provisions of this paragraph shall apply as if such first increase were in effect with respect to computation of a child's annuity under section 221(c) which commenced between January 2 of the year preceding the first increase and the effective date of the first increase.

"(c) No increase in annuity provided by this section shall be computed on any additional annuity purchased at retirement by voluntary contributions.

"(d) The monthly installment of annuity after adjustment under this section shall be fixed at the nearest dollar."

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

There was no objection.

The Senate amendment was concurred in.

A motion to reconsider was laid on the table.

AMENDING SECTION 5 OF THE EMPLOYMENT ACT OF 1946

Mr. BOLLING. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (S. 3174) to amend section 5 of the Employment Act of 1946.

The Clerk read the title of the bill.

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

There was no objection.

The Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5(e) of the Employment Act of 1946, as amended (15 U.S.C. 1024; 60 Stat. 23, Public Law 304, Seventy-ninth Congress) is amended to read as follows:

"(e) To enable the joint committee to exercise its powers, functions, and duties under this Act, there are authorized to be appropriated for each fiscal year such sums as may be necessary, to be disbursed by the Secretary of the Senate on vouchers signed by the chairman or vice chairman."

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

MODIFYING RETIREMENT BENEFITS OF DISTRICT OF COLUMBIA JUDGES

Mr. McMILLAN. Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution, House Concurrent Resolution 370.

The Clerk read the concurrent resolution as follows:

Resolved by the House of Representatives (the Senate concurring), That the Clerk of the House of Representatives in the enrollment of the bill (H.R. 5871) to amend section 11 of the Act of April 1, 1942, in order to modify the retirement benefits of the judges of the District of Columbia Court of General Sessions, the District of Columbia Court of Appeals, and the Juvenile Court of the District of Columbia, and for other purposes, is authorized and directed—

(1) to strike out all after the enacting clause down through and including "SEC. 11, (a) (1) Any judge" and insert in lieu thereof the following:

That section 11–1701 of the District of Columbia Code is amended to read as follows:

"§ 11–1701. Retirement, resignation, and nonreappointment of judges; recall

"(a) (1) Any judge"

(2) to strike out in the title of the bill "amend section 11 of the Act of April 1, 1942, in order to".

Mr. McMILLAN. Mr. Speaker, the purpose of this concurrent resolution is to direct the Clerk of the House to make a technical amendment in enrolling the bill H.R. 5871:

To amend section 11 of the act of April 1, 1942, in order to modify the retirement benefits of the judges of the District of Columbia Court of General Sessions, the District of Columbia Court of Appeals, and the Juvenile Court of the District of Columbia, and for other purposes.

Two days ago, the House concurred in the Senate amendments to H.R. 5871, but a technical error remains therein and should be corrected before the bill goes to the President.

Briefly, H.R. 5871 passed the House originally on October 14, 1963, and was sent to the other body. Subsequently, namely, on December 23, 1963, Public Law 88–241 was approved which recodified certain sections of the District of Columbia code, including the section pertaining to the retirement of judges, which H.R. 5871 amends.

Properly thereafter, the other body, when considering H.R. 5871, should have amended the same to refer to the codified section, and that is what the resolution now directs the Clerk of the House to correct.

The concurrent resolution involves no change whatever in substance.

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

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

Bill File

MAKING IN ORDER CONFERENCE ON H.R. 11380, TO AMEND FURTHER THE FOREIGN ASSISTANCE ACT OF 1961.

Mr. SMITH of Virginia. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 895 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That immediately upon the adoption of this resolution the bill (H.R. 11380) to amend further the Foreign Assistance Act of 1961, as amended, and for other purposes, with the Senate amendments thereto, be, and the same hereby is, taken from the Speaker's table, to the end that the Senate amendments be, and the same are hereby, disagreed to and that the conference requested by the Senate on the disagreeing votes of the two Houses be, and the same is hereby agreed to.

Mr. SMITH of Virginia. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio [Mr. BROWN], and pending that I yield myself such time as I may consume.

Mr. Speaker, this is a rather important proposition which is going to be presented to the House today. This is a rule to send to conference the foreign aid bill. There are two provisions in it which are quite controversial. One is a Senate amendment with respect to the civil service status of employees of the foreign aid agency. The other is the so-called Dirksen amendment, which was adopted in the other body, which I shall discuss in a few minutes.

Let me say that I understood there would be a motion to instruct the conferees with respect to the first item which I have mentioned. We had before the Rules Committee yesterday the chairman of the Committee on Foreign Affairs, who gave us very definite assurances that the House conferees would not agree to that in conference, and that if it were insisted upon by the Senate conferees the House conferees would bring the matter back to the House so that the House could have a vote and either reaffirms or not reaffirms previous action on this matter. I believe it was rejected by the House when the bill was passed.

I hope this meets with the approval of the gentleman who is going to offer the motion to instruct. It would seem to me that would accomplish the object which the gentleman desires to accomplish, of giving the House the opportunity to vote upon the matter. We have a very positive understanding with the chairman of the Committee on Foreign Affairs that that will be done and that the House will be given the opportunity to vote if the conferees cannot strike it out in the conference.

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

Mr. SMITH of Virginia. I yield to the gentleman from Michigan.

Mr. JOHANSEN. I wish to comment that I appreciate the assurance the gentleman makes with respect to the substitute for the Dirksen amendment and that it conforms to my understanding and meets the purpose I had in objecting yesterday.

Mr. SMITH of Virginia. The other matter is the Dirksen amendment. We have had our debates about that in the House, on the so-called Tuck bill. The House has expressed itself by a very substantial majority in favor of the Tuck bill, which would do something about the reapportionment decision of the Supreme Court.

