern Europe, and Latin America and, especially, to lend moral and material support to the peoples in Vietnam, Cambodia, and Laos who have been shut behind the Iron Curtain and are being massacred and persecuted, so as to liberate them from further enslavement and regain freedom.

Third, we appeal to the people of the United States to faithfully carry out, on the basis of their traditional national spirit, the duties and responsibilities imposed upon them by the Declaration of Independence and to maintain with all their strength the God-given inalienable rights of life, liberty, and the pursuit of happiness. We appeal to the American people to follow the lines pointed out by President Gerald Ford in his Bicentennial statement by standing firmly for freedom and justice, uniting all the forces of the free world, and waging a common fight with them for the preservation of the freedom of the free peoples and the restoration of the captive peoples' freedom.

Fourth, we appeal to the United States to cherish its relationship of alliance with the Republic of China, to abide by its treaty commitments to the Republic of China, to scrap the Nixon-Chou En-lai Communique signed in contravention of the spirit of international law, and to stop all attempts to "normalize relations" with the Peiping regime.

Finally, we appeal to our enslaved brethren on the mainland to rise up and, by taking advantage of the internal disintegration and the current turmoil among the Chinese Communists as Mao Tse-tung lies on his deathbed, to wage an allout struggle for the freedom to live and against enslavement and persecution. We appeal to them to struggle for democracy and the rule of law and against despotism and dictatorship, to fight for security and happiness and against a reign of hate and terror, and, in response to Premier Chiang Chingkuo's clarion call, to join us in a spiritual union and stand side by side with us at this revolutionary center for national recovery, so as to form an irresistible anti-Communist revolutionary army of the entire Chinese nation to tear down the Iron Curtain that has been erected by the Peiping regime.

All freedom-loving peoples of the world and all our brethren throughout China, please know that the pursuit of freedom, democracy, and happiness is our common aspiration and that the overthrow of the despotic tyrannical regime of enslavement is the grand objective of our anti-Communist activities. Let us unite to fight for the triumph of freedom and accomplish the sacred mission of the times!

CONGRESS MUST CONDEMN ASSASSINATION OF ORLANDO LETELIER AND RONNI MOFFITT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. ABZUG) is recognized for 60 minutes.

Ms. ABZUG. Mr. Speaker, I have learned with shock and horror of the murder in Washington yesterday of Orlando Letelier, former Chilean Ambassador to the United States, and Ronni Karpen Moffitt, an administrative assistant at the Institute for Policy Studies. They were killed when a bomb exploded in their car as they were driving along Embassy Row. Michael Moffitt, the third occupant in the car, is in critical condition at George Washington Hospital.

I believe Congress must condemn what appears to be an act of political terrorism directed against a Chilean's exercise of his democratic right to criticize the military regime in Chile.

Orlando Letelier served as Ambassador to the United States from 1971 to 1973, and also served in the Chilean cabinet during the Allende government as foreign minister, defense minister, and interior minister. Following the September 1973 coup, Letelier was held prisoner by the military junta for more than 1 year until worldwide pressure from human rights organizations resulted in his release and subsequent exile in the United States.

The political terror and repression inaugurated by the junta have not been confined just to Chile. In 1974, General Prats, the exiled Chilean General of the Armies, and his wife were assassinated in Argentina. In 1975, Bernardo Leighton, the Christian-Democratic Vice President of Chile during the Frei administration, and his wife were machine-gunned in the streets of Rome.

Now this political terror has been extended to the United States.

Congress must express the opposition of all Americans to terrorist attacks which not only destroy precious lives but assault the democratic institutions of our Nation as well.

Mr. Speaker, I agree with the sentiment expressed in the Washington Post this morning that Letelier "deserves honor" while the junta deserves "contempt." The text of the editorial follows:

ORLANDO LETELIER

Orlando Letelier, an economist of deep intellect and humane spirit, saw in the election of Salvador Allende as president of Chile in 1970, an opportunity to extend genuine economic and social benefits to the Chilean people. He promptly put his experience in international finance at the Chilean revolution's disposal, serving as ambassador in Washington. His special contribution was to try—against the ever longer odds created by both sides—to lead the American and Chilean governments to an appreciation of the steps both could take for their common benefit. He had no illusions about the spiraling of events in Chile but he nonetheless returned to Santiago to become foreign minister just before President Allende was assassinated in 1973.

The new junta at once put Mr. Letelier into a concentration camp and kept him there for a year. International pressure helped free him. He came to the United States, saddened but not embittered by the American role in the Allende tragedy, to teach and write and to prepare as best he could by open political activity for the restoration of his country's democratic traditions. Even that was evidently too much for the thugs who control Chile. Earlier this month they took away his "nationality"—as if they could. Yesterday, with a Washington associate, Ronni Moffitt, he was killed in an explosion of their car in Sheridan Circle. The circumstances at the very least raise the question of political assassination.

Orlando Letelier was a rare individual, as patient in argument as he was passionate in conviction, the model of the private man prepared to act on his beliefs and to accept their public consequences. He exemplified precisely the qualities—reason, concern for the common man, and civility—which the junta is trying to suppress in his native land. Whatever may yet be proven about the junta's part in his death, his exile speaks its own comment on those who exiled him. He deserves honor; they and their rule of Chile, contempt.

GENERAL LEAVE

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that all Members be permitted to extend their remarks, and to include therein extraneous material, on the subject of the special order taken today by the gentlewoman from New York (Ms. ABZUG).

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

There was no objection.

ADDRESS OF CONGRESSMAN MORRIS K. UDALL TO 1976 CONFERENCE, NATIONAL REHABILITATION ASSOCIATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 5 minutes.

Mr. BRADEMAS. Mr. Speaker, on September 19, 1976, our distinguished colleague, the gentleman from Arizona, the Honorable MORRIS K. UDALL, delivered an outstanding address on problems of the handicapped at the annual conference of the National Rehabilitation Association in Hollywood, Fla.

Mr. Speaker, as chairman of the subcommittee of the House of Representatives with responsibility for the Vocational Rehabilitation Act and the Education for All Handicapped Children Act, I want to congratulate Congressman UDALL for the powerful and perceptive way in which he discussed the record—and it is a record of hostility of the administration of Gerald R. Ford, and of

the Ford-Dole ticket—to initiatives in Congress to strengthen programs that serve the needs of handicapped Americans.

The text of Congressman UDALL's address follows:

SPEECH BY REPRESENTATIVE MORRIS K. UDALL

I was, frankly, somewhat surprised when I was asked to speak to you tonight. In the House, a body of specialists, I'm a member of the Interior and Civil Service Committees. And while I try to work in other fields, like election reform, John Brademas could tell you that rehabilitation has never been one of my specialties. So why Udall?

Finally it struck me—I'm handicapped. And that got me to reflecting on the fact that handicapped people don't often think of themselves—ourselves—as being different, being crippled, being inferior. The disabled individual is, first and always, a person . . . a person with problems, yes, but all people have problems. We are different chiefly to the extent that we are forced to be different—when we are denied the opportunity to develop our talents fully, to work to the best of our ability, to pursue social and athletic and intellectual interests. Those aren't extraordinary dreams. They aren't a desire for something special, something more than others expect. They are precisely what the founders of this country meant by "life, liberty and the pursuit of happiness."

So being with you today is a special privilege. From my own experience, I know the struggle faced by anyone trying to overcome a disability. I am personally aware of the hardship of those who cannot get the professional services provided by the members of this organization.

HANDICAPS NEED NOT BE OBSTACLES

I know, too, that physical handicaps need not be insurmountable obstacles to achieving a normal and productive life. Indeed, as most of us in this room grew up, one of our greatest Presidents governed from a wheelchair. In my own profession, I know the debt this nation owes to men like Senator Dan Inouye, who lost an arm in World War II; Mike O'Callaghan, the governor of Nevada, who lost a leg in Korea; Senator Chuck Percy, who suffers from hearing loss; and—despite some disagreements you'll be hearing about in the next 24 hours—Senator Bob Dole.

But more important than those political success stories are the hundreds of thousands of Americans in every state who benefit daily from your help. As I sought my party's nomination, I saw the fruits of your labors in dozens of visits to hospitals and rehabilitation centers. I saw the joy of a child learning, as I learned, that the loss of an eye can be a challenge, not a handicap; the hope of an adult who realizes that despite a disabling accident or disease he or she can still live a happy and productive life, both at work and at home; the pride of the older citizen determined that a stroke will be a temporary difficulty, not a permanent burden.

I know that each of you has been an actor in many dramas like these—quiet, private, often frustrating struggles filled with the heroism of ordinary people summoning the resources of body, mind and spirit to surmount extraordinary barriers. Not just your patients, not just their families and friends, but all Americans owe you a deep debt of gratitude.

Perhaps the central social event in our country in this century has been the refusal of black Americans to endure second-class citizenship any longer. Once awakened to the evils of unequal rights based on skin color, Americans have responded with a commitment to equality not only for blacks, but for other minorities, for women, and—under the Rehabilitation Act that Richard Nixon vetoed twice—for handicapped Americans. It was wrong to tell people that because of their skin color, they had to ride the back of the bus. But because of physical barriers, many handicapped Americans still can't ride the bus at all.

The law says that is wrong. The law says it is illegal. But the current Administration has failed to implement that law vigorously, as it has failed to enforce so many other laws.

And if they could get on the bus, where would these handicapped go? As I indicated before, the needs and aspirations of the disabled are like those of most other people. Like most other people, they'd like to go to work. More than most other people, they can't—not because of disabilities, but because this Administration has deliberately fostered high unemployment that hurts everyone, including the handicapped. And because this Administration has failed to enforce antidiscrimination and affirmative action provisions to help the disabled person get fair treatment in the job market.

It is understandable that handicapped citizens, and the professionals who deliver rehabilitation services, should want an Administration that is sensitive to their needs. And it is understandable that you would anticipate special sensitivity from a ticket that includes a Bob Dole.

FORD'S RECORD OF VETOES OF HANDICAPPED LEGISLATION

But in politics, as in every other area of life, there is really only one reliable way of projecting future performance: Look at the record. That's what handicappers do at the race track, and that's what the handicapped should do in the voting booth.

So let's do a little handicapping—let's look at the charts—let's see what the "racing form" can tell us about this Republican Administration and this Republican ticket.

Under past performances, we find the hallmark of Gerald Ford's Presidency, the veto. Getting vetoed by this Administration is sort of a badge of honor, like being on the enemies list. I thought I had a special distinction because my strip mining control bill was vetoed twice. But when I took a closer look at the record, I saw that the National Rehabilitation Association had me beaten. Richard Nixon vetoed the Rehabilitation Act in 1972, just a week before the election. He did it again in early 1973, and it was sustained in the Senate—with the help of Senator Dole. It was finally enacted later in 1973, and the next year Congress sought to amend and extend it. And Gerald Ford vetoed that. Three vetoes. Congratulations. Ford's veto, by the way, was overridden by the largest margin in history—398 to 7 in the House, and 90 to 1 in the Senate. That indicates just how far this unelected President is out of step with the elected representatives of the people.

The Rehabilitation Act vetoes are only part of the story. In the last six years, I count no less than fourteen other vetoes of bills of particular interest to the disabled. In 1970, Nixon vetoed the HEW appropriation, the Veterans Administration appropriation, the Hill-Burton hospital construction authorization, and the Office of Education appropriation. On every override attempt, Gerald Ford and Robert Dole voted to sustain those vetoes. In 1971, he vetoed the Office of Economic Opportunity Extension, and Robert Dole voted to uphold that veto. In 1972, he pocket vetoed the HEW appropriation, veterans health care expansion, and the Older Americans Act amendments. In 1973, he vetoed emergency medical services, and Gerald Ford voted to uphold that veto.

Since becoming President, Gerald Ford has vetoed nurses training twice, community health programs, the HEW appropriation, and funding for the Office of Education, in addition to the rehabilitation amendments.

I suspect the nominee of my party would feel more comfortable if I switched from a race track metaphor to something a bit less shady. So, if I may paraphrase the Bible, "by their vetoes you shall know them." And by their vetoes you know, as I know, that this Administration is no friend of the disabled, no friend of the disadvantaged, no friend of the needy—no friend of the people whose rights this government was constituted to protect.

FORD ADMINISTRATION OPPOSITION TO SERVICES FOR HANDICAPPED

The record of failure goes beyond Gerald Ford's indiscriminate use of the veto. In signing the Education for All Handicapped Children Act, he accused Congress of "falsely raising . . . expectations"; his lack of support for that bill took more concrete form in his attempts to reduce funding by nearly $200 million.

This week marks the third anniversary of the passage and signing of the Rehabilitation Act. It was one year before the first regulations under that act were promulgated. It took 16 months for this Administration to appoint a Commissioner to carry out the law. And now—after three years—major anti-discrimination rules are still not completed.

Now the Ford administration is backing legislation to legalize the kind of reorganization of health services that Florida has attempted. There is some surface appeal to the Ford argument that state experimentation should be encouraged. But in this case the logic is only on the surface. The federal-state partnership in vocational rehabilitation is not a new, untried, unproven program. It has been carried on—with immense success—for more than half a century. It has proven its worth. In cold cash terms rehabilitation enabled those you serve to increase their earnings in 1975 by more than a billion dollars. Strides toward self-sufficiency save the taxpayers the expense of welfare and other assistance, while adding immeasurably to the self-esteem of the disabled and the well-being of the community. To submerge this program in an amorphous agency with no clear lines of authority, no clear accountability for federal and state tax funds, is the worst kind of fiscal and social irresponsibility.

Efficient operation of state health services is a goal we all support. And it has been proven that such reforms can be achieved without emasculating rehabilitation services. In fact, it was proven just a few hundred miles north of here—in the state of Georgia—in the administration of Governor Jimmy Carter.

The current assault on the integrity of rehabilitation programs is part of a larger strategy. Gerald Ford would replace all categorical human assistance programs with block grants. That intention is spelled out in the Republican platform. It masquerades in the language of federalism. In reality, it is an attempt to justify in high-sounding language this Administration's inability or unwillingness to administer the laws of this nation.

The same spirit can be found elsewhere in the Republican platform. Most notably, it can be found in the health care plank that urges only "catastrophic" protection. That means no money-saving, life-saving preventive services for those most vulnerable. It means no effective cost controls to stop the spiral in health care expenses. It means more of the same kind of problems which have so damaged Medicare and Medicaid. It means forbidding reform and streamlining of health care delivery and it means letting a few doctors get rich on the misery of the poor and elderly.

JIMMY CARTER'S RECORD: SUPPORT FOR HANDICAPPED

I've talked about this Administration's record because it demonstrates vividly Gerald Ford's indifference to the quest of disabled citizens for full human rights and

maximum selfsufficiency. I want to talk now about the Democratic nominee, Jimmy Carter. Again, I shall not read you a position paper. Instead, let's look at his record.

Two weeks ago, Jimmy Carter kicked off his campaign at a site with special significance for handicapped Americans—Warm Springs, Georgia. But there was more than symbolism attached to that location. For it was during the term of Governor Carter that the state purchased the Warm Springs hospital and increased its usage by 75 percent.

During those four years, architectural barriers were removed from more than 100 state government buildings; a law was enacted guaranteeing every deaf person the right to a qualified interpreter in court proceedings; and Governor Carter went beyond that, working with organizations of deaf Georgians to make interpreters available in all dealings with the state government.

In those four years, special education programs were doubled; 304 school buses equipped to carry disabled students were put into service; community mental health centers were increased from one to 18; and a million-dollar stroke prevention program screened 100,000 Georgians in its first year.

Most significant, perhaps, is this fact: Georgia ranked among the top five states in successful rehabilitations per 100,000 citizens every year of the Carter administration.

The Democratic Congress has passed laws to protect and assist the disabled. But the record proves it will take a Democratic President to enforce those laws. I learned in the primaries that when Jimmy Carter says he will beat you, he beats you. And I've learned since then, that when Jimmy Carter says he will help you, he helps you. Jimmy Carter is publicly pledged and privately committed to helping every disabled American achieve independence and self-respect to the maximum degree his or her handicap allows.

These facts in themselves do not guarantee a golden age for the disabled in the next four years. Effective legislative advocates like John Brademas and Jennings Randolph must be supported so they can make their voices heard. And vital organizations, both *for* the disabled and *of* the disabled, must continue to speak forcefully. For the needs of handicapped Americans compete with the urgent claims of other groups on the finite resources of government. Organization is especially important for those of limited physical strength and mobility.

So I commend the National Rehabilitation Association for its signal contributions. I urge you, and the 35,000 members of your association, and the 30 million handicapped Americans you serve, to get involved in our precious process of democracy. Examine the records and the programs of those who would lead America, and make your choice known November 2nd. For the ballot is blind. It does not see crutches or wheelchairs. In that booth there are only people—each equal, each free—each helping to build our future.

FOR REGIONAL ECONOMIC IMPACT STATEMENTS

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, I am reintroducing a bill, first introduced by Congressman WILLIAM S. MOORHEAD, which requires Congress and all executive departments and agencies to assess the regional economic impact of proposed legislation, rules, and regulations. This piece of legislation is the first push in, what I hope to be, a formidable crusade to revive the lagging fiscal relationship between the Northeast and Midwest and Washington.

We in Congress, are familiar with that part of the legislative process which requires an "inflationary impact statement," as well as a "cost estimate," to accompany all pending legislation. The bill, which I am introducing today, would require an additional assessment—"an assessment of the differential impact on the various regions of the United States of all legislation in terms of probable or reasonably foreseeable changes in employment and unemployment rates, prices, per capita income, level of industrial production, and general business environment." The bill would also extend this requirement to executive branch rulemaking.

The need for this legislation is clear. If we are to correct the inequities which currently exist—which cause the Northeast and Midwest to receive negative returns on their Federal tax moneys—then we must attack the problem at its root. We must correct the myriad of legislative and executive formulas which allow this detrimental trend to continue, and cause the oldest and largest industrial centers in the United States to suffer billion dollars financial losses.

Earlier this month, 218 Members who represent the impacted areas agreed to form the Northeast-Midwest Economic Advancement Coalition in an effort to alter the distribution of Federal goods and services so that all regions of the country receive equal and fair treatment. One of our responsibilities will be to examine existing and proposed programs to correct inequities which are written into the law. To accomplish this with a degree of expertise, it is imperative we employ the comprehensive examination process presented in the bill I am introducing today.

THE COALITION SWELLS: 187 MEMBERS SIGN AGAINST SYNTHETIC FUELS; THE UAW AND THE LIBERTY LOBBY STATE OPPOSITION

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, I am listing below the 187 Members from both sides of the aisle who have joined together these last 2 days to agree to defeat the rule that would bring the synthetic fuel legislation to the floor again.

Along with this amazing amalgam of Republicans and Democrats of every stripe, I would like to bring to the attention of my colleagues a new letter from the UAW, which is printed below. The important phrase, to which I would like to call particular attention, is the statement that—

> The UAW believes the best course, however, would be to *vote down the rule and dispose of the issue for this Congress.*" (emphasis supplied)

Finally, the following paragraph from the July 12, 1976, weekly newsletter "The Spotlight," expresses the opposition of the Liberty League:

> Looking at the big blueprint (scheme), what would eventually take place should this become law, would be that the government (and the people) would take all the financial risks and companies such as EXXON would take the profits. With the fuel companies being as monopolistic as they are, only a handful of companies would benefit.

Those who have signed the "Dear Colleague" opposing the rule now are the following Members:

1. Abzug.
2. Addabbo.
3. Allen.
4. Annunzio.
5. Ashbrook.
6. Aspin.
7. AuCoin.
8. Badillo.
9. Baucus.
10. Beard (R.I.).
11. Bedell.
12. Bergland.
14. Bingham.
13. Biaggi.
15. Blouin.
16. Boggs.
17. Bonker.
18. Brademas.
19. Breaux.
20. Brodhead.
21. Broomfield.
22. Broyhill.
23. Burton, John.
24. Burton, Phillip.
25. Butler.
26. Byron.
27. Carney.
28. Carr.
29. Chisholm.
30. Clay.
31. Cleveland.
32. Collins (Ill.).
33. Collins (Tex.).
34. Conable.
35. Conte.
36. Conyers.
37. Cornell.
38. Coughlin.
39. Crane.
40. D'Amours.
41. Daniel (Va.).
42. Daniels (N.J.).
43. de la Garza.
44. Delaney.
45. Dellums.
46. Derrick.
47. Devine.
48. Diggs.
49. Dingell.
50. Dodd.
51. Downey (N.Y.).
52. Drinan.
53. Duncan (Oreg.)
54. Eckhardt.
55. Edgar.
56. Edwards (Calif.)
57. Eilberg.
58. Evans (Ind.).
59. Fary.
60. Fascell.
61. Fauntroy.
62. Fenwick.
63. Findley.
64. Fish.
65. Fisher.
66. Fithian.
67. Florio.
68. Ford (Mich.).
69. Ford (Tenn.).
70. Fraser.
71. Frenzel.
72. Gaydos.
73. Gibbons.
74. Grassley.
75. Gude.
76. Guyer.
77. Haley.
78. Hall.
79. Hamilton.
80. Hansen.
81. Harkin.

82. Harrington.
83. Harris.
84. Hayes.
85. Hechler (W. Va.).
86. Heckler (Mass.).
87. Hefner.
88. Holland.
89. Holtzman.
90. Howard.
91. Hungate.
92. Jacobs.
93. Jenrette.
94. Jones (N.C.).
95. Karth.
96. Kasten.
97. Kastenmeier.
98. Kelly.
99. Kemp.
100. Keys.
101. Kindness.
102. Koch.
103. Lagomarsino.
104. Leggett.
105. Lent.
106. Long (Md.).
107. McDonald.
108. McEwen.
109. McHugh.
110. Madigan.
111. Maguire.
112. Melcher.
113. Meyner.
114. Mezvinsky.
115. Mikva.
116. Miller (Calif.).
117. Mills.
118. Mitchell (Md.).
119. Moffett.
120. Moore.
121. Moss.
122. Mottl.
123. Neal.
124. Nix.
125. Nolan.
126 Nowak.
127. Oberstar.
128. Obey.
129. Ottinger.
130. Patten.
131. Pattison (N.Y.).
132. Paul.
133. Peyser.
134. Pike.
135. Price.
136. Quie.
137. Rangel.
138. Richmond.
139. Riegle.
140. Robinson.
141. Rodino.
142. Roe.
143. Rose.
144. Rosenthal.
145. Rouh.
146. Rupe.
147. Ryan.
148. Santini.
149. Sarasin.
150. Sarbanes.
151. Satterfield.
152. Scheuer.
153. Schroeder.
154. Seiberling.
155. Sharp.
156. Shuster.
157. Slack.
158. Smith (Iowa).
159. Snyder.
160. Solarz.
161. Spellman.
162. Stanton (Ohio).
163. Stark.
164. Stokes.
165. Stuckey.
166. Studds.
167. Sullivan.
168. Symms.
169. Taylor (Mo.).
170. Taylor (N.J.).
171. Thompson
172. Treen.
173. Tsongas.
174. Udall.
175. Ullman.
176. Van Deerlin.
177. Vander Veen.
178. Vanik.
179. Vigorito.
180. Weaver.
181. Whalen.
182. Wiggins.
183. Wolff.
184. Yates.
185. Young (Ga.).
186. Zablocki.
187. Zeferetti.

INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA—UAW,

Washington, D.C., September 20, 1976.

DEAR REPRESENTATIVE: Within the next several days, the House will be confronted with a bill raising numerous procedural and substantive issues which ought to be avoided. The bill is H.R. 12112, the proposed synthetic fuels legislation.

We believe there are several valid reasons for not acting on this expensive piece of legislation in the waning days of this Congress. The UAW urges strongly that you vote against the rule and help save the House from having to vote on this measure which at the very least should be held over until the next Congress for further consideration.

H.R. 12112 has had a most unusual legislative history. It was originally reported by the Science and Technology Committee. It was then referred to the Banking, Ways and Means and Commerce Committees. A measure combining the Science Committee bill with changes made by the Ways and Means and Banking Committees is in order under the rule as a substitute for H.R. 12112. The Commerce Committee bill is also in order as a substitute. It should be noted that the substitute to be offered by the Chairman of the Science and Technology Committee has not been approved by any committee in its present form.

Substantively, we believe there are many persuasive arguments against this type of legislation. If the House must act on this issue at all, the Commerce Committee substitute is vastly superior in our opinion to the substitute to be offered by the Chairman of the Science and Technology Committee. The UAW believes the best course, however, would be to vote down the rule and dispose of the issue for this Congress.

When the House voted 263–140 last December against similar legislation, it acted wisely. We believe the new version of this legislation, the substitute to be offered for H.R. 12112, deserves the same action. The UAW urges you to vote against the rule accompanying H.R. 12112.

Sincerely,

DICK WARDEN,
Legislative Director.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. PEPPER (at the request of Mr. O'NEILL), after 4 p.m. today, and for September 23, 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. WALSH) to revise and extend their remarks and include extraneous matter:)

Mr. MCKINNEY, for 5 minutes, today.
Mr. HEINZ, for 5 minutes, today.
Mr. CONABLE, for 5 minutes, today.
Mr. DON H. CLAUSEN, for 15 minutes, today.
Mr. ASHBROOK, for 60 minutes, today.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. LEVITAS, for 5 minutes, today.
Mr. PEPPER, for 10 minutes, today.
Mr. FLOOD, for 5 minutes, today.
Ms. ABZUG, for 60 minutes, today.
Mr. FORD, for 5 minutes, today.
Mr. BRADEMAS, for 5 minutes, today.
Mr. JONES of Tennessee, for 60 minutes, September 28.
Mr. FOUNTAIN, for 60 minutes, September 29.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. TREEN to follow remarks of Mr. WAGGONNER on preferential motion.

Mr. MCDONALD to revise and extend his remarks on House Resolution 1559.

Mr. BRODHEAD to revise and extend his remarks immediately following the remarks of Mr. BLANCHARD.

Mr. ROSENTHAL to revise and extend his remarks immediately following colloquy between Mr. MICHEL and Mr. BINGHAM concerning section 14 of H.R. 15377.

Mr. SEBELIUS, to revise and extend his remarks immediately prior to the vote on the Burlison of Missouri amendment.

Mr. BURLISON of Missouri, and to include extraneous matter, on H.R. 15377 in the Committee of the Whole today.