The Dirksen amendment, let me say to you, in my judgment and in the judgment of all of those to whom I have talked, has certainly no binding effect. If it had any binding effect, the tail end of the sentence which gives it its effect would repeal that. However, I am chiefly concerned about the Dirksen amendment because of the concluding paragraph, which is paragraph (b) and which is found on page 27 of the amended foreign aid bill as it comes back to the House. Now, the House has expressed itself very firmly I think on its refusal to recognize the constitutional power of the Supreme Court to enact legislation. Everybody knows that no such thing was contemplated by our Constitution or by any amendment attached thereto. If

there is one vital principle about our system of government, it is that we must carefully preserve the basic principle of three separate and distinct branches of the Government—legislative, executive, and judicial—laid down and prescribed in the Constitution itself in very plain words.

Some people may say that this does not affirm by the Congress the right of the Supreme Court to enact legislation. I specifically want to call the attention of the House to the language of that subparagraph (b) on page 27 of the amended bill as it comes to us from the other body because it specifically authorizes and, in fact, it urges the Supreme Court to enact a law. Now in an apportionment bill apportioning the State legislatures that is a law, that is legislation. If some resident of my State or of your State desires to know in what legislative district he is, then he looks at the law enacted by the legislature in accordance with the Constitution. However, if this present policy is pursued, then you do not look in your statute books to find out what the law is. No. If you want to know in what legislative district you live and in what magisterial district of your State you are, because that is what follows, and if you want to know what ward in your city you live in, you do not look at the law written in the law books, but you have to go and get a lawyer or yourself be able to ferret out and read the decision of the Supreme Court in order to know in what legislative or magisterial district you are. There is not any question in the world but that this is plain, simple, 100 percent, without any doubt and without any argument, legislation enacted by the Supreme Court of the United States. This House has within the past few weeks repudiated the idea of the Supreme Court under any circumstances, under any conditions, or any construction of the Constitution being authorized to enact a law.

Now I want to read you this clause in subparagraph (b) and if you agree to this Senate amendment, then here is what you have agreed to. It says:

(b) In the event that a State fails to apportion representation in the legislature in accordance with the Constitution within the time granted by any order pursuant to this section, the district court having jurisdiction of the action shall apportion representation in such legislature among appropriate districts so as to conform to the constitution and laws of such State insofar as is possible consistent with the requirements—

Now, it says so right there. There is not any question about it. It says that the courts shall apportion. In other words, they must enact a law specifying what the various and sundry districts are. How can a conscientious legislator who has taken the trouble to read—just to read—that sentence ever vote for any such thing as that? I am one of those who would like very much, as most of you know, to enact some legislation that would have some effectiveness that would stop this march of the Supreme Court into the legislative field. Because if you ever agree to this, be forewarned that the Supreme Court of the United States will be your chief legislative body from this day on. And you do not know what they might be legislating on in the next phase of this march toward a foreign system of government which we have never had occasion to encounter before in this country.

This is the first case in any study that I have made of the subject, in which the Federal courts, in all the history of this Nation, have undertaken to write law and take from the legislative bodies of the Federal Government and of the State governments their primary function to enact laws. They may be declared unconstitutional. They may issue an injunction, and they do. But this is the first time, I assert, that they have ever gone so far as to actually physically enact the law which shall be binding upon the people which is the primary function of the legislative body.

So I trust that the conference committee will—and I have the assurance of the chairman of the Committee on Foreign Affairs that the House conferees will reject this Senate amendment which means nothing with respect to the purposes for which it was presumably designed, because it is utterly futile; but means very much, and represents a very deep road into the functions, and the exclusive functions of the legislative bodies of this country, both in the States and the Federal Government.

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

Mr. SMITH of Virginia. Mr. Speaker, I am delighted to yield to the gentleman from New York, the chairman of the Committee on the Judiciary.

Mr. CELLER. Do you think it would be possible for the Senate conferees, in light of the history of the Dirksen amendment, to agree to that rejection? You remember, there was a filibuster of some 35 days, and we have a sort of a stalemate. We are all anxious to go home. I know this is a rather long question, but does the gentleman agree that the so-called Dirksen amendment is really of no real consequence in the sense that it only expresses the sense of Congress?

Mr. BROWN of Ohio. Mr. Speaker, may I suggest to the gentleman that we cannot hear him on this side.

Mr. CELLER. I thought that the Senate conferees might not, in light of the history of the Dirksen amendment, accept the rejection suggested by the gentleman from Virginia of the Dirksen amendment. There was, as we all know, a very prolonged and acrimonious debate in the Senate which resulted in a so-called compromise, which is the last form of the Dirksen amendment. Of course, if the Senate conferees would not accept the rejection of the House conferees, there would be a stalemate and there would exist another reason why we could not possibly get home and do our necessary campaigning.

I am curious to know the gentleman's reaction in that respect.

Mr. SMITH of Virginia. Well, the gentleman from New York and I usually get along pretty good. But I might say to him in reply that my first reaction to it is that if the gentleman would get busy over in his committee and bring us out a constitutional amendment or bring us out something with some teeth in it, we would not be in this situation. I still hope that he might do that. I know he is conscientious in his view, just as the rest of us are. But this is a serious and vital situation.

I wonder if the gentleman agrees with me that these decisions of the Supreme Court and the decisions of the lower courts in which they undertake to actually write and put upon the people a reapportionment act—the gentleman surely does not disagree with me that that is legislation?