(The following Members (at the request of Mr. WALSH) and to include extraneous material:)

Mr. RHODES.
Mr. MCKINNEY in two instances.
Mr. MCCLORY in two instances.
Mr. ARCHER in two instances.
Mr. LENT.
Mr. CRANE in three instances.
Mr. SHUSTER.
Mr. DEVINE.
Mr. HEINZ in three instances.
Mr. FREY.
Mr. RAILSBACK.
Mr. COLLINS of Texas in two instances.
Mr. MCEWEN in two instances.
Mr. PAUL.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. PEPPER.
Mr. MAZZOLI.
Mr. MCDONALD in five instances.
Mr. EDWARDS of California in two instances.
Mrs. KEYS.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. EVINS of Tennessee.
Mr. BIAGGI in 10 instances.
Mr. HÉBERT.
Mr. NATCHER.

Mr. GAYDOS.
Mr. DRINAN.
Mr. ROGERS in five instances.
Mr. BLANCHARD.
Mr. MILFORD.
Mr. RIEGLE.
Mr. MCHUGH.
Mr. MOORHEAD of Pennsylvania.
Mr. DAN DANIEL.
Mr. FARY in two instances.
Mr. DODD.
Mr. RANGEL.
Mrs. SPELLMAN.
Mr. CARR.
Mr. BAUCUS.

ENROLLED BILLS SIGNED

Mr. THOMPSON, 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. 10612. An act to reform the tax laws of the United States;

H.R. 11149. An act to amend section 2 of the Act entitled "An Act to incorporate the National Society of the Daughters of the American Revolution";

H.R. 13325. An act to amend the Regional Rail Reorganization Act of 1973 to authorize additional appropriations for the United States Railway Association, and for other purposes;

H.R. 14298. An act to amend title 38 of the United States Code to increase the rates of disability and death pension and to increase the rates of dependency and indemnity compensation for parents, and for other purposes; and

H.R. 15193. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1977, and for other purposes.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1404. An act for the relief of Mrs. Kyong Chu Stout;

S. 1477. An act for the relief of Beatrice Serrano-Toledo;

S. 1787. An act for the relief of Maria Lisa R. Manalo and Rogena R. Manalo;

S. 2220. An act to authorize and direct the Secretary of the Interior to reinstate oil and gas lease New Mexico 18302.

S. 2481. An act for the relief of Oscar Rene Hernandez Rustrian;

S. 2668. An act for the relief of Arturo Moreno Hernandez;

S. 2770. An act for the relief of Anthony Augustus Daley and Beverly Evelyn Daley;

S. 2830. An act for the relief of Gary A. Broyles;

S. 2956. An act for the relief of Teresa Marie Salman; and

S. 3095. An act to increase the protection of consumers by reducing permissible deviations in the manufacture of articles made in whole or in part of gold.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 24 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, September 23, 1976, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4058. A letter from the Chief Justice of the United States, transmitting the proceedings of the judicial Conference of the United States held April 7, 1976 (H. Doc. No. 94-621); to the Committee on the Judiciary and ordered to be printed.

4059. A letter from the Assistant Secretary of the Air Force (Manpower and Reserve Affairs) transmitting a draft of proposed legislation to amend the act of August 29, 1974, Public Law 93-397, to extend the period during which the authorized numbers for the grades of lieutenant colonel and colonel in the Air Force are increased; to the Committee on Armed Services.

4060. A letter from the Director, Office of Regulatory Review, Department of Health, Education, and Welfare, transmitting proposed final regulations governing the programs of financial assistance for educationally deprived children under parts 116 and 116a of the Elementary and Secondary Education Act, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. Supplemental report on H.R. 15372 (Rept. No. 94-1630, pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. Report on subdivision of Budget Allocation to subcommittees for fiscal year 1977 (Rept. No. 94-1644). Referred to the Committee of the Whole House on the State of the Union.

Mr. TEAGUE: Committee of conference. Conference report on H.R. 7108 (Rept. No. 94-1645). Ordered to be printed.

Mr. BENNETT: Committee on Armed Services. S. 3734. An act to approve the sale of certain naval vessels, and for other purposes (Rept. No. 94-1646). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 14934. A bill to adjust the boundaries of certain units of the national park system, and for other purposes; with amendments (Rept. No. 94-1654). Referred to the Committee of the Whole House on the State of the Union.

Mr. FLOWERS: Committee on the Judiciary. S. 800. An act to amend chapter 7, title 5, United States Code, with respect to procedure for judicial review of certain administrative agency action, and for other purposes (Rept. No. 94-1656). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 15422. A bill to amend the Wild and Scenic Rivers Act, and for other purposes; with amendments (Rept. No. 94-1657). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. S. 3521. An act to expedite a decision on the delivery of Alaska natural gas to U.S. markets, and for other purposes; with amendments (Rept. No. 94-1658, pt. 1). Ordered to be printed.

Mr. STAGGERS: Committee of conference. Conference report on H.R. 12168 (Rept. No. 94-1660). Ordered to be printed.

Mr. MADDEN: Committee on Rules. House Resolution 1570. A resolution providing for the consideration of H.R. 9067, a bill to provide additional funds to the States for carrying out restoration projects and programs, and for other purposes (Rept. No. 94-1661). Referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FISH: Committee on the Judiciary. H.R. 2503. A bill for the relief of Dimitrios Panoutsopoulos, Angeliki Panoutsopoulos, and Georgios Panoutsopoulos (Rept. No. 94-1647). Referred to the Committee of the Whole House.

Mr. FISH: Committee on the Judiciary. H.R. 5655. A bill for the relief of Mark Charles Mieir and Liane Maria Mieir; with an amendment (Rept. No. 94-1648). Referred to the Committee of the Whole House.

Mr. FISH: Committee on the Judiciary. H.R. 9185. A bill for the relief of Marina Tingalon Baguyos; with an amendment (Rept. No. 94-1649). Referred to the Committee of the Whole House.

Mr. KINDNESS: Committee on the Judiciary. H. Res. 540. Resolution referring the bill, H.R. 6812, for the relief of Robert Alexander, to the Chief Commissioner of the Court of Claims (Rept. No. 94-1650). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 1786. An act for the relief of Kam Lin Cheung; with an amendment (Rept. No. 94-1651). Referred to the Committee of the Whole House.

Mr. KINDNESS: Committee on the Judiciary. S. 3146. An act for the relief of Leo J. Conway (Rept. No. 94-1652). Referred to the Committee of the Whole House.

Mr. FLOWERS: Committee on the Judiciary. S. 3790. An act for the relief of Camilla A. Hester (Rept. No. 94-1653). Referred to the Committee of the Whole House.

Mr. HALEY: Committee on Interior and Insular Affairs. S. 190. An act for the relief of John Oakason and H. F. Mulholland; with an amendment (Rept. No. 94-1655). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. House Resolution 1555. Resolution opposing the granting of permanent residence in the United States of certain aliens (Rept. No. 94-1659). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BELL:

H.R. 15662. A bill to authorize a study of the feasibility and desirability of establishing a national recreation area to be known as the Santa Margarita National Recreation Area in the area in San Diego, County, Calif., which presently constitutes Camp Pendleton; to the Committee on Interior and Insular Affairs.

By Mr. CLANCY:

H.R. 15663. A bill to amend the Occupational Safety and Health Act of 1970 to further encourage industrial safety, and for other purposes; to the Committee on Education and Labor.

By Mrs. FENWICK (for herself and Mr. SYMMS):

H.R. 15664. A bill to amend the Bankruptcy Act to provide a priority for certain

debts to consumers; to the Committee on the Judiciary.

By Mrs. FENWICK (for herself and Ms. BURKE of California):

H.R. 15665. A bill to amend the Immigration and Nationality Act to permit the adoption of more than two children; to the Committee on the Judiciary.

By Mr. MYERS of Pennsylvania (for himself, Mr. FITHIAN, and Mr. EDGAR):

H.R. 15666. A bill to allow fire departments to transmit nonemergency communications relating to official fire department business over fire department radiofrequencies; to the Committee on Interstate and Foreign Commerce.

By Mr. MYERS of Pennsylvania (for himself, Mr. KEMP, and Mr. BURGENER):

H.R. 15667. A bill to strengthen Federal nepotism laws as they pertain to Members and employees of the Congress, and for other purposes; jointly to the Committees on Post Office and Civil Service and House Administration.

By Mr. OTTINGER:

H.R. 15668. A bill to require that the processes of legislating and rulemaking be accompanied by an assessment of regional economic impact, and for other purposes; jointly to the Committees on Rules, and the Judiciary.

By Mr. QUILLEN:

H.R. 15669. A bill to amend the Social Security Act to provide for inclusion of the services of licensed practical nurses under medicare and medicaid; to the Committee on Ways and Means.

By Mr. SHRIVER (for himself, Mr. COCHRAN, Mr. FLOOD, Mr. HALL of Texas, Mr. HIGHTOWER, Mr. KINDNESS, Mr. LAGOMARSINO, Mr. RISENHOOVER, Mr. ROBINSON, Mr. SEBELIUS, Mr. SISK, Mr. SKUBITZ, Mrs. SMITH of Nebraska, Mr. STEED, Mr. STEELMAN, and Mr. WINN):

H.R. 15670. A bill to amend section 2 of the act of August 22, 1964, to prevent circumvention of import restrictions through the production or manufacture of articles from foreign meat in foreign trade zones, territories, and possessions of the United States; to the Committee on Ways and Means.

By Mrs. HECKLER of Massachusetts (for herself, Mr. HARRINGTON, Mr. EARLY, Mr. TSONGAS, Mr. MOAKLEY, Mr. BURKE of Massachusetts, Mr. DRINAN, Mr. STUDDS, Mr. O'NEILL, Mr. CONTE, and Mr. BOLAND):

H.R. 15671. A bill to name the Veterans' Administration hospital located at 200 Springs Road, Bedford, Mass., the "Edith Nousse Rogers Memorial Veterans' Hospital"; to the Committee on Veterans' Affairs.

By Mr. ASHBROOK:

H.R. 15672. A bill, entitled the Economic Recovery and Sustained Growth Act of 1976; jointly to the Committees on Ways and Means, Rules, Banking, Currency and Housing, and Education and Labor.

By Mr. CARR (for himself and Mr. RUPPE):

H.R. 15673. A bill to amend section 107 of the Energy Reorganization Act of 1974 (42 U.S.C. 5817) to delegate power to State legislatures to veto Energy Research and Development Administration site selection for radioactive waste storage; to the Joint Committee on Atomic Energy.

By Mr. McDADE:

H.R. 15674. A bill to expedite a decision on the delivery of Alaska natural gas to U.S. markets, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce, and Interior and Insular Affairs.

By Mr. RISENHOOVER:

H.R. 15675. A bill to amend section 214 of the Interstate Commerce Act to increase the amount of capital stock or principal value of other securities which may be issued by motor carriers without authorization of the Interstate Commerce Commission; to the Committee on Public Works and Transportation.

By Mr. MAHON:

H.J. Res. 1105. Joint resolution making continuing appropriations for the fiscal year 1977, and for other purposes; to the Committee on Appropriations.

By Mr. MELCHER (for himself, Mr. BRECKINRIDGE, Mr. BURKE of Florida, Mr. CORNELL, Mr. DENT, Mr. FITHIAN, Mr. FOUNTAIN, Mr. HANLEY, Mr. MURPHY of Illinois, Mr. QUILLEN, Mr. RISENHOOVER, Mr. ROE, Mr. RONCALIO, Mr. RUNNELS, Mr. SHRIVER, and Mr. WINN):

H.J. Res. 1106. Joint resolution to authorize and request the President to issue a proclamation designating the fourth Sunday in September annually as "National Good Neighbor Day"; to the Committee on Post Office and Civil Service.

By Mr. THOMPSON (for himself and Mr. ROSE):

H. Res. 1563. A resolution providing additional funds for the expenses of the Committee on House Administration to provide for maintenance and improvement of ongoing computer services for the Committee on Appropriations and the Committee on the Budget of the House of Representatives; to the Committee on House Administration.

By Mr. MOFFETT (for himself, Mr. BROWN of California, Ms. CHISHOLM, Mr. STARK, Mr. CORMAN, Mr. KASTENMEIER, Mr. HECHLER of West Virginia, Mr. ROYBAL, Mr. OTTINGER, Mr. BEDELL, Mr. SIMON, Ms. COLLINS of Illinois, Mr. HARRIS, Ms. SCHROEDER, Mr. NOLAN, Mr. HUGHES, Mr. HAYES of Indiana, Mr. PHILLIP BURTON, Mr. HUNGATE, Mr. MITCHELL of Maryland, Mr. RONCALIO, Mr. CARR, Mr. EILBERG, and Mr. DODD):

H. Res. 1564. A resolution expressing the sense of the House of Representatives condemning the murders of Orlando Letelier and Ronni Karpen Moffitt; to the Committee on the Judiciary.

By Mr. MOFFETT (for himself, Mr. AUCOIN, Mr. D'AMOURS, Mr. EDGAR, Mr. RICHMOND, Mr. MCHUGH, Mr. CORNELL, Mr. ROGERS, Mr. PRITCHARD, Mr. BELL, Mr. PRESSLER, Mr. ABDNOR, Mr. LENT, Ms. FENWICK, Mr. LEVITAS, Mr. FLORIO, Mr. KREBS, Mr. BLOUIN, Mr. FISHER, Mr. ROONEY, Mr. SOLARZ, Mr. WEAVER, Mr. MINISH, Mr. BOLAND, and Mr. ADAMS):

H. Res. 1565. A resolution expressing the sense of the House of Representatives condemning the murders of Orlando Letelier and Ronni Karpen Moffitt; to the Committee on the Judiciary.

By Mr. MOFFETT (for himself, Mr. STUDDS, Mr. HOWARD, Mr. MOSS, Mr. FORSYTHE, Ms. HECKLER of Massachusetts, Mr. FOLEY, Mr. O'NEILL, Ms. BOGGS, Mr. WOLFF, Mr. PATTERSON of California, Mr. PATTISON of New York, Mr. COTTER, Mr. MURPHY of New York, Mr. MURPHY of Illinois, Mr. NEAL, Mr. REUSS, Mr. ROUSSELOT, Mr. PEYSER, Mr. CONTE, Mr. MOTTL, Mr. HANLEY, Mr. GIAIMO, Ms. SPELLMAN, and Mr. SANTINI):

H. Res. 1566. A resolution expressing the sense of the House of Representatives condemning the murders of Orlando Letelier and Ronni Karpen Moffitt; to the Committee on the Judiciary.

By Mr. MOFFETT (for himself, Mr. VAN DEERLIN, Mr. DERWINSKI, Mr. THOMPSON, Mr. BIAGGI, Mr. EVANS of Colorado, Mr. BERGLAND, Mr. ADDABBO, Mr. MIKVA, Mr. NEDZI, Mr. YATES, Mr. LLOYD of California, Mr. BRADEMAS, Mr. LUNDINE, Mr. CONYERS, Ms. HOLTZMAN, Mr. LEGGETT, Mr. GRADISON, Mr. SCHEUER, Mr. ASPIN, Mr. BLANCHARD, Mr. TSONGAS, Mr. WAXMAN, Mr. WIRTH, and Mr. MEZVINSKY):

H. Res. 1567. A resolution expressing the sense of the House of Representatives condemning the murders of Orlando Letelier and Ronni Karpen Moffitt; to the Committee on the Judiciary.

By Mr. MOFFETT (for himself, Mr. ANDERSON of Illinois, Mr. HALL of Illinois, Mr. STOKES, Mr. FORD of Tennessee, Mr. FASCELL, Mr. BEARD of Rhode Island, Mr. ROUSH, Mr. BOLLING, Mr. RODINO, Mr. ST GERMAIN, Mr. FISH, and Mr. CLAY):

H. Res. 1568. A resolution expressing the sense of the House of Representatives condemning the murders of Orlando Letelier and Ronni Karpen Moffitt; to the Committee on the Judiciary.

By Mr. MOTTL:

H. Res. 1569. A resolution creating a Select Committee to conduct a study of the circumstances surrounding both product liability and professional liability insurance rate increases, and of any other product and professional liability insurance coverage issues the committee shall determine; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. SCHULZE introduced a bill (H.R. 15676) to provide for the striking of medals commemorating the 200th anniversary of the encampment of the American Army during the bitter winter at Valley Forge; to the Committee on Banking, Currency and Housing.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 9067

By Mr. MIKVA:

On page 12, lines 15 and 16, strike out "solely for the purpose of paying not more than" and insert in lieu thereof "to pay up to".

And on page 8, strike out line 19 and all that follows down through page 10, line 11, and redesignate the succeeding paragraphs of section 101 of the bill accordingly.

H.R. 12112

By Mr. BROWN of Ohio:

(Amendment to the Interstate and Foreign Commerce Substitute.)

Page 126, strike out lines 11 through 13 and insert in lieu thereof the following:

"(v) The information maintained by the Administrator under this section shall be made available to the public, subject to the provisions of section 552 of title 5, United States Code, and section 1905 of title 18, United States Code, and to other Government agencies in a manner that will facilitate its dissemination: *Provided*, That upon a showing satisfactory to the Administrator by any person that any information, or portion thereof, obtained under this section by the Administrator directly or indirectly from such person would, if made public, divulge (1) trade secrets or (2) other proprietary information of such person, the Administrator shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18, United States Code: *Provided further*, That the Administrator shall, upon request, provide such information to (A) any delegate of the Administrator for the purposes of carrying out this Act, and (B) the Attorney General, the Secretary of Agriculture, the Secretary of the Interior, the Federal Trade Commission, the Federal Energy Administration, the Environmental Protection Agency, the Federal Power Com-

mission, the General Accounting Office, other Federal agencies, or heads or other Federal agencies, when necessary to carry out their duties and responsibilities under this and other statutes, but such agencies and agency heads shall not release such information to the public. This section is not authority to withhold information from Congress, or from any committee of Congress upon request of the Chairman. For the purposes of this subsection, the term 'person' shall include the borrower.

Page 107, line 20, strike out "(1)" and insert in lieu thereof the following: "(1) for the conversion of domestic coal into synthetic fuels; (2)".

Page 107, line 22, strike out "(2)" and insert in lieu thereof "(3)".

Page 107, line 24, strike out "(3)" and insert in lieu thereof "(4)".

Page 107, immediately after line 33, insert the following:

"(i) financing the construction and startup costs of 1 commercial-sized demonstration facility for the conversion of domestic coal into high Btu gaseous fuel compatible for mixture and transportation with natural gas by pipeline;"

Renumber the clauses of subparagraph (A) accordingly.

Page 108, strike out line 13 and all that follows thereafter down through "1978." in line 16, and insert in lieu thereof the following:

"(B) The aggregate amount of indebtedness for which guarantees and commitments to guarantee are issued under subparagraph (A)(i) of this paragraph may not exceed $900,000,000 for fiscal years 1977 and 1978, and the aggregate amount of indebtedness for which guarantees and commitments to guarantee are issued under this section (other than subparagraph (A)(i) of this paragraph) may not exceed $1,000,000,000 for each of the following fiscal years, 1977 and 1978."

Page 108, line 32, strike out "(iv)" and insert in lieu thereof "(v)".

Page 115, line 39, strike out "and (iv)" and insert in lieu thereof "(iv), and (v)".

Page 121, line 32, strike out "and (iii)" and insert in lieu thereof "(iii), and (iv)".

Page 122, line 35, strike out "and (iii)" and insert in lieu thereof "(iii), and (iv)".

Page 122, line 39, strike out "(iv)" and insert in lieu thereof "(v)".

Page 107, line 20, strike ou t"(1)" and insert in lieu thereof the following: "(1) for the conversion of domestic coal into synthetic fuels ; (2)".

Page 107, line 22, strike out "(2)" and insert in lieu thereof "(3)".

Page 107, line 24, strike out "(3)" and insert in lieu thereof "(4)".

Page 107, immediately after line 33, insert the following:

"(i) financing the construction and startup costs of 2 commercial-sized demonstration facilities for the conversion of domestic coal into high Btu gaseous fuel compatible for mixture and transportation with natural gas by pipeline;"

Renumber the clauses of subparagraph (A) accordingly.

Page 108, strike out line 13 and all that follows thereafter down through "1978." in line 16, and insert in lieu thereof the following:

"(B) The aggregate amount of indebtedness for which guarantees and commitments to guarantee are issued under subparagraph (A)(i) of this paragraph may not exceed $1,800,000,000 for fiscal years 1977 and 1978, and the aggregate amount of indebtedness for which guarantees and commitments to guarantee are issued under this section (other than subparagraph (A)(i) of this paragraph) may not exceed $1,000,000,000 for each of the following fiscal years, 1977 and 1978."

Page 108, line 32, strike out "(iv)" and insert in lieu thereof "(v)".

Page 115, line 39, strike out "and (iv)" and insert in lieu thereof "(iv), and (v)".

Page 121, line 32, strike out "and (iii)" and insert in lieu thereof "(iii), and (iv)".

Page 122, line 35, strike out "and (iii)" and insert in lieu thereof "(iii), and (iv)".

Page 122, line 39, strike out "(iv)" and insert in lieu thereof "(v)".

By Mr. FUQUA:

On page 124 (which is part of the Interstate and Foreign Commerce Committee amendment) strike subsection 19(r)(1), lines 11 through 13, and insert the following new subsection (r)(1):

"Inventions made or conceived in the course of or under a guarantee authorized by this section shall *not* be subject to the title and waiver requirements and conditions of section 9 of this Act *if the aggregate guarantees for the project are less than $50,000,000, except in the event of a default as defined under subsection (g) of this section.*"

(NOTE.—Proposed changes are italicized.)

Amendment to Teague amendment considered as an original bill for purposes of amendment as printed in the CONGRESSIONAL RECORD on August 26, 1976, on pages 27908–27913. On page 27912 strike subsection 18(r) and insert the following new subsection (r):

Inventions made or conceived in the course of or under a guarantee authorized by this section shall *not* be subject to the title and waiver requirements and conditions of section 9 of this Act *if the aggregate guarantees for the project are less than $50,000,000, except in the event of a default as defined under subsection (g) of this section.*"

NOTE.—Proposed changes are italicized.

By Mr. GOLDWATER:

On page H9179 of the August 26, 1976 CONGRESSIONAL RECORD (Mr. TEAGUE's substitute), insert, "(c)(5), (k)", between "(h)," and "(n),", in the proviso at the end of subsection (b)(1) in the third column of that page.

By Mr. HARKIN:

(Amendment to amendment by Mr. TEAGUE.)

On page H9179 of the CONGRESSIONAL RECORD of August 26, 1976, strike all of section 1(b) beginning with the heading "Loan Guarantees for Demonstration Facilities" through the period at the end of said section on page H9184 and insert therein the following:

"ADDITIONAL FINANCIAL ASSISTANCE FOR DEMONSTRATION AND MODULAR FACILITIES FOR THE SUPPLY AND CONSERVATION OF ENERGY

"SEC. 19. (a) It is the purpose of this section—

"(1) to demonstrate the best available energy technologies and gather information about the technological, economic, environmental, regulatory, and social costs, benefits, and impacts of various facilities and the efficiency of such technologies, and

"(2) to authorize a limited program of financial assistance, in addition to the assistance provided in sections 7 and 8 of this Act, (A) for the construction and start-up costs of demonstration and modular facilities for the conversion of (i) biomass, including, but not limited to, animal and timber waste, urban and other waste, and sewage sludge, (ii) the production of synthetic fuels and other forms of energy from renewable and geothermal resources, and (iii) the conversion of coal and oil shale into synthetic fuels; (B) providing essential community development and planning which is necessitated by such facilities; and (C) the demonstration of energy-efficient industrial equipment and facilities.

"(b)(1)(A) The Administrator is authorized, in accordance with such rules as he shall prescribe after consultation with the Secretary of the Treasury, to guarantee and to make commitments to guarantee, in such manner and subject to such conditions (not inconsistent with the provisions of this Act) as he deems appropriate, the payment of interest on, and the principal balance of bonds, debentures, notes, and other obligations issued by, or on behalf of, any borrower for the purpose of—

"(i) financing the construction and start-up costs of demonstration facilities for the conversion of biomass into synthetic fuels, except that no loan guarantee shall be available under this clause for the manufacture of component parts for demonstration of facilities eligible for assistance under this clause;

"(ii) financing the construction and start-up costs of demonstration facilities to generate desirable forms of energy (including synthetic fuels) from direct solar, wind, ocean thermal gradient, or other renewable energy resources; and

"(iii) financing the purchase, construction, installation, and startup costs of energy-efficient industrial equipment and facilities for demonstration by small business concerns and others for general use; and

"(iv) further implementing the financing of geothermal resource development under the Geothermal Energy Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1101, et seq.).

"(B) The aggregate amount of indebtedness for which guarantees and commitments to guarantee are issued under paragraph (1)(A) of this subsection may not exceed $900,000,000, except that no more than 30 percent of such indebtedness shall be allocated for biomass. The indebtedness guaranteed or committed to be guaranteed which may be outstanding at any time in any fiscal year shall not exceed the aggregate of the total amount authorized pursuant to this section for that fiscal year and all preceding fiscal years. The authority of the Administrator to enter into any guarantee or to make any commitment to guarantee under such paragraph terminates on September 30, 1984, unless extended by subsequent Act of Congress. Such termination does not affect the carrying out of any contract, guarantee, commitment, or other obligation entered into pursuant to such paragraph prior to that date, or the taking of any action necessary to preserve or protect the interests of the United States in any amounts advanced or paid out in carrying on operations under this section.

"(C) Loan guarantees for geothermal resource development under subparagraph (A)(iv) of this subsection shall be carried out pursuant to the authority and provisions of the Geothermal Energy Research, Development, and Demonstration Act of 1974, except that paragraphs (6) thru (9) of this subsection, and subsections (d), (g)(2) and (4)(h), (j), (n), (o)(3), (q), (r), (s), (t), and (v) through (z) of this section, shall also apply to such guarantees and the limitations in section 201(e) of the Geothermal Energy Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1141(e)) shall not apply to such guarantees.

"(2)(A) Beginning after March 1, 1977, the Administrator is authorized to receive and he shall consider, in accordance with the provisions of this section and with such rules as he shall prescribe in consultation with the Secretary of the Treasury, to guarantee and to make commitments to guarantee, in such manner and subject to such conditions (not inconsistent with the provisions of this Act) as he deems appropriate, the payment of interest on, and the principal balance of, bonds, debentures, notes, and other obligations issued by, or on behalf of, any borrower for the purpose of—

(i) financing the construction and startup costs of demonstration facilities for the conversion of coal and other domestic resources (other than oil shale) into synthetic fuels; and

(ii) financing the construction and startup costs for modular facilities, the production of which is not less than 6,000 and not more

than 10,000 barrels per day, for the conversion of oil shale into synthetic fuels.