Mr. CELLER. Mr. Speaker, if the gentleman will yield further, I do not believe that the gentleman from Virginia puts the proper interpretation upon what the Supreme Court or the lower Federal courts can do with reference to marking out the lines of the various boroughs in the various States for seats in the legislatures of the States.

The courts have equity powers. They simply say to the officials of the States, we feel that these lines should be drawn thus and so.

Mr. SMITH of Virginia. Oh, no, no, no, they do not.

Mr. CELLER. An order to draw lines thus and so, and if you do not do it, you will be in contempt of the court.

Mr. SMITH of Virginia. Oh, no, no, no.

Mr. CELLER. It does not follow that the lines must be exactly as the Supreme Court laid them out. They can be appreciably in that manner.

There are a number of decisions in that respect. All the courts do is to say to the State legislature, do away with the so-called rotten boroughs, do away with the malajustments and establish the principle of one person, one vote. If you do not do it, we will say that you must do it thus and so. But it simply says, in effect, if you do not do it then you are fined for contempt of court.

I do not see that the exercise of the equity powers of the court in that respect is legislation.

Mr. SMITH of Virginia. Now the gentleman from New York has one of the busiest if not the busiest committee in this House of Representatives. It is certainly one of the busiest committees. I cannot reprimand him for not being able to read all of these Supreme Court decisions, because that would require a good deal of time. But, certainly, the gentleman is wrong. If he will just read the decisions he will find they do not say that we believe you ought to do so and so and we believe you ought to follow such and such lines. If you do not follow such and such lines, you will be in contempt. What they do in these decisions is this:

The Supreme Court has within the past 10 days directed the circuit court in Virginia to the effect that if the State of Virginia did not enact a satisfactory bill to the court within a certain num-

ber of days—and they are very few days, by the way—then the court shall reapportion the State in accordance with how they think it ought to be reapportioned. There is not a question of a doubt about that. I am sorry that the gentleman from New York has not had the time to read the decisions.

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

Mr. SMITH of Virginia. I do not yield further, because my time is limited.

Mr. Speaker, I now yield to the gentleman from Ohio [Mr. BROWN].

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

(Mr. BROWN of Ohio asked and was given permission to revise and extend his remarks.)

Mr. BROWN of Ohio. Mr. Speaker, I rise in support of this resolution because I feel very strongly that this bill should go to conference, in the hope that the conferees will be able to bring back a single bill instead of a double-barreled measure.

I have stood on this floor many times in opposition to legislation where the other body has, contrary to the rules of the House, at least, added language that was not germane to the House-passed bill, and sent it back to us with such an amendment, for us to take from the Speaker's desk and accept or reject the amendment. Under such a procedure you have no right to debate the measure in its entirety. You can either accept or reject that which the other body has added to a measure that is in no way germane to the amendment as offered in the other body.

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

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

Mr. HALLECK. Mr. Speaker, I have asked the gentleman from Ohio to yield to me at this point in order to make an observation or two which I believe is pertinent to the matter now before us, and will also have to do with a resolution that will be offered shortly, as I understand it, a continuing resolution for appropriation bills not yet enacted into law.

Mr. Speaker, we could have had this action a day or two ago if it had been deemed advisable on the part of the majority leaders. But in any event we do have it up today. I agree with the gentleman from Ohio on this matter of conference. I understand that the conferees have been meeting informally, which frequently happens around here when we get toward the closing days of the session, so that when they are finally or officially designated and officially constituted, they can resolve their differences quickly in a conference report.

The point I am making is this: This goes to conference today. The conferees could meet and agree on and file a conference report this evening. The conference report could be debated tomorrow and if it were filed today we could have an arrangement by which it could be considered today. Why is that important in the scheme of things around here? Because the foreign aid appropriation bill and the supplemental appropriation bill are the only ones left not enacted into law.

The Appropriations Committee of the other body has already reported an appropriation bill for foreign aid and, as I understand it, the same is true in respect to the supplemental appropriation bill. If we moved in that fashion the appropriation bills could be concluded this week. We could get these appropriations worked out and finally enacted into law this week, which would achieve the desire as quickly as adoption of the resolution that has been offered for a 10-day continuation which I shall oppose. Then there would be no reason in the world why we cannot adjourn sine die at the end of this week and, if I sense the temper of the Members of the House, that is what needs to be done.

There is pending a social security conference. I see no reason why that conference report cannot be resolved if it is deemed desirable to bring in the very fine and generous provisions that the House enacted in the Social Security Act. That, too, could be acted upon this week.

Except for someone's insistence, for what reason I cannot understand, that we do this and we do that, like Appalachia, where a rule has been pending for 42 days and no action taken, as I say, we can adjourn and go back home, and I hope that is the way we may proceed.

Mr. BROWN of Ohio. I thank the gentleman from Indiana for that which he has said. I find myself in complete agreement with the statement he has just made.

I am very much concerned over this legislation. The House itself has spoken its belief and its will as far as the Supreme Court decisions on apportionment of votes in State legislatures are concerned. They did it by a strong majority in the House. The Rules Committee has acted on legislation. I believe the House itself has done everything it could to bring about a proper and an orderly solution to the problem that has been created as a result of the recent Supreme Court decisions affecting State legislatures.

I have a strong feeling that the Senate amendment on State reapportionment that was added to the foreign-aid authorization measure is something that could not be done under the rules of the House. It would not have been germane. It has no business in a bill of this kind. We ought to legislate on these two important matters, one on foreign-aid authorization and the other on the apportionment decisions, on their own merits, and not try to tie the two together to endeavor to mislead somebody to say, "Well, in effect we will make it so that in order to get this you will have to vote for that, or vice versa." I do not like that kind of legislating in the Congress of the United States. I do not think it is dignified, I do not think it is proper, I do not think it is in good taste. I am sorry to see we are confronted with legislation of this type. So I am hopeful the House will see fit to send this legislation to conference and that the conferees can work out some sort of arrangement where at least we will have an opportunity to pass upon one question at a time, instead of some joint mixed-up effort such as has been proposed by the legislation sent to us by the other body.