"(B) Notwithstanding any other provision of this section, the Administrator shall not enter into any guarantee or commitment to guarantee, based on any application received under paragraph (2)(A) of this subsection, until he determines that the proposed facility will achieve the purposes of this section and meets the requirements thereof and submits to the Congress a detailed report on the proposed facility, together with his recommendation thereon, and until such guarantee or commitment to guarantee and the amount thereof is specifically authorized by an Act of Congress enacted after the date of enactment of this section.

"(3) No demonstration or modular facility may receive both a loan guarantee under this section and any director or indirect financial assistance under any other section of this Act, unless such assistance is specifically authorized by Act of Congress enacted after the date of enactment of this section.

Notwithstanding any other provisions of this section, no obligation guaranteed under this section or under the Geothermal Energy Research Development and Demonstration Act of 1974, which is amended by this section, shall be purchased pursuant to the Federal Financing Bank Act of 1973 (12 U.S.C. 2281–2296), and the Administrator shall not sell such obligation to the Federal Financing Bank, without specific authorization enacted after the date of enactment of this section, and the provisions of said Act shall not be applicable to such obligations.

"(4) The provisions of subsections (d), (e), (k), (m), (p), (r), (s), (t), (u), (v), (w), (x), (y) and (z) shall apply to any facility—

"(i) which is designed to convert oil shale into synthetic fuels,

"(ii) which has a capacity of more than 6,000 barrels per day, and

"(iii) which receives, or seeks to receive, assistance (other than loan guarantees) under this Act, in the same manner as such subsections would apply to a facility with respect to which a loan guarantee is issued, or sought to be issued, under this section.

"(5) All guarantees or commitments to guarantee authorized by this section shall be made only for facilities constructed within the United States or in waters contiguous to its territory. None of the amounts authorized for guarantees under this section shall be committed until the studies already initiated by the Administrator concerning the program authorized by this section are completed and a report of each such study is submitted to the Speaker of the House of Representatives and the President of the Senate.

"(6) An applicant for any financial assistance under this section shall provide information to the Administrator in such form and with such content as the Administrator deems necessary.

"(7) Prior to issuing a guarantee or commitment to guarantee with respect to any facility under this section, the Administrator shall submit to the Secretary of the Treasury a full and complete report on the proposed facility and the guarantee. The Secretary of the Treasury shall—

"(A) insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of any guarantee will have the minimum possible impact on the capital markets of the United States, taking into account other Federal activities which directly or indirectly impact on such capital markets, and

"(B) impose such conditions on the issuance of the guarantee, after analyzing the financing of the facility, the tax benefits which would be available to investors in the facility, and the regulatory actions associated with the facility, as may be necessary to assure that investors having an ownership or profits interest in the facility bear a substantial risk of after-tax loss in the event of default; and the guarantee or commitment to guarantee shall not be issued unless (i) its timing, interest rate, and substantial terms and conditions (as described in subparagraph (A)) are concurred in by the Secretary, and (ii) it meets the conditions imposed by the Secretary under subparagraph (B) of this paragraph.

"(8) The full faith and credit of the United States is pledged to the payment of all guarantees issued under this section with respect to the amount of principal and interest guaranteed.

"(9) Prior to making any guarantee or commitment to guarantee under this section, the Administrator shall determine that the underlying agreement on which the guarantee is sought contains all affirmative and negative covenants and other protective provisions which are usual and customary in loan agreements of a similar kind, including previous loan agreements between the lender and the borrower, and that such agreements cannot be amended, or any provisions waived, without the Administrator's prior written consent.

"(10) To the extent possible, loan guarantees shall be issued on the basis of competitive bidding among guarantee applicants in a particular technology area.

"(c) The Administrator, with due regard for the need for competition, may guarantee or make a commitment to guarantee any obligation or recommend such guarantee or commitment under subsection (b) only if the following conditions are met:

"(1) The Administrator is satisfied that the financial assistance applied for is necessary to encourage financial participation;

"(2) The amount guaranteed with respect to any facility may not at any time exceed 75 per centum of the total cost incurred as of such time with respect to such facility (as determined by the Administrator); except if the total cost incurred with respect to a facility exceeds the project cost estimated by the Administrator at the time the loan guarantee was issued, the amount guaranteed may not exceed 75 per centum of such estimated project cost and 60 per centum of such excess. In determining the cost incurred with respect to a facility—

"(A) There shall be excluded any cost incurred for facilities and equipment used in the extraction of a mineral to be converted to a synthetic fuel, unless the Administrator determines that such facilities and equipment are not capable of producing any marketable fuel other than synthetic fuel; and

"(B) Property or services obtained for the facility in a transaction with a person who has or will have a substantial ownership or profits interest in the facility shall be valued at the lower cost to the borrower or fair market value (disregarding any portion of such market value which the Administrator determines is attributed to the prospect of receiving Federal assistance under this Act);

The Administrator shall prescribe such rules as may be necessary to carry out this paragraph.

"(3) The Administrator has determined that there will be a continued reasonable assurance of full repayment;

"(4) The obligation is subject to the condition that all other financing for the project which is not guaranteed by the United States be subordinated to such obligation;

"(5) The Administrator has determined, taking into consideration all reasonably available forms of assistance under this section and other Federal and State statutes, that the impacts resulting from the proposed facility have been fully elevated by the borrower, the Administrator, and the Governor of the affected State, and that effective steps have been taken or will be taken in a timely manner to finance community planning and development costs resulting from such facility under this section, under other provisions of law, or by other means and, in the case of any facility for recovery of energy or fuel from any waste or discarded material, the Administrator has determined that such facility is in conformity with any applicable State, regional, or interstate plan respecting the management of waste or discarded material;

"(6) The maximum maturity of the obligation does not exceed 20 years, or 90 per centum of the projected useful economic life of the physical assets of the facility covered by the guarantee, whichever is less, as determined by the Administrator;

"(7) The Administrator has determined that, in the case of any facility planned to be located on Indian lands, the appropriate Indian tribe, with the approval of the Secretary of the Interior, has given written consent to such location;

"(8) The obligation fully amortizes during its term and (after completion of construction) is payable in installments which are substantially equal in amount and payable at equal intervals;

"(9) The obligation provides that the Administrator shall, after seven years, but not later than ten years, after issuance of such obligation, determine, in writing, whether to terminate Federal participation in the facility, taking into consideration whether the Government's needs for information to be derived from the project have been substantially met and whether the project is capable of commercial operation. Such determination shall be published in the Federal Register. In the event that the Administrator determines that such termination is appropriate, he shall notify the borrower and provide a minimum of two years and not more than three years in which to find alternative financing. If the borrower is unable to secure such financing, the Administrator may elect not to terminate upon agreement by the borrower to pay an additional fee of not less than 1 per centum per annum on the remaining obligation to which the guarantee applies, and

"(10) in the case of a demonstration facility which converts any coal (including lignite) from any surface mine (on federally-owned or nonfederally-owned land) to synthetic fuel, the Administrator has determined that any such coal is, or will be mined under lawfully binding reclamation standards requiring the surface mine operator as a minimum to—

"(A) conduct surface coal mining operations so as to maximize the utilization and conservation of the solid fuel resource being recovered so that reaffecting the land in the future through surface coal mining can be minimized;

"(B) restore the land affected to a condition at least fully capable of supporting the uses which it was capable of supporting prior to any mining, or higher or better uses of which there is a reasonable likelihood, so long as such use or uses do not present any actual or probable hazard to public health or safety or pose any actual or probable threat of water diminution or pollution, and the operator's declared proposed land use following reclamation is not deemed to be impractical or unreasonable, inconsistent with applicable land use policies and plans, involves unreasonable delay in implementation or is violative of Federal State, or local law;

"(c)(3) with respect to all surface coal mining operations backfill, compact (where advisable to insure stability or to prevent leaching or toxic materials), and grade in order to restore the approximate original contour of the land with all highwalls, spoil piles, and depressions eliminated (unless small depressions are needed in order to retain moisture to assist revegetation or as otherwise authorized pursuant to this Act):

Provided, however, That in surface coal mining which is carried out at the same location over a substantial period of time where the operation transects the coal deposit, and the thickness of the coal deposits relative to the volume of the overburden is large and where the operator demonstrates that the overburden and other spoil and waste materials at a particular point in the permit area or otherwise available from the entire permit area is insufficient, giving due consideration to volumetric expansion, to restore the approximate original contour, the operator, at a minimum, shall backfill, grade, and compact (where advisable) using all available overburden and other spoil and waste materials to attain the lowest practicable grade but not more than the angle of repose, to provide adequate drainage and to cover all acid-forming and other toxic materials in order to achieve an ecologically sound land use compatible with the surrounding region: *And provided further,* That in surface coal mining where the volume of overburden is large relative to the thickness of the coal deposit and where the operator demonstrates that due to volumetric expansion the amount of overburden and other spoil and waste materials removed in the course of the mining operation is more than sufficient to restore the approximate original contour, the operator shall after restoring the approximate contour, backfill, grade, and compact (where advisable) the excess overburden and other spoil and waste materials to attain the lowest grade but not more than the angle of repose, and to cover all acid-forming and other toxic materials, in order to achieve an ecologically sound land use compatible with the surrounding region and that such overburden or spoil shall be shaped and graded in such a way as to prevent slides, erosion, and water pollution and is revegetated in accordance with the requirements of this section 19(c)(8);

"(D) stabilize and protect all surface areas including spoil piles affected by the surface coal mining and reclamation operation to effectively control erosion and attendant air and water pollution;

"(E) remove the topsoil from the land in a separate layer, replace it on the backfill area, or, if not utilized immediately, segregate it in a separate pile from other spoil and, when the topsoil is not replaced on a backfill area within a time short enough to avoid deterioration of the topsoil, maintain a successful cover by quick growing plant or other means thereafter so that the topsoil is preserved from wind and water erosion, remains free of any contamination by other acid or toxic material, and is in a usable condition for sustaining vegetation when restored during reclamation, except if topsoil is of insufficient quantity or of poor quality for sustaining vegetation, or if other strata can be shown to be more suitable for vegetation requirements, then the operator shall remove, segregate, and preserve in a like manner such other strata which is best able to support vegetation;

"(F) restore the topsoil or the best available subsoil which has been segregated and preserved;

"(G) protect offsite areas from slides or damage occurring during the surface coal mining and reclamation operations, and not deposit spoil material or locate any part of the operations or waste accumulation outside the permit area;

"(H) create, if authorized by applicable law, permanent impoundments of water on mining sites as part of reclamation activities only when it is adequately demonstrated that—

"(i) the size of the impoundment is adequate for its intended purposes;

"(ii) the impoundment dam construction will be so designed as to achieve necessary stability with an adequate margin of safety compatible with that of structures constructed under Public Law 83-566 (16 U.S.C. 1006);

"(iii) the quality of impounded water will be suitable on a permanent basis for its intended use and that discharges from the impoundment will not degrade the water quality in the receiving stream;

"(iv) the level of water will be reasonably stable;

"(v) final grading will provide adequate safety and access for proposed water users; and

"(vi) such water impoundments will not result in the diminution of the quality or quantity of water utilized by adjacent or surrounding landowners for agricultural, industrial, recreational, or domestic uses;

"(I) plug all auger holes to a minimum of six feet in depth with an impervious and noncombustible material (such as clay) to prevent the flow of water in our out of such holes.

"(J) minimize the disturbances to the prevailing hydrologic balance at the minesite and in associated offsite areas and to the quality and quantity of water in surface and ground water systems both during and after surface coal mining operations and during reclamation by—

"(i) avoiding acid or other toxic mine drainage by such measures as, but not limited to preventing or removing water from contact with toxic producing deposits; treating drainage to reduce toxic content which adversely affects downstream water upon being released to water courses; casing, sealing, or otherwise managing boreholes, shafts, and wells and keep acid or other toxic drainage from entering ground and surface waters;

"(ii) conducting surface coal mining operations so as to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow or runoff outside the permit area above natural levels under seasonable flow conditions as measured prior to any mining, and avoiding channel deepening or enlargement in operations requiring the discharge of water from mines;

"(iii) removing temporary or large siltation structures from drainways after disturbed areas are revegetated and stabilized;

"(iv) restoring recharge capacity of the mined area to approximate premining conditions;

"(v) replacing the water supply of an owner of interest in real property who obtains all or part of his supply of water for domestic, agricultural, industrial, or other legitimate use from an underground or surface source where such supply has been affected by contamination, diminution, or interruption proximately resulting from the mining.

"(vi) preserving throughout the mining and reclamation process the essential hydrologic functions of alluvial valley floors in the arid and semiarid areas of the country; and

"(vii) such other actions as the regulatory authority may prescribe;

"(k) with respect to surface disposal of mine wastes, tailings, coal processing wastes, and other wastes in areas other than the mine working or excavations, stabilize all waste piles in designated areas through construction in compacted layers including the use of incombustible and impervious materials, if necessary, and assure the final contour of the waste pile will be compatible with natural surroundings and that the site can and will be stabilized and revegetated according to the provisions of section (19)(c)(8);

"(L) refrain from surface coal mining within five hundred feet from active and abandoned underground mines in order to prevent breakthroughs and to protect health or safety of miners: *Provided,* That an operator shall be permitted to mine closer to an abandoned underground mine: *Provided,* That this does not create hazards to the health and safety of miners and an operator may mine near, through, or partially through an abandoned underground mine working where such mining through will achieve improved resource recovery, abatement of water pollution or elimination of public hazards and such mining shall be consistent with the provisions of this Section (19)(c)(8);

"(M) design, locate, construct, operate, maintain, enlarge, modify, and remove, or abandon, in accordance with the standards and criteria developed pursuant to subsection (e) of this section, all existing and new coal mine waste piles consisting of mine wastes, tailings, coal processing wastes, or other liquid and solid wastes and used either temporarily or permanently as dams or embankments;

"(N) insure that all debris, acid forming materials, toxic materials, or materials constituting a fire hazard are treated or disposed of in a manner designed to prevent contamination of ground or surface waters or sustained combustion;

"(O) insure that explosives are used only in accordance with existing State and Federal law and the regulations promulgated by the regulatory authority, which shall include provisions to—

"(i) provide adequate advance written notice by publication and/or posting of the planned blasting schedule to local governments and to residents who might be affected by the use of such explosives and maintain for a period of at least two years a log of the magnitudes and times of blasts; and

"(ii) limit the type of explosives and detonating equipment, the size, the timing and frequency of blasts based upon the physical conditions of the site so as to prevent injury to persons, damage to public and private property outside the permit area, adverse impacts on any underground mine, and change in the course, channel, or availability of ground or surface water outside the permit area;

"(P) insure that all reclamation efforts proceed in an environmentally sound manner and as contemporaneously as practicable with the surface coal mining operations;

"(Q) insure that the construction, maintenance, and postmining conditions of access roads into and across the site of operations will control or prevent erosion and siltation, pollution of water, damage to fish or wildlife or their habitat, or public or private property: *Provided,* That the retention after mining of certain access roads may be permitted where consistent with State and local land use plans and programs and where necessary may permit a limited exception to the restoration of approximate original contour for that purpose;

"(R) refrain from the construction of roads or other access ways up a stream bed or drainage channel or in such proximity to each channel so as to seriously alter the normal flow of water.

"(S) establish on the regraded areas, and all other lands affected, a diverse, effective, and permanent vegetative cover native to the area of land to be affected and capable of self-regeneration and plant succession at least equal in extent of cover to the natural vegetation of the area; except, that introduced species may be used in the revegetation process where desirable and necessary to achieve the operator's proposed postmining land use;

"(T) assume the responsibility for successful revegetation, as required by paragraph (S) above, for a period of five full years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to assure compliance with paragraph (S) above, except in those areas or regions of the country where the annual average precipitation

is twenty-six inches or less, then the operator's assumption of responsibility and liability will extend for a period of ten full years after the last year of augmented seeding, fertilizing, irrigation, or other work: *Provided,* That when a long-term intensive agricultural postmining land use is proposed, the applicable five- or ten-year period of responsibility for revegetation shall commence at the date of initial planting for such long-term intensive agricultural postmining land use: *Provided further,* That when there is proposed such a long-term, intensive, agricultural postmining land use as part of the mining and reclamation plan, exception to the provisions of paragraph (S) above may be waived; and

"(U) assure that the proposed surface coal mining operation, if located west of the one hundredth meridian west longitude would—

"(i) not interrupt, discontinue, or prevent farming on alluvial valley floors that are irrigated or naturally subirrigated, but, excluding undeveloped range lands which are not significant to farming on said alluvial valley floors and those lands that if the farming that will be interrupted, discontinued, or prevented is of such small acreage as to be of negligible impact on the farm's agricultural production or,

"(ii) not adversely affect the quantity or quality of water in surface or underground water systems that supply these valley floors in (i) of section 9(c)(8)(U):

Provided, That this paragraph (U) shall not affect those surface coal mining operations which in the year preceding the enactment of this Act produced coal in commercial quantities, and were located within or adjacent to alluvial valley floors or had obtained specific permit approval by the State regulatory authority of jurisdiction to conduct surface mining operations within said alluvial valley floors.

"(d) Prior to submitting a report to Congress pursuant to subsections (b) or (m) of this section on each guarantee or commitment to guarantee, the Administrator shall request from the Attorney General and the Chairman of the Federal Trade Commission written views, comments, and recommendations concerning the impact of such guarantee or commitment to guarantee on competition and concentration in the production of energy and give due consideration to views, comments, and recommendations received, except that if either official, within 60 days after the date of receipt of such request or at any time prior to the Administrator submitting such report to Congress, recommends against making such guarantee or commitment, the Administrator shall not do so.

"(e)(1)(A) As soon as the Administrator knows the geographic location of a proposed facility for which an application for a guarantee or a commitment to guarantee is made under this section, he shall inform the Governor of the State, and officials of each political subdivision and Indian tribe, as appropriate, in which the facility would be located or which would be impacted by such facility. The Administrator shall not guarantee or make a commitment to guarantee or recommend such guarantee under subsection (b) of this section, if the Governor of the State in which the proposed facility would be located recommends that such action not be taken, unless the Administrator finds that there is an overriding national interest in taking such action in order to achieve the purpose of this section. If the Administrator decides to guarantee or make a commitment to guarantee or recommend such guarantee despite a Governor's recommendation not to take such action, the Administrator shall communicate, in writing, to the Governor reasons for not concurring with such recommendation. The Administrator's decision, pursuant to this subsection, shall be final unless determined upon judicial review to be unlawful by the reviewing court pursuant to section 706(2) (A) through (D) of title 5, United States Code. Such review shall take place in the United States court of appeals for the circuit in which the State involved is located, upon application made within 90 days from the date of such decision. The Administrator shall, by rule, establish procedures for review of, and comment on, the proposed facility by States, local political subdivisions, and Indian Tribes which may be impacted by such facility, and the general public.

"(B) Nothing in this section shall be deemed to restrict the right of any person to obtain judicial review, under Federal and State law, of any Federal agency action or State agency action.

"(2) The Administrator shall, in consultation with the Secretary of the Interior and the Environmental Protection Agency, review and approve the plans of the applicant for the construction and operation of any facilities constructed or to be constructed with assistance under this section. Such plans and the actual construction shall include such monitoring and other data-gathering costs associated with such facility as are required by the comprehensive plan and program under this section. The Administrator shall determine the estimated total cost of such facility, including, but not limited to, construction costs, startup costs, costs to political subdivisions and Indian tribes by such facility, and costs of any water storage facilities needed in connection with such facility, and determine who shall pay such costs. Such determination shall not be binding upon the States, political subdivisions, or Indian tribes.

"(3) There is hereby established a panel to advise the Administrator on matters relating to the program authorized by this section, including, but not limited to, the impact of the demonstration and modular facilities on communities and States and Indian tribes, the environmental and health and safety effects of such facilities, and the means, measures, and planning for preventing or mitigating such impacts, and other matters relating to the development of synthetic fuels and other energy sources under this section and sections 7 and 8 of this Act. The panel shall include such Governors or their designees as shall be designated by the Chairman of the National Governors' Conference. Representatives of Indian tribes, industry, environmental organizations, and the general public shall be appointed by the Administrator. The Chairman of the panel shall be selected by the Administrator. No person shall be appointed to the panel who has a financial interest in any applicant applying for assistance under this section. Members of the panel shall serve without compensation. The provisions of section 106 (e) of the Energy Reorganization Act of 1974 (42 U.S.C. 5816(e)) shall apply to the panel.

"(f) Except in accordance with reasonable terms and conditions contained in the written contract or guarantee, no guarantee issued or commitment to guarantee made under this section shall be terminated, canceled, or otherwise revoked. Such a guarantee or commitment shall be conclusive evidence that the underlying obigation is in compliance with the provisions of this section and that such obligation has been approved and is legal as to principal, interest, and other terms. Subject to the conditions of the guarantee or commitment to guarantee, such a guarantee shall be incontestable in the hands or the holder of the guaranteed obligation, who obtained such guaranteed obligation of value, in good faith, and without knowledge of any fraud or material misrepresentation on the part of the borrower, and who himself did not commit any fraud or material misrepresentation.

"(g)(1) If there is a default by the borrower, as defined in regulations promulgated by the Administrator and in the guarantee contract, the holder of the obligation shall have the right to demand payment of the unpaid amount from the Administrator. Within such period as may be specified in the guarantee or related agreements, the Administrator shall pay to the holder of the obligation the unpaid interest on, and unpaid principal of, the guaranteed obligation as to which the borrower has defaulted, unless the Administrator finds that there was no default by the borrower in the payment of interest or principal or that such default has been remedied. Nothing in this section shall be construed to preclude any forebearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the guaranteed obligation and approved by the Administrator.

"(2) If the Administrator makes a payment under paragraph (1) of this subsection or section 202(b) of the Geothermal Energy Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1142(b)), the Administrator shall be subrogated to the rights of the recipient of such payment (and such subrogation shall be expressly set forth in the guarantee or related agreements), including the authority to complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements, without regard to the provisions of the Federal Property and Administrative Services Act of 1949, as amended, except section 207 of that Act (40 U.S.C. 488), or any other law, or to permit the borrower, pursuant to an agreement with the Administrator, to continue to pursue the purposes of the facility if the Administrator determines that this is in the public interest.

"(3) In the event of a default on any guarantee under this section, the Administrator shall notify the Attorney General, who shall take such action as may be appropriate to recover the amount of any payments made under paragraph (1) including any payment of principal and interest under subsection (h) from such assets of the defaulting borrower as are associated with the demonstration facility, or from any other security included in the terms of the guarantee.

"(4) For purposes of this section, patents, including any inventions for which a waiver is made by the Administrator under section 9 of this Act, and technology resulting from the demonstration or modular facility, shall be treated as project assets of such facility. The guarantee agreement shall include such detailed terms and conditions as the Administrator deems appropriate to protect the interests of the United States in the case of default and to have available all the patents and technology necessary for any person selected, including, but not limited to, the Administrator to complete and opthe guarantee agreement shall contain a provision specifying that patents, technology, provision specifying that patents, technology, and other proprietary rights which are necessary for the completion or operation of the demonstration or modular facility shall be available to the United States and its designees on equitable terms, including due consideration to the amount of the United States default payments. Inventions made or conceived in the course of or under such guarantee, title to which is vested in the United States under this Act, shall not be treated as project assets of such facility for disposal purposes under this subsection, unless the Administrator determines in writing that it is in the best interests of the United States to do so.

"(h) With respect to any obligation guaranteed under this section, the Administrator is authorized to enter into a contract to pay, and to pay, holders of the obligation, for and on behalf of the borrower, from the fund established by this section or from the Geothermal Resources Development

Fund, as applicable, the principal and interest payments which become due and payable on the unpaid balance of such obligation if the Administrator finds in writing that—

"(1) the borrower is unable to meet such payments and is not in default; it is in the public interest to permit the borrower to continue to pursue the purposes of such demonstration or modular facility; and the probable net benefit to the Federal Government in paying such principal and interest will be greater than that which would result in the event of a default;

"(2) the amount of such payment which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement; and

"(3) the borrower agrees to reimburse the Administrator for such payment on terms and conditions, including interest, which are satisfactory to the Administrator.

"(i) Rules and regulations required by this section shall be issued within 180 days after the date of enactment of this section, except as provided in subsection (s) of this section. All rules and regulations under this section and any amendments thereof shall be issued in accordance with section 553 of title 5, United States Code, without regard to subsection (a)(2) thereof.

"(j) The Administrator shall charge and collect fees for guarantees of obligations authorized by subsection (b) of this section in amounts (1) which are sufficient in the judgment of the Administrator to cover all applicable administrative costs, and (2) which reflect the percentage of project costs guaranteed and the risk of default on the guaranteed obligations. In no event shall the fee be less than 1 per centum per annum of the outstanding indebtedness covered by the guarantee. Nothing in this subsection shall be construed to apply to community planning and development assistance pursuant to subsection (k) of this section.

"(k)(1) In accordance with such rules as the Administrator in consultation with the Secretary of the Treasury shall prescribe, and subject to such terms and conditions as he deems appropriate, the Administrator is authorized, for the purpose of financing essential community development and planning which directly result from, or are necessitated by, one or more facilities assisted under this section to—

"(A) guarantee and make commitments to guarantee the payment of interest on, and the principal balance of, obligations for such financing issued by eligible States, political subdivisions, or Indian tribes;

"(B) guarantee and make commitments to guarantee the payment of taxes imposed on such facilities by eligible non-Federal taxing authorities which taxes are earmarked by such authorities to support the payment of interest and principal on obligations for such financing; and

"(C) require that the applicant or assistance for a facility under this section advance sums to eligible States, political subdivisions, and Indian tribes to pay for the financing of such development and planning, except that the State, political subdivision, or Indian tribe agrees to provide tax abatement credits over the life of the facilities for such payments by such applicant.

"(2) Prior to issuing any guarantee or commitment to guarantee under this subsection, the Administrator shall obtain the concurrence of the Secretary of the Treasury with respect to the timing, interest rate, and substantial terms and conditions of such guarantee. The Secretary of the Treasury shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of such guarantee will have the minimum possible impact on the capital markets of the United States, taking into account other Federal activities which directly or indirectly impact on such capital markets.

"(3) The amount of obligations authorized for any guarantee and commitment to guarantee under paragraph (1) of this subsection is $150,000,000 for each of the following fiscal years, 1977 and 1978, except that such obligations guaranteed or committed to be guaranteed which may be outstanding at any time in any fiscal year shall not exceed the aggregate of the total amount authorized pursuant to this subsection for that fiscal year and all preceding fiscal years.

"(4) In the event of any default by the borrower in the payment of taxes guaranteed by the Administrator under this subsection, the Administrator shall pay out of the fund established by this section such taxes at the time or times they may fall due, and shall have by reason of such payment a claim against the borrower for all sums paid plus interest.