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

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

Mr. AYRES. Mr. Speaker, I should like to call the attention of the House to the fact that the bill H.R. 1927, which was a pension bill for non-service-connected veterans, is over in the other body now. The conferees on the part of the House have been appointed. We have been advised by the chairman, the gentleman from Texas [Mr. TEAGUE], that we are ready to meet at any time. The only thing that is holding up the conference, as I understand it, is that in the other body, the NSLI—the national service life insurance—was added on to the foreign aid bill. Of course, that is a very controversial piece of legislation. As far as the House conferees are concerned, we are awaiting a call from the other body.

Mr. BROWN of Ohio. As I understand it, that would not have been germane if it had been offered to the measure in the House.

Mr. AYRES. That is correct. The House turned it down for a number of years. The last time it turned it down was just about a week ago.

Mr. BROWN of Ohio. Mr. Speaker, I yield 5 minutes to the gentleman from Iowa [Mr. GROSS].

(Mr. GROSS asked and was given permission to revise and extend his remarks.)

Mr. GROSS. Mr. Speaker, it has been my intention to offer a motion to instruct the conferees with reference to the select-out authorization which was inserted in this bill by the other body as an amendment. However, in view of the statement made by the distinguished gentleman from Virginia [Mr. SMITH], who related the statement made to the Rules Committee on yesterday, that the managers on the part of the House would go to the conference in opposition to Senate amendments numbered 47 and 48; that the managers on the part of the House will oppose this select-out procedure, I may change my mind. However, I should like to have that statement made on the House floor by the distinguished gentleman from Pennsylvania [Mr. MORGAN], the chairman of the House Committee on Foreign Affairs.

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

Mr. GROSS. Certainly, I am always glad to yield to the gentleman.

Mr. SMITH of Virginia. I am going to yield to the gentleman from Pennsylvania [Mr. MORGAN] as soon as the gentleman from Iowa concludes.

Mr. GROSS. I thank the gentleman. I would like to have that statement in the RECORD.

I would like to take just a few minutes to explain to the Members of the House, since this was not an issue when the authorization bill was previously before

the House. The same provisions were defeated in the House Committee on Foreign Affairs by a vote of more than 2 to 1, and therefore, I am surprised that the other body would have the audacity to put such authority in the bill, well knowing that the House had knocked it out by that margin. What do the amendments provide? It is proposed to set aside civil service procedures, veterans preference, and give the AID agency the authority to summarily discharge 100 employees each year for 2 years. So far as I know, no such authority is given to any other agency of Government and this kind of raw power ought not to be given to the AID agency. Every House Member wants the Government to get rid of the deadwood and the inefficients, and let me point out that throughout the Government service last year other agencies and departments brought 36,000 adverse actions against their employees while AID was giving ingrade promotions to every employee except one. If there was so much inefficiency and so much deadwood in the AID agency last year, why did they give all of their employees, with a single exception, ingrade promotions while other agencies of Government that had inefficients and deadwood took 36,000 adverse actions against them?

I say again, this is the rawest kind of power to set aside all civil service procedures and I remind you that the American Legion, the Veterans of Foreign Wars, the AFL–CIO and union organizations dealing the Federal employees all appeared before our committee earlier this year in vigorous opposition to this proposal.

I trust that the chairman of the House Committee on Foreign Affairs will give the House today complete assurance that there will be no temporizing with this issue when the managers on the part of the House go to conference on the bill. I would hope he would further say that there would be no compromise of any kind. If we are by this devious means going to give special privilege to AID, it means we could not deny it to any other department or agency of Government. This would be piecemeal abandonment of the civil service system and the protection that system affords to employees. I say repeal or abandon entirely the civil service procedures, but do not do it by a piecemeal approach as is here proposed.

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

Mr. GROSS. I am pleased to yield to the gentleman.

Mr. O'HARA of Illinois. The gentleman from Iowa and I do not always agree on foreign policy, but in this matter I agree with the gentleman 100 percent. He is entirely right and he is expressing the sentiment of the great majority of our committee including our chairman.

Mr. GROSS. I would like to say that the gentleman from Illinois [Mr. O'HARA] was one of the strong supporters of the motion I made in the Committee on Foreign Affairs to strike this exact language from the bill.

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

Mr. GROSS. I am glad to yield to the gentleman from Texas.

Mr. BECKWORTH. I want to concur in the statement that this would be a piecemeal approach to a very serious problem that exists not only with reference to the AID agency but with reference to other agencies and before it is done if it ever should be it ought to be studied very thoroughly over quite a period of time. I certainly concur with what the gentleman had said that this is a piecemeal approach to this problem. Indeed, it would be unfair to many veterans and career employees in my opinion. I want the action of our Foreign Affairs Committee in deleting the provision to be sustained.

Mr. GROSS. I thank the gentleman.

Mr. SMITH of Virginia. Mr. Speaker, I yield 5 minutes to the distinguished chairman of the Committee on Foreign Affairs, the gentleman from Pennsylvania [Mr. MORGAN].

(Mr. MORGAN asked and was given permission to revise and extend his remarks.)

Mr. MORGAN. Mr. Speaker, I take this time to clarify my own position. Yesterday, due to the objection which was made to the Foreign Aid bill being sent to conference, it was necessary to go to the Rules Committee and to get a rule. I was the only one of the proposed conferees who testified before the Rules Committee. My position on this so-called amendment was rigid, and I so stated to the chairman of the Rules Committee. I was speaking for myself and not the others of the proposed six conferees.

Mr. Speaker, as chairman of the Committee on Foreign Affairs and also in my capacity as a prospective House conferee on the foreign aid bill, I regard it as an obligation to do my best to secure Senate approval of the provisions voted by the House. I very much hope that we will not send the bill to conference with instructions. I am glad to hear the gentleman from Iowa say he is not going to seek to instruct the conferees.

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

Mr. MORGAN. I am glad to yield to the gentleman from Iowa.

Mr. GROSS. I have not quite reached that decision, and the gentleman just threw some doubt into my mind when he said he was speaking only for himself.

I believe conferences have been held with Members of the other body, even though this bill has not been formally sent to conference. I believe the gentleman and other members of the conference should have something to say at this time, stating their positions with respect to this issue.

Mr. MORGAN. I can assure the gentleman from Iowa that in the preconference meetings which have been held, this section of the bill has never been reached, so there has been absolutely no discussion with the other proposed six conferees of the House on this particular issue, and I had no opportunity to express other than my own opinion.

Mr. GROSS. If there are other Members who apparently will be selected as House conferees on the House floor, they can save a little time today by making known their positions with respect to this matter.

Mr. MORGAN. I have taken this time in order to clarify my own position for the gentleman from Iowa.

My distinguished colleague, the gentleman from Iowa, is the author of the amendment which struck this provision from the bill. As chairman of the Foreign Affairs Committee my vote was the first vote of the 16 cast in favor of his amendment, which was opposed, as he knows, by only 6 Members.

I certainly want to convince the gentleman that my position is the same as his. Otherwise I would not have cast my vote in committee for his amendment to remove both these sections from the foreign aid bill. I have some very strong feelings on this, as the gentleman knows.

The jurisdiction of the Committee on Foreign Affairs has been challenged on this subject, but this is not the issue. The author of the amendment deleting the "selection-out" authority was sincerely concerned over it as a threat to the civil service merit system. I had previously expressed my own view that it was highly controversial and I was reluctant to have the provision remain in the bill, as the gentleman knows, but I did not oppose it on the basis of the jurisdictional fight between the House Committee on Foreign Affairs and the House Committee on Post Office and Civil Service. I was sincere in my effort to help the gentleman on the case that he made with respect to the attack on the civil service merit system.

As I understand the parliamentary procedure in regard to this, regardless of whether the House conferees are instructed or not, they would have four possible courses of action.

First, we could do our best to have the Senate recede. If successful, then there would be no further problem. Second, if we failed, we could disregard the instructions and reluctantly accept the Senate provisions. Third, we might be able to secure a compromise acceptable to both Houses. Fourth, if we failed to have the Senate recede, we could report Senate amendments Nos. 47 and 48 back in disagreement, bringing the matter back to the House for a separate vote.

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

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

Mr. GROSS. Would the gentleman at this time care to assure the House, since he will control all the time, in such an event there would be a reasonable amount of time to discuss the amendments, as they might come back in disagreement from the conference?

Mr. MORGAN. I can assure the gentleman that there will be a reasonable amount of time to discuss the amendments in the hour allotted on the conference report.

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

Mr. SMITH of Virginia. Mr. Speaker, I yield the gentleman one additional minute.

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

Mr. MORGAN. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Speaker, I have had the privilege of serving on conference committees with our chairman on numerous occasions. I want to reassure the gentleman from Iowa that the chairman of the Committee on Foreign Affairs always stands fast in adhering to the position of the House. I can assure him that he will do likewise in this instance. As the gentleman from Iowa knows, I, too, voted with the majority in striking out this section in the Committee on Foreign Affairs. Our vote was sustained by the House. We will do our best to maintain the position of the House. I do not think that it would be fair to imply that our chairman will not try to do his best to bring back a bill reflecting the position of the House, by formally instructing him to do that very thing. I do not believe that there is anything in the record of his past performance to justify such lack of confidence.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. ADAIR].

Mr. ADAIR. Mr. Speaker, as a prospective conferee upon this bill I can speak only for myself. For myself I will say that I am fully prepared to sustain the position of the House in this matter, and I expect to do so. However, in honesty and frankness, I must point out that the conferees are not yet appointed; that we are not, as the chairman of the committee has said, in a position to speak for all of the conferees collectively; and the Members of the House must have that in mind.

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

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

Mr. MORGAN. I have had a check made and I am unable to find any instances in the past 25 years where the Committee on Foreign Affairs conferees have received instructions. This is a pretty good indication that they have lived up to their obligations to support the positions taken by the House and there is no need to deviate from this practice. I assure the House that instructions will not be necessary to assure its acceptance.

Mr. BROWN of Ohio. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia [Mr. BROYHILL].

Mr. BROYHILL of Virginia. Mr. Speaker, I was happy to learn of the assurance given to the House by the chairman of the Committee on Foreign Affairs that he would make every effort to have the amendment which was adopted by the other body regarding selecting out authority on the part of the Agency for International Development deleted in that conference. I think all of us can agree here that it is highly desirable to get rid of incompetents and misfits wherever and whenever they exist in any Federal agency. We should always strive to improve the efficiency and the quality of personnel in all Federal agencies. We are constantly trying to do that. We do it every year throughout the year in the various legislative approaches such as here recently where we had an increase in pay and an improvement in retirement benefits. There are many ways in which we try to improve the working conditions. There is no quarrel with the fact that it is desirable to have administrative flexibility insofar as personnel management is concerned. However, we also must have legal guidelines in order that there will not be abuse.

The gentleman from Iowa [Mr. GROSS], pointed out several reasons why this amendment should be taken out. I should like to amplify some of those reasons. In fact, just 2 years ago I believe we gave the Agency for International Development similar authority, that is, authority to weed out the so-called misfits. Yet they were unable to do so with the authority we gave them 2 years ago, so what assurance do we have that similar authority here would help them to weed out deadwood now? Why should this agency have such special treatment? They claim they have higher than average personnel. The Agency for International Development claims they have a need for higher than average personnel, but I doubt whether the National Aeronautics and Space Agency will agree or that the Federal Aviation Agency will agree or that the Department of the Army will agree with that. If the Agency for International Development has special authorities, then other agencies have a right to come in and expect them, also.

I believe if we allow this amendment to stand it is going to cause more loss of morale and trust on the part of high level employees in the Agency for International Development, which is going to cause that type of employee to seek employment elsewhere. Therefore in the final analysis, in the long run, it is going to lower the caliber of employees.

As the gentleman from Iowa, [Mr. GROSS], has pointed out, there is ample authority, there are sufficient rules and regulations, to get rid of incompetents. In fact, 36,000 were discharged under civil service laws and regulations last year.

Incidentally—and this is most interesting—the Agency for International Development has had five different personnel officers within the last 4 or 5 years. I think that can lead to the question whether or not this is a matter of administration. Should we actually give new authority and enact a special law in order to overcome the inefficiency of leadership in the Agency for International Development?

I submit, Mr. Chairman, if this special authority is granted to the Agency for International Development, then other agencies of Government have the right to expect the same authority. It is going to open the floodgates for political abuse and pressure and it can have a tendency to destroy confidence in the civil service system. If such special authority is merited, if this is a special and peculiar type of agency, then let the matter be considered by the Committee on Post Office and Civil Service and have them make a determination as to where this agency differs from other agencies and enact a special amendment to the civil service law.

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

Mr. BROYHILL. I yield to the gentleman.

Mr. HENDERSON. Mr. Speaker, I want to associate myself with the very fine remarks that the gentleman has just made. This is a most important issue. The gentleman has been following it very closely. I think the membership of the House should recognize that our distinguished colleague from Iowa has performed a noble service to the civil service merit system of this country in staying on this issue throughout. It has been most important. I can say, as chairman of the Manpower and Utilization Subcommittee, that the employees of this Nation have been vitally concerned with this proposal that would destroy the merit system. I agree with the gentleman fully that there is ample authority, in our opinion, to remove these employees if they are not able, if they are not competent. If that is not the case then we should enact the necessary legislation to give all agencies such authority.

Mr. BROWN of Ohio. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan [Mr. JOHANSEN].

(Mr. JOHANSEN asked and was given permission to revise and extend his remarks.)

Mr. JOHANSEN. Mr. Speaker, at the outset I associate myself as a member of the House Committee on Post Office and Civil Service with the statements made by the gentleman from Iowa [Mr. GROSS] and the gentleman from Virginia [Mr. BROYHILL] relative to the Senate amendment which they were discussing. I have asked for this time, however, to make some additional remarks respecting Senate amendment No. 60, the amendment relating to legislative apportionment.

Let us understand clearly and quickly what this sense of Congress resolution does.

With respect to delaying the implementing of the June 15 Supreme Court legislative apportionment decisions this amendment says that the Congress thinks it would be nice if the members of the Judiciary would delay implementing those decisions.

Now, Mr. Speaker, they do not have to do this, but the Congress thinks it would be jolly nice of them if they would.

Mr. Speaker, may I point out to my colleagues that Mr. Chief Justice Warren in the majority opinion June 15 said expressly that the courts were under no obligation to implement these decisions instantly if it interfered with or embarrassed an election process already underway.

Mr. Chief Justice Warren, in a word, said he thought it would be nice if they allowed a reasonable delay with respect to the impending election. But some of these Federal courts have no more respect for Mr. Chief Justice Warren's recommendation as to what would be nice than they will have for the Congress if we state that it would be nice if they heeded our sense of Congress resolution.

But in the matter of the last paragraph of amendment No. 60—so ably described by the gentleman from Virginia [Mr. SMITH]—there is the real clincher and the real clinker. This says that it is the sense of Congress that the Federal courts shall redistrict if the legislatures have not acted within the 6 months' time limit provided by the amendment. It says if the legislatures have not acted "pursuant to the Constitution" That means, translated literally, "pursuant to the June 15 decisions of the Court."

This amendment underwrites the very principle repudiated by this House in adoption of the Tuck amendment, the principle that population must be the sole factor of representation in both houses of the State legislature.

This amendment means it would be the sense of Congress if adopted that that is hereafter a constitutional principle.

This means that we would underwrite the abuse of authority I referred to earlier this afternoon in which a 3-judge panel in Connecticut has suspended elections called for by the Constitution or by statute, with respect to the legislative branch in that State.

This means also by further implication that the audacious next step already initiated in my own State of Michigan is underwritten by the sense of the Congress.

Mr. Speaker, a judicial decision—and I hope the Members will hear this—in the State of Michigan has already applied the principle laid down and the authority claimed under the June 15 decisions of the Supreme Court, to the county boards of supervisors in the State of Michigan.

Now this means that we are going to have, if the ultimate logic is pursued, the Federal Judiciary dictating representation on and the makeup of the county boards of supervisors.

The gentleman from New York [Mr. CELLER] whom I respect greatly, intimated that we ought not to pursue this matter because it might arouse opposition in the other body and they might resort to another filibuster and thus we might not be able to go home quite so soon.

Mr. Speaker, for what purpose are we here as the sworn representatives of the people if it is not to protect the elective process, if it is not to protect the legislative operations and authority, if it is not to protect the historical principles of representation in our State legislatures, if it is not to curb the interference and usurpation of the judiciary?

Mr. Speaker, I would rather go down to defeat staying here until the last day of this session, until the last day of this year, than acquiesce to this kind of a sense-of-Congress resolution.

Mr. SMITH of Virginia. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio [Mr. HAYS].

Mr. HAYS. Mr. Speaker, as one of the prospective conferees, I would like to address myself to the gentleman from Virginia [Mr. SMITH], chairman of the Rules Committee. I listened to his remarks very intently. I think he would agree with me that since the Senate did spend 35 days on this section they are not going to give it up, very lightly, and there is a reasonable assumption that the conferees on the House side are going to have difficulty in having this section stricken.

I agree with the gentleman from Virginia that it really does not mean much. He and I agree that section B, which he objects to, as I understand it, more strenuously than any other section, would have at least an implication that the Congress is saying that in case a State fails to apportion, the court will do it. I do not really think that, even though some people in the House might agree, that in case a legislature does not, somebody should. I do not think we ought to approach that in this back door fashion.

So I come to a question which I would like to propound to the gentleman: In view of the fact we are concerned with the situation, if we get section B stricken or modified to where it did not do this, the House conferees would be achieving about as much as they could achieve under the circumstances?

Mr. SMITH of Virginia. As to what they can achieve under the circumstances, I think it is essential to go back to the basic application. I feel section B should come out, and I do not believe the House will reverse its position. I will go so far as to say that with section B out I think the provision is a complete nullity. It would not do any good, and probably it would not do any harm.

Mr. HAYS. I thank the gentleman, because I think he and I agree on this section B coming out. I believe he appreciates the situation that the House conferees might be in. It is true, as the minority leader said a while ago, that the prospective conferees have been meeting informally. But we have not discussed this section. However, in view of the 35 days the other body spent on it, I can sense that the conferees of the other body are not going to agree to strike that whole section.

I want to do as much as I can to get the opinion of the House on agreeing to something that will stand up.

I am glad to have the gentleman's statement.

Mr. SMITH of Virginia. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. STRATTON].

Mr. STRATTON. Mr. Speaker, I do not plan to oppose the resolution to send the foreign aid appropriations bill to conference, but I would like to urge the conferees on the part of the House to press strongly for the replacement of Senate amendment No. 60 on legislative reapportionment with the wording of the original Dirksen-Mansfield rider.

I realize, Mr. Speaker, the time that has been spent in the other body debating this whole subject. But I am disturbed by the fact that the wording ultimately adopted in the other body has no real legal binding effect. It merely expresses the "sense of the Congress" and therefore is unlikely to be of any real help to States like New York, which desperately need more time to deal with the sweeping changes mandated by the June 15 decision of the Supreme Court Amendment No. 60 will not, Mr. Speaker, give us any additional time in New York or anywhere else. Instead, we need the wording of the original Dirksen-Mansfield rider if we are to help my State and other States. I hope the conferees will act to put teeth back into this section and give us the time we need in New York.

In my State, Mr. Speaker, we have already been directed by the Federal court to redistrict our legislature by April 1965. And we have been told by the court that we must hold three successive legislative elections within the next 2 years. Even if there were to be no other action on this subject at the Federal level, even if there were to be no constitutional amendment decreeing a new and different system of State apportionment, my own State of New York still needs more time than has been given to us by the courts to adjust to the changes decreed by the Supreme Court decision.

Our people are most emphatic, Mr. Speaker, in their desire that each of our 62 counties be individually represented in at least one house of our State legislature. But to bring this about even without the aid of the proposed constitutional amendment—would require a much longer period of time. It could be done, for example, by increasing the size of the State assembly. But this requires a constitutional amendment in New York State and would take at least 2 years to be adopted in a Statewide referendum. The name would be true were we to adopt a system of weighted voting in the State assembly, as some have proposed.

And it is unfair and unreasonable, Mr. Speaker, in my opinion, to require that candidates for the State legislature run for office three times in 2 years. This is bad for the continuity of our State government. It is bad for those who are interested enough in State government to run for office.

If the House conferees will, therefore, insist on the original Dirksen-Mansfield wording, if they will direct the additional time we need rather than merely go on record as believing that it would be nice to have such time, then we will have performed a real service for my State and for many others as well. I therefore urge the conferees strongly as a representative of the most rural congressional district in New York State to do just this.

There is ample basis, Mr. Speaker, for such action by our House conferees. After all, we passed the so-called Tuck bill on this same subject some weeks ago by a very substantial margin. At that time, as Members may recall, I was one who urged that we should substitute for this Tuck bill the original Dirksen-Mansfield rider. The House however favored a stronger piece of legislation—in fact one that was in my judgment unconstitutional. Now the Senate has passed a much weaker piece of legislation than even the Dirksen-Mansfield rider. So why not compromise on a middle ground? Why not resolve the differences between the Tuck bill and the inadequate "sense of Congress" resolution by supporting the original Dirksen wording as a fair

middle ground? This is what I am urging.

Mr. Speaker, no less a person than Walter Lippmann urged this course some days ago. He pointed out the sweeping impact of the June 15 decision for areas similar to the one I have the honor to represent. He pointed out that we have spent 10 years already trying to adjust to the sweeping Supreme Court decision on school desegregation. Surely we ought to be allowed at least 2 years to adjust to another decision with equally sweeping implications.

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

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

Mr. KUNKEL. I would like to express my strong opposition to the Senate amendment concerning the selecting out of civil service employees in AID. I hope that provision will be removed from the conference report. In other words, my position is the same as that taken by the gentleman from Iowa [Mr. GROSS] and the gentleman from Virginia [Mr. BROYHILL], and other Members who have spoken on this specific provision.

(Mr. STRATTON asked and was given permission to revise and extend his remarks.)

Mr. SMITH of Virginia. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER. The Chair appoints the following conferees: Mr. MORGAN, Mr. ZABLOCKI, Mrs. KELLY, Mr. HAYS, Mr. ADAIR, Mr. MAILLIARD, and Mr. FRELINGHUYSEN.

MAKING CONTINUING APPROPRIATIONS FOR THE FISCAL YEAR 1965

Mr. SMITH of Virginia. Mr. Speaker, by direction of the Committee on Rules I call up House Resolution 892, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That immediately 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 joint resolution (H.J. Res. 1183), making continuing appropriations for the fiscal year 1965, and for other purposes. That after general debate, which shall be confined to the joint resolution and continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations, the joint resolution shall be read for amendment. At the conclusion of the consideration of the joint resolution for amendment, the Committee shall rise and report the joint resolution to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the joint resolution and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. SMITH of Virginia. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio [Mr. BROWN], and I now yield myself such time as I may consume.

Mr. Speaker, as you all know, we have been operating on appropriations under a continuing resolution. That continuing resolution expired today, and with respect to any bills that have not been passed by both Houses and signed by the President the whole matter of the use of money for paying bills or paying wages is just simply paralyzed.

The chairman of the Committee on Appropriations came to the Committee on Rules and asked for a rule to agree to the resolution which would extend that extension for a further period of 10 days. That rule has been granted and that is what is before you today.

Mr. Speaker, when we were asked about this and when the committee yesterday agreed to go along with this extension of 10 days, I thought everybody around here was under the impression that this would aid us to the point of getting a sine die adjournment. Things have happened since that time. I do not know what they are because we ordinary Members of Congress are not in on these conferences that take place on the Hill and off the Hill. But the rumor is very rife today, and I read it in the papers, that the other body has now completed its work—I am certainly glad to hear that, because we have been waiting several months for them to complete their work—and that they were going into 3-day recesses for the House to catch up. The House has already caught up. I do not know how far we ought to go fiddling around with this situation any longer.

It has been very evident from the demonstrations that have taken place here today that the House is practically unanimous in its desire to conclude this session that has kept us in session continuously for the past 20 months. Some of us feel we have done enough and should not attack further legislation, with the absence of so many Members.

Mr. JONES of Missouri. Mr. Speaker, will the gentleman yield for a question?

Mr. SMITH of Virginia. I yield.

Mr. JONES of Missouri. Does not the gentleman feel that if we make this continuing resolution to October 3, it might aid this adjournment?

Mr. SMITH of Virginia. I was just getting to that.

Mr. JONES of Missouri. I am sorry I interrupted, then.

Mr. SMITH of Virginia. Some Members seem to think that if we vote down this resolution it would aid us in getting an adjournment. I do not share that opinion. What I have said may have sounded like I do, but I do not. I had not completed my statement. I think that the fact, which I believe to be a fact and which has been demonstrated here today, is that this House wants to adjourn and adjourn as quickly as possible. It may be impractical and impossible to get the necessary legislation through in the next few days.

I do not see that it would be any help in delaying adjournment to refuse this 10-day delay because then it might reach the point where something so vital was necessary that we would have to go over and take a recess. I, for one, do not expect to vote for any recess. I want to get the business finished and get out of here.

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

Mr. SMITH of Virginia. I yield to the gentleman from Illinois.

Mr. ARENDS. In order that the gentleman may understand how I feel about this proposal, let me say I do not think it is either impractical or impossible to get our work done in the House of Representatives by Saturday night and, therefore, for whatever it may be worth I want to say that I intend to vote against even this 10-day extension provided for under the resolution. This Congress not only can but should finish its business in the remaining 3 days of this week.

Mr. SMITH of Virginia. I know the gentleman is very sincere in his views about this. I hope that whatever we do here will result in early adjournment.

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

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

Mr. GROSS. In this morning's "Blatter," the "Washington Blatter" that is, it states:

> Leaders in the House, which is the main bottleneck to a Saturday getaway, acted as though they had never heard of this idea, but it might solve their immediate problem of rounding up enough Members to pass any more controversial bills.

In other words, certain individuals are trying to put the monkey on the back of the House after the other body recently filibustered for more than a month on reapportionment. Now the House is being charged with holding up the adjournment of Congress and I resent it.

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

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

Mr. HALLECK. The thing that concerns me about this continuing resolution, and I expressed my views to the gentleman from Texas who has no greater friend than I in this body, that if we adopt this 10-day extension today, we in effect will be issuing a sort of open invitation to run the House of Representatives and the Congress for another 10 days. I think the better part of wisdom is to vote this down and put everybody on notice that we can meet whatever requirements there are, if we get the appropriation bills passed before Saturday night, because nobody is going to go without their pay between now and then under any existing situation. So far as I am concerned, just as the minority whip, the gentleman from Illinois has stated, I am not going to vote for this resolution.

Mr. SMITH of Virginia. I thank the gentleman for his statement, but I just would like to say to him that there are two bodies of the Congress and it is entirely possible, and I am speaking from past observations, that maybe the Senate would not agree with that.

Mr. HALLECK. I have just been reading in the papers that the people on the