"(5) If after consultation with the State, political subdivision, or Indian tribe, the Administrator finds that the financial assistance programs of paragraph (1) of this subsection will not result in sufficient funds to carry out the purposes of this subsection, then the Administrator may—

"(A) make direct loans to the eligible States, political subdivisions, or Indian tribes for such purposes on such reasonable terms and conditions as the Administrator shall prescribe. The Administrator may waive repayment of all or part of a loan made under this paragraph, including interest, if the State or political subdivision or Indian tribe involved demonstrates to the satisfaction of the Administrator that due to a change in circumstances there will be net adverse impacts resulting from such demonstration or modular facility that would probably cause such State, subdivision, or tribe to default on the loan; or

"(B) require that any community development and planning costs which are associated with, or result from, such demonstration or modular facility and which are determined by the Administrator to be appropriate for such inclusion shall be included in the total costs of the demonstration or modular facility.

"(6) The Administrator is further authorized to make grants to States, political subdivisions, or Indian tribes for studying and planning for the potential economic, environmental, and social consequences of demonstration and modular facilities, and for establishing related management expertise.

"(7) At any time the Administrator may, with the concurrence of the Secretary of the Treasury, redeem, in whole or in part, out of the fund established by this section, the debt obligations guaranteed or the debt obligations for which tax payments are guaranteed under this subsection.

"(8) When one or more States, political subdivisions, or Indian tribes would be eligible for assistance under this subsection, but for the fact that construction and operation of the demonstration or modular facilities occurs outside its jurisdiction, the Administrator is authorized to provide, to the greatest extent possible, arrangements for equitable sharing of such assistance.

"(9)(A) Such amounts as may be necessary for direct loans pursuant to this subsection shall be available as provided in annual authorization Acts and shall be requested in fiscal year 1977, and in subsequent fiscal years.

"(B) There is hereby authorized to be appropriated for the fiscal year ending September 30, 1977, $2,000,000 for grants to be used to carry out the purposes of this subsection.

"(10) The Administrator, if appropriate, shall provide assistance in the financing of up to 100 per centum of the costs of the required community development and planning pursuant to this subsection.

"(11) In carrying out the provisions of this subsection, the Administrator shall provide that title to any facility receiving financial assistance under this subsection shall vest in the applicable State, political subdivision, or Indian tribe, as appropriate, and in the case of default by the borrower on a loan guarantee made or committed under subsection (b) of this section, such facility shall not be considered a project asset for the purposes of subsection (g) of this section.

"(1)(1) The Administrator shall submit a report to the Congress within 180 days after the date of enactment of this section setting forth his recommendations on the best opportunities to implement a program of Federal financial assistance with the objective of demonstrating production and conservation of energy. Such report shall be updated and submitted to Congress at least annually for the duration of the program authorized by this section and shall include specific comments and recommendations by the Secretary of the Treasury on the methods and procedures set forth in subparagraph (B)(viii) of this paragraph, including their adequacy, and changes necessary to satisfy the objectives stated in this subsection. This report shall include—

"(A) a study of the purchase or commitment to purchase by the Federal Government, for use by the United States, of all or a portion of the products of any synthetic fuel facilities constructed pursuant to this program as a direct or an alternate form of Federal assistance, which assistance, if recommended, shall be carried out pursuant to section 7(a)(4) of this Act;

"(B) a comprehensive plan and program to acquire information and evaluate the environmental, economic, social, and technological impacts of the program under this section. In preparing such a comprehensive plan and program, the Administrator shall consult with the Environmental Protection Agency, the Federal Energy Administration, the Department of Housing and Urban Development, the Department of the Interior, the Department of Agriculture, and the Department of the Treasury, and shall include therein, but not be limited to, the following:

"(i) information about potential demonstration facilities proposed in the program under this section;

"(ii) any significant adverse impacts which may result from any activity included in the program;

"(iii) the extent to which it is feasible to commercialize the technologies as they affect different regions of the Nation;

"(iv) proposed regulations required to carry out the purposes of this section;

"(v) a list of Federal agencies, governmental entities, and other persons that will be consulted or utilized to implement the program;

"(vi) the methods and procedures by which the information gathered under the program will be analyzed and disseminated;

"(vii) a plan for the study and monitoring of the health effects of such facilities on workers and other persons, including, but not limited to, any carcinogenic effect of synthetic fuels; and

"(viii) the methods and procedures to insure that (I) the use of Federal assistance for demonstration and modular facilities is kept to the minimum level necessary for the information objectives of this section, (II) the impact of loan guarantees on the capital markets of the United States is minimized, taking into account other Federal activities which directly or indirectly impact on such capital markets, and any economic sectors which may be negatively impacted as a result of the reduction of capital by the placement of guaranteed loans, and (III) the granting of Federal loan guarantees under this Act does not impede movement toward improvement in the climate for attracting private capital to develop synthetic fuels without continued direct Federal incentives; and

"(C) an analysis of the cost effectiveness of

different types of energy investments for which assistance is available under this Act, and a ranking of such types of investments according to their cost effectiveness. As used in this subparagraph, the term 'cost effectiveness' means the number of units of net energy conserved or produced per dollar expenditure (discounted to present value).

"(2) The Administrator shall annually submit a detailed report to the Congress concerning—

"(A) the actions taken or not taken by the Administrator under this section during the preceding fiscal year, and including, but not be limited to (i) a discussion of the status of each demonstration and modular facility and related facilities financed under this section, including progress made in the development of such facilities, and the expected or actual production from each such facility, including byproduct production therefrom, and the distribution of such products and byproducts, (ii) a detailed statement of the financial conditions of each such demonstration and modular facility, (iii) data concerning the environmental, community, and health and safety impacts of each such facility and the actions taken or planned to prevent or mitigate such impacts, (iv) the administrative and other costs incurred by the Administrator and other Federal agencies in carrying out this program, and (v) such other data as may be helpful in keeping Congress and the public fully and currently informed about the program authorized by this section; and

"(B) the activities of the funds referred to in subsection (n) of this section during the preceding fiscal year, including a statement of the amount and source of fees or other moneys, property, or assets deposited into the funds, all payments made, the notes or other obligations issued by the Administrator, and such other data as may be appropriate.

"(3) The annual reports required by this subsection shall be a part of the annual report required by section 15 of this Act, except that the matters required to be reported by this subsection shall be clearly set out and identified in such annual reports. Such reports and the 180-day report required in paragraph (1) of this subsection shall be transmitted to the Speaker of the House of Representatives and to the President of the Senate.

"(m)(1) Prior to issuing any guarantee or commitment to guarantee pursuant to subsection (b)(1) of this section, the Administrator shall submit to the House of Representatives and the Senate a full and complete report on the proposed demonstration facility and such guarantee. Such guarantee or commitment to guarantee shall not be finalized under the authority granted by this section prior to the expiration in 90 calendar days of continuous session of Congress (within the meaning of section 551(d) of the Energy Policy and Conservation Act) after the date on which such report is received by the Congress.

"(2) If the cost of any demonstration facility in paragraph (1) exceeds $100,000,000, any guarantee or commitment to guarantee may not be made or entered into unless—

"(A) the Administrator has transmitted a full and complete report on the proposed demonstration facility to the Congress in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act; and

"(B) neither House of Congress has disapproved such proposal in accordance with the procedures specified in section 551 of such Act.

"(3) For purposes of congressional review of proposals submitted under paragraph (2) of this subsection, the 5 calendar days described in section 551(f)(4)(A) of such Act shall be lengthened to 30 calendar days, and the 15 calendar days described in section 551 (c) and (d) of such Act shall be lengthened to 90 calendar days.

"(n)(1) There is hereby created within the Treasury a separate fund (hereafter in this section called the 'fund') which shall be available to the Administrator without fiscal year limitation as a revolving fund for the purpose of carrying out the program authorized by subsection (b) and subsections (g), (h), and (k) of this section. The Geothermal Resources Development Fund established by the Geothermal Energy Research, Development, and Demonstration Act of 1974 shall be available for the purpose of carrying out the geothermal loan guarantee program as established by that Act and as further implemented by this section.

"(2) There are authorized to be appropriated from time to time such other amounts as may be necessary to carry out the purposes of the applicable provisions of this section, including, but not limited to, the payments of interest and principal and the payment of interest differentials and redemption of debts, but excluding administrative expenses. All amounts received by the Administrator as interest payments or repayments of principal on loans which are guaranteed under this section, fees, and any other moneys, property, or assets derived by him from operations under this section shall be deposited in the fund or in the Geothermal Resources Development Fund, as applicable.

"(3) All payments on obligations and repayments pursuant to operations of the Administrator under this section shall be paid from the fund subject to appropriations or from the Geothermal Resources Development Fund, as applicable. Administrative expenses (including reimbursements to other government accounts) may be paid from the fund to the extent (A) authorized by law, and (B) provided in appropriations Acts. If at any time the Administrator determines that moneys in the fund exceed the present and reasonably foreseeable future requirements of the fund, such excess shall be transferred to the general fund of the Treasury.

"(4) If at any time the moneys available in the fund or in the Geothermal Resources Development Fund are insufficient to enable the Administrator to discharge his responsibilities as authorized by subsection (b), (g), (h), and (k) of this section, or the Geothermal Energy Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1101), as the case may be, the Administrator shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the Administrator from appropriations or other moneys available under paragraph (2) of this subsection for loan guarantees authorized by subsection (b) and subsections (g), (h), and (k) of this section, and from appropriations or other moneys available under section 204 of the Geothermal Energy Research, Development, and Demonstration Act of 1974 for loan guarantees described in subclause (iv) of subsection (b)(1)(A) of this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall not be less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection.

"(5) The provisions of this subsection do not apply to direct loans or planning grants made under subsection (k) of this section.

"(6) There is authorized to be appropriated in fiscal year 1977 $2,000,000 for administrative expenses. The amount authorized for such expenses shall be established in annual authorization Acts.

"(o) For the purposes of this section, the term—

"(1) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, or any territory or possession of the United States.

"(2) 'United States' means the States, and

"(3) 'borrower' or 'applicant' includes any individual, firm, corporation, company, partnership, association, society, trust, joint venture, joint stock company, public utility district, or other non-Federal entity.

"(p)(1) An applicant seeking a guarantee under subsection (b) of this section shall be a citizen or legal resident of the United States. A corporation, partnership, firm, or association shall not be deemed to be a citizen or legal resident of the United States unless the Administrator determines that it satisfactorily meets all the requirements of section 802 of title 46, United States Code, for determining such citizenship, except that the provisions in subsection (a) of such section 802 concerning (A) the citizenship of officers or directors of a corporation, and (B) the interest required to be owned in the case of a corporation, association, or partnership operating a vessel in the coastwise trade, shall not be applicable.

"(2) The Administrator, in consultation with the Secretary of State, may waive such requirements in the case of a corporation, partnership, firm or association, controlling interest in which is owned by citizens of countries which are participants in the International Energy Agreement: *Provided*, That it is established by a certificate filed with the Administrator that not less than 90 percentum of the employees of such corporation, partnership, firm, or association, are and will continue to be during the term of any guarantee or agreement issued under this section to such corporation, partnership, firm or association, citizen or legal resident of the United States.

"(q) No part of the program authorized by this section shall be transferred to any other agency or authority, unless specifically authorized by law after the date of enactment of this section, except that the Administrator may delegate his functions under this section with respect to any facility for recovery of energy or fuel from any waste or discarded material to the Administrator of the Environmental Protection Agency.

"(r) Inventions made or conceived in the course of or under a guarantee authorized by this section shall be subject to the title and waiver requirements and conditions of section 9 of this Act.

"(s)(1) Each officer or employee of the Energy Research and Development Administration and the Secretary of the Treasury who—

"(A) performs any function or duty under this section; and

"(B)(i) has any known financial interest in any person who is applying for or receiving financial assistance for a demonstration or modular facility under this section; or

"(ii) has any known financial interest in property from which coal, natural gas, oil shale, crude oil, or other energy resources is produced in connection with any demonstration or modular facility receiving financial assistance under this section,

shall, beginning on February 1, 1977, annually file with the Administrator or the Secretary, as appropriate, a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

"(2) The Administrator or the Secretary of the Treasury shall—

"(A) act within 90 days after the date of enactment of this Act—

"(i) to define the term 'known financial interest' for purposes of paragraph (1) of this subsection; and

"(ii) to establish the methods by which the requirements to file written statements specified in paragraph (1) will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Administrator or the Secretary of the Treasury of such statements; and

"(B) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

"(3) In the rules prescribed in paragraph (2) of this subsection, the Administrator or the Secretary of the Treasury may identify specific positions within the Administration or the Treasury Department which are of a nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this subsection.

"(4) Any officer or employee who is subject to, and knowingly violates, this subsection or any regulation issued thereunder shall be fined not more than $2,500, or imprisoned not more than one year, or both.

"(5) No fulltime officer or employee of the Energy Research and Development Administration who directly or indirectly discharged duties or responsibilities under this section, and who was at any time during the twelve months preceding the termination of his employment with the Administration compensated under the Executive Schedule or compensated at or above the annual rate of basic pay for grade GS–16 of the General Schedule, shall accept, for a period of two years after the date of termination of employment with the Administration, employment or compensation, directly or indirectly, from any person, persons, association, corporation or other entity, that had entered into a cooperative agreement or guarantee or commitment to guarantee with the Administration under this section during such time as such officer or employee discharged duties or responsibilities under this section.

"(t) Nothing in this section shall be construed as affecting the obligations of any person receiving financial assistance pursuant to this section to comply with Federal and State environmental, land use, water, and health and safety laws and regulations or to obtain Federal and State permits, licenses, and certificates.

"(u) The provisos in the third sentence of section 17 of this Act shall not apply to information obtained by the Administrator for the purpose of carrying out this section.

"(v) Notwithstanding any other provision of this section, the authority provided in this section to make guarantees or commitments to guarantee under subsection (b), to make guarantees or commitments to guarantee, or to make loan or grants, under subsection (k), to make contracts under subsection (h), to use fees and receipts collected under subsection (b) and (j) of this section, and the authorities provided under subsection (n) of this section shall be effective only to the extent provided, without fiscal year limitation, in appropriation Acts enacted after the date of enactment of this section.

"(w) No person in the United States shall on the grounds of race, color, religion, national origin, or sex, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with assistance made available under this section: *Provided*, That Indian tribes are exempt from the operation of this subsection: *Provided further*, That such exemption shall be limited to the planning and provision of public facilities which are located on reservations and which are provided for members of the affected Indian tribes as the primary beneficiaries.

"(x) In carrying out his functions under this section, the Administrator shall provide a realistic and adequate opportunity for small business concerns to participate in the program to the optimum extent feasible consistent with the size and nature of each project. No more than 75 per centum of the aggregate amount of loans authorized to be guaranteed by the Administrator may be issued with respect to demonstration facilities the total cost of each of which exceeds $10,000,000.

"(y)(A) Recipients of financial assistance under this section shall keep such records and other pertinent documents, as the Administrator shall prescribe by rule, including, but not limited to, records which fully disclose the disposition of the proceeds of such assistance, the cost of any facility, the total cost of the provision of public facilities for which assistance was used, and such other records as the Administrator may require to facilitate an effective audit. The Administrator and the Comptroller General of the United States or their duly authorized representatives shall have access, for the purpose of audit, to such records and other pertinent data.

"(B) Within 6 months after the date of enactment of this section and at 6-month intervals thereafter, the Comptroller General of the United States shall make an audit of recipients of financial assistance under this section. The Comptroller General may prescribe such rules as he deems necessary to carry out this subparagraph.

"(z) All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5). The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948; 40 U.S.C. 276c)."

By Mr. McKINNEY:

(Amendment to Interstate and Foreign Commerce Substitute.)

On page 124, line 11, strike Section 19(r)(1) and insert therein the following new Section 19(r)(1):

"(r)(1) Inventions made or conceived in the course of or under a guarantee authorized by this section shall *not* be subject to the title and waiver requirements and conditions of section 9 of this Act *except in the event of a default as defined under subsection (g) of this section.*" (NOTE.—Proposed changes are in italic.)

By Mr. MILLER of Ohio:

(Amendment to the amendment in the nature of a substitute offered by Mr. TEAGUE (printed in the CONGRESSIONAL RECORD of August 26, 1976, on pages 27908–27913.)

In subsection (g)(4) of section 19 of the Federal Nonnuclear Energy Research and Development Act of 1974, as added by subsection (b) of the first section of the amendment in the nature of a substitute offered by Mr. TEAGUE, insert immediately after "section 9 of this Act" the following: "or for which title has vested under subsection (r)(1) of this section."

In subsection (r) of such section 19, insert "(1)" immediately after "(r)" and strike out the period and insert in lieu thereof the following: ", except that—

"(A) any individual making or conceiving any such invention shall be entitled to 5 per centum of the title to such invention, and 5 per centum of any proceeds to which the United States is entitled as a result of the grant of all or any part of the rights to such invention under this Act; and

"(B) any person or government employing or assigning any work to any individual making or conceiving any such invention shall be entitled to 25 per centum of the title to such invention, and 25 per centum of any proceeds to which the United States is entitled as a result of the grant of all or any part of the rights to such invention under this Act, if such invention is made or conceived within the scope of the employment or assignment involved.

"(2) In the event of any default referred to in subsection (g) of this section, any invention to which any title has vested under paragraph (1) shall be subject to the provisions of subsection (g)(4) of this section."

(Amendment to the amendment of the Committee on Interstate and Foreign Commerce.)

Page 114, line 33, insert immediately after "Act" the following: "or for which title has vested under subsection (r)(1)(A) of this section".

Page 124, line 11, insert "(A)" immediately after "(1)".

Page 124, line 13, strike out the period and insert in lieu thereof the following: "except that—

"(i) any individual making or conceiving any such invention shall be entitled to 5 per centum of the title to such invention, and 5 per centum of any proceeds to which the United States is entitled as a result of the grant of all or any part of the rights to such invention under this Act; and

"(ii) any person or government employing or assigning any work to any individual making or conceiving any such invention shall be entitled to 25 per centum of the title to such invention, and 25 per centum of any proceeds to which the United States is entitled as a result of the grant of all or any part of the rights to such invention under this Act, if such invention is made or conceived within the scope of the employment or assignment involved.

"(B) In the event of any default referred to in subsection (g) of this section, any invention to which any title has vested under subparagraph (A) shall be subject to the provisions of subsection (g)(4) of this section."

By Mr. MOFFETT:

(Amendments to the amendment recommended by Interstate and Foreign Commerce Committee to section 1 of amendment in the nature of a substitute offered by Mr. TEAGUE (page and line references to Union Calendar bill No. 674).)

On page 124, insert before the period on line 3 the following: "; but only if it is established by a certificate filed with the Administrator that not less than 90 per centum of the employees of such corporation, partnership, firm, or association, are and will continue to be during the term of any guarantee or agreement issued under this section to such corporation, partnership, firm, or association legal residents of the United States."

On page 126, after line 2, insert the following new paragraph:

"(4) No full-time officer or employee of the Energy Research and Development Administration who directly or indirectly discharged duties or responsibilities under this section, and who was at any time during the twelve months preceding the termination of his employment with the Administration compensated under Executive Schedule or compensated at or above the annual rate of basic pay for grade GS–16 of the General Schedule, shall accept, for a period of two years after the date of termination of employment with the Administration, employment or compensation, directly or indirectly, from any person, persons, association, corporation, or other entity, that had entered into a cooper-

ative agreement or guarantee or commitment to guarantee with the Administration under this section during such time as such officer or employee discharged duties or responsibilities under this section."

On Page 126, line 3, strike out "(4)" and insert "(5)".

By Mr. OTTINGER:

(Amendment to the amendment in the nature of a substitute offered by Mr. TEAGUE.)

In section 19(c) of the Federal Nonnuclear Energy Research and Development Act of 1974 (as added by the first section of the amendment in the nature of a substitute offered by Mr. TEAGUE):

(1) Strike out "and" at the end of paragraph (8),

(2) Insert after paragraph (8) the following:

"(9) in the case of a demonstration facility which converts any coal (including lignite) from a surface mine to synthetic fuel, the President or his delegate has prescribed regulations for the purpose of reduction and control of adverse environmental effects resulting from operation of such surface mine, and such regulations have been transmitted to each House of Congress and approved by Congress by law;" and

(3) Redesignate paragraph (9) as paragraph (10).

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the CONGRESSIONAL RECORD of September 21, 1976, page 31714:

HOUSE BILLS

H.R. 15356. August 31, 1976. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to: (1) require the Civil Aeronautics Board to consider the necessity of competitive market forces in the air transportation system; (2) limit the time in which the Board has to pass on applications for certificates of public convenience and necessity; (3) revise procedures for route transfers, pooling agreements, rate changes and abandonments; (4) remove restrictions on nonstop service; and (5) remove the authority of the Postmaster General to require air carriers to establish additional schedules for the transportation of mail between two points served by such carrier.

H.R. 15357. August 31, 1976. Ways and Means. Amends the Tariff Schedules of the United States to require proof of automobile property and personal liability insurance on automobiles imported for the personal use of nonresidents and foreign government personnel, in an amount equal to the minimum insurance requirements in those States in which the vehicle will be operated.

Directs the Secretary of the Treasury to forward certain identifying information on such vehicles to the Secretary of Transportation who shall forward such information to the appropriate State agency responsible for motor vehicle registration.

H.R. 15358. August 31, 1976. Public Works and Transportation. Amends the Appalachian Regional Development Act of 1965 to increase the amount of available Federal assistance as a percentage of the total costs of Appalachian development highway projects.

H.R. 15359. August 31, 1976. Science and Technology; Atomic Energy. Requires the submission of a supplemental plan evaluating future energy programs, to be transmitted to the Congress by the Administrator of the Energy Research and Development Administration. Establishes an Energy Production Planning Committee to prepare such plan.

H.R. 15360. August 31, 1976. Post Office and Civil Service. Prohibits carriers of Federal employee health benefits plans from reducing benefits or excluding any class of provider of health services unless the Civil Service Commission gives notice of, and conducts hearings relative to, the proposed change within prescribed time limits.

H.R. 15361. August 31, 1976. Post Office and Civil Service. Requires that the following information be posted in a prominent place in each post office: (1) the qualifications, dates, and places for voter registration and voting in the area served by the post office; (2) the names and office addresses of the United States Senators and Representatives for the area served by the post office; (3) the names and office addresses of the State legislators representing the area served by the post office; and (4) the cost and availability of Western Union public opinion messages to the President, Vice President, and Members of Congress.

H.R. 15362. August 31, 1976. Agriculture. Prohibits the importation of palm oil and palm oil products unless the Secretary of Agriculture certifies that such products are pure and wholesome and meet sanitation standards. Authorizes the Secretary to establish such standards, and to inspect such imports. Requires that such imports meet the packaging and labeling requirements in effect in the United States and specify the country of origin. Makes all palm oil in the United States subject to the Federal Food, Drug, and Cosmetic Act. Sets forth labeling requirements for palm oil in the United States. Prescribes penalties for violation of this Act.

H.R. 15363. August 31, 1976. Agriculture. Amends the Forest and Rangeland Renewable Resources Planning Act to direct the Secretary of Agriculture to prepare specified reports and to submit specified budget estimates for the purpose of reducing the backlog of National Forest System lands in need of reforestation or other treatment.

Sets forth guidelines and standards pertaining to the development and revision of land and resource management plans.

Revises provisions relating to sale of forest products found upon national forest lands.

Prohibits the return to the public domain of national forest lands other than by Act of Congress.

Abolishes the National Forest Reservation Commission.

H.R. 15364. August 31, 1976. Judiciary; Standards of Official Conduct. Requires candidates for Federal office, Members of the Congress, and certain officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions.

H.R. 15365. August 31, 1976. Post Office and Civil Service. Includes as creditable service for the computation of civil service retirement annuities, all periods of service, not otherwise creditable, performed under agreements to which the Federal Government was a party in the employ of a State, or a political subdivision thereof, or of any instrumentality of either in the carrying out of specified Federal-State cooperative programs.

H.R. 15366. August 31, 1976. Merchant Marine and Fisheries. Directs the Secretary of Commerce to establish a National Aquaculture Development Plan to identify each aquatic species which can be commercially cultured and to contain a program of aquacultural development for such species.

Establishes the Interagency Committee on Aquaculture to coordinate aquacultural programs and projects.

Establishes within the Treasury a Federal Aquaculture Assistance Fund to guarantee loans for the financing of aquacultural facilities and to make disaster loans available to recipients of such guaranteed loans. Authorizes a program of grants for aquacultural projects.

H.R. 15367. August 31, 1976. Public Works and Transportation. Directs the Secretary of the Army, acting through the Chief of Engineers, to study methods to develop, utilize, and conserve the land and water resources in the Hilo Bay Area in Hawaii.

H.R. 15368. August 31, 1976. Science and Technology. Amends the Federal Fire Prevention and Control Act to require the Administrator of the National Fire Prevention and Control Administration to give priority, in allocating training grants, to training programs which employ techniques that simulate fire experiences.

H.R. 15369. August 31, 1976. Ways and Means. Amends the Tariff Schedules of the United States to impose a customs duty on the importation of candles and tapers.

H.R. 15370. August 31, 1976. Post Office and Civil Service. Extends the period during which a Member or Member-elect of Congress who is a candidate in a primary or general election is prohibited from sending mass mailings as franked mail to 60 days before such election.

EXTENSIONS OF REMARKS

SHOULD AROUSE CONGRESS

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Wednesday, September 22, 1976

Mr. HARRY F. BYRD, JR. Mr. President, on August 31, the distinguished Senator from North Carolina (Mr. HELMS), the distinguished Senator from Alabama (Mr. ALLEN) and I engaged in a colloquy on the need for a critical reappraisal of our present system of life tenure for Federal judges.

At that time, I moved the Senate to restore to the Calendar Senate Joint Resolution 16, a proposed constitutional amendment to require reconfirmation of Federal judges every 8 years. Both Senator ALLEN and Senator HELMS have cosponsored that proposal with me, along with Senators NUNN, TALMADGE, GARN, and GRAVEL.

On September 2, the Staunton, Virginia Leader commented editorially on this matter. It noted:

The need for such an amendment, which Sen. Harry F. Byrd, Jr. co-sponsored with six others, has been well demonstrated in recent years. . .

The editorial also mentioned the recently released results of a nationwide poll sponsored by the National Federation of Independent Businesses in which the question was asked: Should Federal judges be appointed for a limited term or for life?

An overwhelming 86 percent of the respondents of that 460,000 member organization favored some form of limited tenure for Federal judges.

In seeking a reason for such a singular sanction to our present system of life tenure, the Leader said: