thirds of the U.S. population and an even larger proportion of the black U.S. population live within a day's drive of Wilberforce, Ohio.

3. Local, regional and state citizens should support and desire the proposed center within the community. The state of Ohio has already committed $3.5 million to the Center and there is more to come.

The state has also established a planning council which is nationally, as well as locally, representative. Among the organizations that are represented on the council are the Association for the Study of Afro-American Life and Histroy; the Congressional Black Caucus; the National Association for the Advancement of Colored People; The National Caucus of Black School Board Members; The National Caucus of Negro Women; the National Newspaper Publishers Association; the National Urban League and The Society of American Archivists. The council will assist the proposed Commission in the planning stages of the Center.

Local support for the proposed Center has come most enthusiastically from the regional and local chapters of the aforementioned organizations, and, in particular, from the Ohio Historical Society; the Greene County Historical Society; the Greene County Commissioners and the universites of Wilberforce and Central State and several organizations affiliated with these institutions of higher learning.

4. The proposed area should be accessible to major travel and recreational corridors, have adequate vehicular access, public transportation and adequate public services. The NPS Study found that the Wilberforce, Ohio area meets all these criteria most adequately.

5. The proposed Center and surrounding areas should have historical and cultural significance. Wilberforce has been, historically and culturally, the focus of an ambitious black community representing the most positive and notable accomplishments of Black Americans throughout the country. The study cited the prominence of the Wilberforce community in Afro-American education, its intimate connection with the Underground Railroad and its historical significance.

This amendment is an improved version of the bill I had introduced in earlier years. The membership in the Afro-American History and Culture Commission has been expanded to 15 members (no more that 2 of which are to be residents of the same State) in order to enhance its national representativeness. Among those to be seated on the Commission are the Secretary of the Interior; the Librarian of Congress; the Secretary of Education; the Secretary of the Smithsonian; and nine members to be appointed by the President "who are especially qualified to serve on the Commission by reason of their background and experience."

The Commission, which shall be the guiding force behind this undertaking, is directed to establish the critria and recommendations for interpretive, cultural and educational programs and uses of the Center and also to establish "the areas where cooperative agreements might be developed between the Center and existing Afro-American institutions, organizations and universities (nationwide) to enhance their programs and projects relating to the history and culture of Afro-Americans." Not only will the Commission be responsible for the "development of a definite plan for the construction" of the Center, but it will also be responsible for its operation.

Mr. Speaker, I cannot overremphasize the need for this legislation. The Center, which will encompass areas of broad concern and will be attractive and accessible to every American, is a unique answer to the need of black Americans to reconstruct their history and culture—a need which has been neglected far too long. It is my hope that this Center will encourage greater understanding among all Americans.

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. Mr. Speaker, further reserving the right to object, I yield to the gentleman from California to explain the legislation.

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

Mr. PHILLIP BURTON. Mr. Speaker, I would like to associate myself with the remarks of my distinguished colleague from Ohio (Mr. BROWN).

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

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

There was no objection.

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

There was no objection.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 6790, FOREIGN SERVICE ACT OF 1980

Mr. FASCELL. Mr. Speaker, I call up the conference report on the bill (H.R. 6790), to promote the foreign policy of the United States by strengthening and improving the Foreign Service of the United States, 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 pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 29, 1980.)

Mr. FASCELL (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida (Mr. FASCELL) will be recognized for 30 minutes, and the gentleman from Alabama (Mr. BUCHANAN) will be recognized for 30 minutes.)

The Chair recognizes the gentleman from Florida (Mr. FASCELL).

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

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

Mr. FASCELL. Mr. Speaker, I call up the conference report on the bill (H.R. 6790), to promote the foreign policy of the United States by strengthening and improving the Foreign Service of the United States and for other purposes.

Mr. Speaker, an enormous amount of effort has gone into this legislation and the conferees have reached agreement on the relatively few issues that were in disagreement. Among the major issues resolved were the following:

First. A compromise was reached on pay comparability for the Foreign Service which will enable the Foreign Service to attract the highly qualified applicants it needs.

Second. The mandatory retirement age was raised to 65 from the current 60, in recognition of the advances made since 1946 in areas such as life expectancy, availability of health care facilities, and transportation. The deliberate retention of a mandatory retirement age reflects the demonstrated correlation between advanced age and overseas assignability of members of the Service. This mechanism will assist in the achievement of the goals of predictable flows of recruitment, career development, and advancement to the senior ranks envisioned by the legislation.

Third. A compromise was reached on the issue of annuities for former spouses of members of the Foreign Service which removes completely the automatic retroactive features of the original proposal.

Mr. Speaker, this legislation sets forth an effective structure for the Foreign Service for at least the remainder of this century. I want to commend the Members and staff who have spent so many hours on this legislation. It is highly appropriate that this legislation will be enacted in time for the celebration of the 200th birthday of the Foreign Service.

Mr. Speaker, this legislation is a statement of our belief and faith in the Foreign Service of the United States. I urge its adoption.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Colorado (Mrs. SCHROEDER).

(Mrs. SCHROEDER asked and was given permission to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I rise in support of the conference report to accompany H.R. 6790, the Foreign Service Act of 1980. By and large, it is an excellent bill which will provide needed reforms for the personnel laws governing the Foreign Service. In many ways, H.R. 6790 will do for the Foreign Service what the Civil Service Reform Act of 1978 did for the domestic civil service.

For 200 years, this Nation has maintained a Foreign Service. The Foreign Service began as an elite organization, in the sense that it was the New World version of the diplomatic corps of European monarchies which was drawn from the nobility. Like the nobles of European kingdoms, our early Foreign Service officers, who were sent on diplomatic missions to other nations, were selected more on paternity than on quality. Unfortunately, the early elitism of birth of the Foreign Service has not been entirely removed. The Foreign Service continues to be run, too much to great an extent, by pale, males from Yale. This bill makes

explicit congressional concern for a Foreign Service which is representative of the diversity of the American population. This bill encourages the Foreign Service to continue its recent efforts to achieve equal opportunity. As I pointed out during our hearings, our relations with Mexico could be greatly improved by having Hispanics who understand Mexican culture serve there. The recent appointment of Julian Nava as Ambassador to Mexico shows increasing awareness of the advantages of minority representation in the Foreign Service.

Some people are uncertain about the need for a separate Foreign Service, with its own personnel laws. If a separate Foreign Service means having personnel management requirements that make sense for the type of work performed, I have no problem with a separate Foreign Service. Only when "separateness" brings with it notions of elitism and superiority do I find it offensive. This bill reestablishes an appropriate separate Foreign Service—one engineered to perform the work it is assigned.

So that my colleagues understand the intention of the drafters of this legislation, I want to spend a little time going over the major features of the bill and explaining what we had in mind:

PAY

The House-passed bill established a statutory linkage between Foreign Service pay and general schedule pay. The administration found this linkage unacceptable and veto threats flew. The administration's objections had to do with the overall level of the pay raise provided in the House bill and with the fact that a statutory linkage removed authority from the President to set pay. The House caved rather than risk a veto. Nevertheless, the House position had real merit.

The President has failed to use his authority under the Federal Pay Comparability Act of 1970 to keep Foreign Service pay even with the general schedule. As Foreign Service jobs have become more difficult and more responsible, nothing has been done to revise the old linkages. What the conferees agreed to was an administration-proposed pay schedule, which contained very significant increases in salary. I frankly am not sure that the administration's proposal meets the mandates of the Pay Comparability Act. It is absolutely clear to me that administration after administration over the last decade has ignored the law and has continued to pay the Foreign Service at rates far below the level Congress intended.

Statutory linkage of pay makes sense because it prevents Presidents from failing to set Foreign Service pay at an appropriate level. I am sorry we had to remove the statutory linkage. I think it should be clear to this and future administrations that the Persidential authority to set pay under the Pay Comparability Act is an authority that was granted by Congress and can be withdrawn. Unless, the President does a better job in the future in keeping pay equitable, I think the Pay Comparability Act is likely to be changed.

In establishing a new higher pay scale, the conferees decided that it should be immediately applicable to all members of the Foreign Service. There is a group of as many as 600 individuals in the Department of State and 900 in the U.S. International Communication Agency (USICA) who are being forced to convert to the domestic civil service under this bill. We were, admittedly, somewhat reluctant to force this sort of disruptive conversion on employees who did nothing to cause this problem. This reluctance was heightened by the fact that many of these employees were involuntarily converted from the domestic civil service to the Foreign Service earlier in this decade to suit a management whim. Our reticence was even stronger in the case of the domestic Foreign Service reserve staff at USICA because this group of employees have a valid contract with the agency in which the agency promised not to convert them. The decision was made to convert these employees, but part and parcel of that decision was a determination to raise the pay of these employees to the new Foreign Service schedule before any conversion takes place. There is no evidence that these employees are any less entitled to a pay increase than are other in the Foreign Service.

The language of the conference report makes the policy quite clear: Everyone who now carries a Foreign Service designation, whether they are worldwide available or not, should be converted to the new pay schedule. Subsequently, they can be converted to another personnel category, if the bill permits it.

LABOR-MANAGEMENT RELATIONS

H.R. 6790 establishes a statutory basis for labor-management relations in the Foreign Service. The original bill drafted by the administration contained what amounted to a codification of Executive Order 11636. That was unacceptable to those of us on the Committee on Post Office and Civil Service who had worked so hard to strengthen the labor rights for the rest of the Federal civil service. So, on behalf of the committee, I introduced a substitute for the administration's labor-management provision which essentially applied title VII of the Civil Service Reform Act of 1978 instead. We did make a few significant changes in the provisions of the Federal-management relations statute to conform its provisions with the structure and operations of the Foreign Service. One change was to postulate, by statute, that the appropriate bargaining unit in the foreign affairs agencies was agencywide. This change was needed because of the dispersed nature of the members of the Foreign Service. A second change permitted many employees, who would be management officials or supervisors under title VII, to be part of the bargaining unit. Again, due to the small size of some Foreign Service posts, rather junior members of the Foreign Service would fall within the title VII definitions and consequently the bargaining unit would represent only a small portion of the agency's employees. A third change from title VII was the creation of a new Foreign Service Labor Relations Board, which has authorities parallel to those of the Federal Labor Relations Authority (FLRA). This new Board is chaired by the chairman of the FLRA and has two other members who are appointed by the FLRA chair, with the agreement of the parties, if possible. This Board hears and decides labor cases out of the Foreign Service. In deciding its cases, this Board is bound by the decisions of the FLRA, unless the Board finds that special circumstances require otherwise. Aside from these special features, the labor-management provisions of the Foreign Service Act are intended to be the same as in the Civil Service Reform Act.

One area in which the same rules are intended to be applied is the question of what is negotiable. Although the wording of the management rights sections differ somewhat, due to the differing personnel systems, the same limited number of items are intended to be nonnegotiable. Decisions of the Federal Labor Relations Authority on negotability, including those already issued under title VII, are equally applicable to the Foreign Service.

Everything which is now negotiable in the Foreign Service continues to be negotiable, while those items which have previously been ruled nonnegotiable in the Foreign Service will have to be reconsidered under the new law. Absent unusual special circumstances, that which is negotiable in one system is negotiable in the other. As Representative FORD and I agreed when the bill was on the House floor, nothing in the bill dictates a different outcome in cases such as the recent FLRA decision on the negotiation of procedures which allegedly delay agency action.

This legislation establishes an institutional grievance mechanism which allows the exclusive representative to grieve all and any disputes over the implementation of a collective-bargaining agreement, whether or not the same issue could have been raised as an individual grievance. Implementation disputes go to the grievance board and are appealable to the Foreign Service Labor Relations Board. This provision, which parallels one in the Civil Service Reform Act, says that the Labor Board should have the final say on disputes concerning the effect, interpretation, or claim of breach of a collective-bargaining agreement. Many individual grievances before the Grievance Board involves the same matters. The doctrine of collateral estoppel stops the same party from twice challenging the same situation. On the other hand, a decision of the Grievance Board interpreting a collective-bargaining agreement does not preclude the exclusive representative from filing an institutional grievance on the contract, as long as the exclusive representative did not already bring the case earlier as an institutional grievance.

SEPARATION FOR CAUSE

There has been some confusion over the provisions of section 610(a)(2) relating to the administrative procedure used in separation for cause cases. What this section does is establish the Grievance Board as the functional equivalent of the agency in adverse action cases under section 7513 of title 5, United States Code. Essentially, this section says

that the Grievance Board procedures supplant the chapter 75 procedures under title 5, United States Code. Obviously nothing in this section or in the rest of the bill cuts off the right of a member of the Foreign Service to appeal to the Merit Systems Protection Board, the Equal Employment Opportunity Commission, the Special Counsel, or Federal court, under the provisions of any other law.

FORMER SPOUSE PENSION

Before I begin my explanation of this section, I want to point out a typographical error in the conference report. In the first sentence of section 814(a)(3), the "on" should be "or" the second time it appears.

The conference committee adopted the Senate language on retirement benefits for divorced Foreign Service spouses, with three modifications.

First, the effective date provision (Section 2403(e)(2)) was revised so that the provisions relating to the rights of former spouses to receive survivor annuities apply only in the cases of individuals who become former spouses after the effective date of the act—February 15, 1981.

Second, a new provision was added to permit an individual who prior to the effective date of the act had a former spouse to elect to provide a survivor benefit for the former spouse.

Third, new provisions were added to permit the parties to enter into spousal agreements regarding their respective rights under chapter 8 of this bill. Such an agreement will be given the same effect as a court order allowing the parties to adjust their respective rights without the necessity of going to court.

This legislation attempts to remedy an inequity in current Federal retirement policy—its failure to assure retirement protection to spouses and divorced spouses of Federal employees. Whereas social security provides automatic benefits for spouses and former spouses, married at least 10 years, Federal retirement law has previously not recognized the contribution of the nonworking spouse or former spouse.

In approving the provisions in the Foreign Service Act, Congress recognizes the vested interest of the nonworking spouse. There has been a traditional division of labor in families by which men assume the breadwinning function and women assume family responsibilities. By taking time out of the work force to raise families, women sacrifice their own work opportunities to promote their husband's careers. As a result of long periods out of the work force as well as their own job mobility, women have been prevented from building their own retirement credit and from vesting for their own pension. The failure of the pension system to recognize the value of the support services provided by the wife has permitted women to fall between the cracks of our pension system and suffer the cruel consequences of poverty in old age.

Congress rejected the proposal that retirement benefits for Foreign Service divorced spouses be left strictly to the discretion of the State courts. Instead Congress adopted Federal guidelines to entitle divorced spouses to a pro rata portion of the retirement annuity and survivor benefits based on the number of years of marriage during creditable years of service, unless the court decided or the parties agreed otherwise.

The rationale for the Federal pro rata guidelines was stated in the reports of both the House Committee on Foreign Affairs and the Senate Committee on Foreign Relations:

Equally unsatisfactory is the decision to leave this problem to a solution by court order. Access to the courts is expensive, particularly for individuals such as Foreign Service spouses who typically have no jobs, no insurance, and no other income to speak of. There is no real precedent for awarding to former spouses a percentage of pensios or survivor annuities. In addition, widely varying divorce laws from state to state would result in different awards of a Federal benefit for the same deprivations. Furthermore, there is little or no awareness among the legal community of the special problems faced by Foreign Service spouses. Finally, overseas service frequently results in cutting off these individuals from their community roots, thereby exacerbating the problems normally faced by women seeking divorce. In particular, this results in reliance on a husband's lawyer or on his recommendations. Section 814, therefore, seeks to provide some protection for these individuals through the mechanism of the retirement system.

As a result of the introduction of "no fault" divorce in the last decade and its adoption in all but 2 States, the number of divorces has soared to 1 million annually. Since "no fault" was adopted without the accompanying economic protections for nonworking spouses advocated by the Family Law Section of the American Bar Association, women suffered the economic burden of divorce. A 1979 census survey indicates that only 4 percent of divorced women receive any alimony. Moreover, 78 percent of women with custody of their children received not 1 cent in child support from the fathers of these children.

Therefore, I hope the courts will be responsive to this change in the law. Prior to passage of this act, courts were prohibited from awarding the survivor benefits to older women who had spent long and honorable careers in the Foreign Service and had no other source of retirement income. Now that Congress has changed this defect in the retirement law, I expect courts to consider survivor benefits in all future Foreign Service divorce cases.

The committees were deeply aware of the inequities dealt to Foreign Service spouses who were divorced prior to this act. To ameliorate their plight, the conference report permits a participant or former participant of the Foreign Service retirement system to elect to provide a survivor benefit for a former spouse. Obviously, if a participant can elect to provide such benefits, a court, if the situation warrants, can order a participant to elect to provide survivor benefits.

Our intent is not to force the reopening of numerous divorces. There are cases, however, in which equity and fairness require the courts to reconsider preexisting property settlements. In deciding whether to reopen old cases, courts should consider the availability of survivor benefits under section 2109 new property.

Moreover, couples should be permitted to reopen negotiations regarding their property settlements. If they agree that the divorced spouse should receive the survivor benefits, the courts should honor such negotiations and permit the divorced spouse to pay any back payments due if this is part of the spousal agreement.

The new law states that the presumption of pro rata entitlement will become effective unless changed or rejected by a court within 12 months after the date of divorce or annulment becomes final. However, there is no time limit stipulated by the legislation that would restrict the provisions of a spousal agreement or court order concerning already divorced Foreign Service spouses.

In cases where a final decree has been issued, but no valid property agreement has been signed, the guidelines provided in this act are intended to apply.

It should be emphasized that section 807(c), which permits an individual to decline to accept all or any part of the annuity by submitting a signed waiver to the Secretary of State, applies only to the portion of the annuity to which the Foreign Service participant is entitled. In no way may the participant limit the entitlement of the former spouse.

Section 806(b)(1)(D) permits the Secretary of State to prescribe regulations under which a participant or former participant may make an election concerning survivor benefits without the participant's spouse or former spouse if the participant establishes to the satisfaction of the Secretary of State that the participant does no know, and has taken all reasonable steps to determine the whereabouts of the spouse or former spouse. Obviously, where the participant does not take reasonable steps to find the missing spouse or former spouse, that spouse or former spouse, if he or she later appeared, would have a cause of action against the participant or the Secretary of State or both for the damages suffered as a result of the improper election.

In the future, I think that the Congress should take another look at retirement benefits for those Foreign Service spouses who did not benefit from this bill. I think that the Government has failed to provide adequat compensation to those spouses in exchange for their years of frequent moves to follow the Foreign Service officer and unpaid hours of service performing representational duties. Until October 1, 1976, when the Foreign Service Retirement System was changed to be made consistent with the Civil Service Retirement System, there was a mandated survivor annuity for the Foreign Service spouse designating the spouse as beneficiary by name, in an instrument which both spouses signed. Moreover, the spouse was entitled to this annuity, even if as a widow she remarries before age 60. I do not think that Congress can close the books on the Foreign Service spouse issue until it has done something for those spouses who have received no recompense. One possible solution would be to use the grantee widow approach adopted earlier by the Foreign Service Retirement Act. It provided a minimum survivor annuity for those

widows whose husbands had not taken a reduction in the primary annuity to provide survivor benefits and thereby retroactively enabled them to receive a survivor annuity.

The bill requries the Secretary of State annually to inform participants and their spouses and former sopuses of their rights under section 814 of the bill. Congress expects that the State Department will involve the Family Liaison Office in notifying participants and their spouses and former spouses of the right conferred by this bill. We expect aggressive efforts to notify individuals of their new rights.

Provisions of the act permit parties to enter into spousal agreements with respect to their rights under chapter 8. Such an agreement will be given the same effect as a court order, allowing the parties to adjust their respective rights without the necessity of obtaining a court order. I urge the Secretary of State to review, advise, and generally assist participants and their spouses in the writing of spousal agreements. The Secretary should provide advisory opinions to participants and their spouses or former spouses on whether their spousal agreements can be honored.

This new retirement law should be interpreted consistent with its intent by both the courts and the Department of State. It is the intent of Congress that Foreign Service divorced spouses be protected against poverty in old age. Regulations and decisions that restrict these protections are contrary to the will of Congress.

The reason I feel constrained to emphasize this point is that the Office of Personnel Management has gone out of its way to write restrictive regulations that have resulted in the denial of court orders contrary to the will of Congress.

When Public Law 95–366 went into effect on September 15, 1978, it mandated the Office of Personnel Management "to honor the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation."

The intent of the law seems clear enough, but the Office of Personnel Management has messed it up.

In a July 28, 1980, report on the implementation of Public Law 95–366, the General Accounting Office reports that the Office of Personnel Management has rejected 30 court orders and thereby denied apportionment to the affected former spouses. In addition, the General Accounting Orce indicates there are another 50 to 100 court orders which were rejected and retired to the records storage facility.

I am outraged that the Office of Personnel Management failed to inform the interested parties in these rejected cases when the Office of Personnel Management regulations were changed to permit the Office of Personnel Management to honor the court orders. Furthermore, the Office of Personnel Management denied a retiree's request that part of his retirement annuity be assigned to his former spouse although the General Accounting Office indicates that the Office of Personnel Management has the authority to permit such allotments. It is callous treatment both of the State courts and those former spouses.

I urge John P. Bowler, Chief of the Office of Personnel Management's Policy Development Section, to immediately reprocess these rejected court orders and retrieve those which are in the storage facility in Boyers, Pa. Innocent women should not be made to suffer because of some bureaucrat's nitpicking.

Moreover, the Office of Personnel Management's regulations of March 7, 1980, must be expanded. The Office of Personnel Management procedures provide for direct payments to the former spouse only if the retiree does not object to such a procedure, even though the court specifically stated that the retiree was to make the payment. It is totally contrary to congressional intent for the Office of Personnel Management to place this restriction on court orders.

Unless there is an administrative solution to the problems soon, I can assure the Office of Personnel Management that a legislative solution will be forthcoming.

I commend the Congress for adopting this precedent setting legislation to recognize the vested interest of the spouse of Federal employees to a pro rata share of the retirement and survivor annuities.

This legislation is consistent with recommendations of the President's Commission on Pension Policy in its interim report of May 1980.

Moreover, it is another step toward more equitable treatment of spouses. Passage of Public Law 95–366 last Congress gave the courts the authority to divide Civil Service Retirement System annuities and removed the immunity of Federal civilian pensions from such court orders.

The Congress has thus far failed to make this provision applicable to the military. To quote the recent General Accounting Office report:

> It should be pointed out that, except for garnishment actions, the uniformed services retirement system does not allow for direct payment of retirement benefits to former spouses in compliance with court orders. We know of no reason why this system should not be consistent with the civil service and Foreign Service systems.

GRIEVANCES

We made some improvement in the grievance section of the bill during the conference. Nevertheless, I still hear a lot of dissatisfaction with the operations of the Grievance Board. In the civil service, grievance systems are negotiated between management and the exclusive representative of the employees. Because of failure of those negotiations in the early seventies, the grievance mechanism is statutory in the Foreign Service. My preference would be to have a negotiated system in the Foreign Service as well. Moving in that direction was impossible during consideration of the Foreign Service Act.

Many of the problems with the grievance system are not capable of legislative solution. Although legislative changes might help, I frankly think that many problems could be better solved by a more assertive Grievance Board. If the members of the Board saw themselves as independent and neutral decisionmakers, the Board would be a stronger and better institution. One of the things we tried to do in this legislation and in the legislative history was to convey to the Grievance Board the interest of Congress in its independence. The Board should not see itself as a management body.

With regard to the definition of a grievance, I think the language of section 1101 provides for a broad range of grievable actions. The area which causes the most concern is that of reprisals. Section 1101(a)(1)(F) makes alleged reprisals grievable. This section should be read without regard to the limitations in section 1101(b). Indeed, the integrity of the grievable mechanism depends on the Grievance Board being able to protect members of the Service who use the system. The list of grievable items in section 1101(a) is a descriptive and not a limiting list. The list in 1101(b) is a list of exceptions and, as such, should be read narrowly by the Grievance Board. Hence, an action should be grievable unless there is a specific, narrow exception in 1101(b).

With regard to the Secretary's veto over Grievance Board decisions, I think a clear statement of congressional intent should be helpful. The way I see the veto provision working is that the agency head should, except in rare cases, adopt and implement the decision of the Grievance Board. The decision of an agency head to veto the decision of foreign policy or national security grounds, is essentially unreviewable. What has to be conveyed to agency heads is congressional will that the decision of the Board be implemented. I personally would like to know every time an agency head refuses to implement the decision of a Grievance Board. I would like to know from the Department why the veto was exercised. If vetoes was exercised too often in the future, I would try to remove this veto power from the Secretary.

During floor consideration, both the gentleman from Florida (Mr. FASCELL) and I promised the gentleman from South Carolina (Mr. DERRICK) that we would look into the working of the grievance system. I am sure both of us intend to keep that commitment.

EQUAL EMPLOYMENT OPPORTUNITY

In numerous places throughout this bill, congressional interest in insuring equal employment opportunity in the Foreign Service is stated. Merit principles, including equal employment opportunity must be followed in every personnel action. The Inspector General of the Department of State and the Foreign Service is specifically instructed to inspect to see that merit principles are being observed.

There is new provision which I think deserves special attention. This bill makes statutory the existence of the Board of Examiners of the Foreign Service. The Board is given the specific statutory mandate of seeing whether the examinations given by the Foreign Service meet the requirements of the Uniform Guidelines of Employee Selection Procedures. While these guidelines, issued by the Equal Employment Opportunity Commission and other agencies, apply fully to all Government agencies, enforcement has been lax. This is because

no clear enforcement mechanism exists. In the Foreign Service, the Board of Examiners is given the power to enforce the guidelines to assure compliance.

Establishing this enforcement mechanism is particularly justified in the Foreign Service, given its abysmal record in the hiring of minorities and women. Since hiring in the Foreign Service is initially from a written examination, legitimate questions have been raised about the validity of that exam if it screens out disproportionate numbers of women and minorities. To a lay observer, the written Foreign Service exam seems to be a trivia contest, asking obscure questions which have little apparent connection to job performance. I expect the Board of Examiners to make the type of significant changes needed in this exam in order to make sure that it complies with Uniform Guidelines.

INSPECTOR GENERAL

This bill establishes an Inspector General of the Department of State and the Foreign Service who has the same responsibilities and powers provided to Inspectors General created under the Inspector General Act of 1978. In addition to these powers, the Inspector General in this bill has the authorities of the existing Inspector General of the Foreign Service. The State Department and the Foreign Service need the services of auditors and investigators no less than any other sector of Government.

One provision of the House bill, which we removed in conference, required the appointment of two Assistant Inspectors General, one for auditing and one for investigation. The deletion of this requirement does not undermine the need for strong and separate units responsible for these two functions. I would expect the Department of State to structure its office of Inspector General based on the model provided in the Inspector General Act of 1978. Any departure from this model should be justified by the special circumstances of the Foreign Service.

POSITION DESIGNATION

One of the central features of this bill is its guiding principle that Foreign Service personnel authorities should only be used where there is a requirement for significant experience abroad in the conduct of foreign affairs and where the advantages of continued incumbency or specialized skill do not outweigh the advantages of a Foreign Service designation. Even though this requirement does not appear in the bill itself, it is well understood that positions should be part of the domestic civil service unless they meet the special requirements for Foreign Service designation.

The bill departs from this principle in the case of the headquarters staff of the Peace Corps. In the Peace Corps, employees serve under a Foreign Service designation, with no obligation for worldwide availability, for a limited 5-year term. I am not convinced that this special exception is warranted. Further, I see no reason that the headquarters staff at the Peace Corps should not gain civil service career status from their tenure. As I said during floor debate on this bill, I intend to look into this issue further in the future.

SENIOR FOREIGN SERVICE

H.R. 6790 creates a Senior Foreign Service based on the Senior Executive Service model established in the Civil Service Reform Act of 1978. As in the domestic civil service, this top career service will have rigid entry requirements, reduced job tenure, and the possibility of large monetary rewards. In regard to the Senior Executive Service, Congress has already shown its concern about monetary bonuses being too freely distributed. The message of the existing congressional restriction on SES bonuses to the domestic agencies should be listened to by the Foreign Affairs agencies as well: Bonuses should be provided to those who have distinguished themselves through outstanding performance. They should not be spread around on a rotating basis so that nearly every senior official receives a bonus every few years. They should not be used to enforce discipline or to encourage future performance. The purpose of Senior Executive and Senior Foreign Service bonuses is to reward sustained and demonstrated outstanding performance. Agency misuse of bonuses will surely result in the end of the bonus system.

RETIREMENT CREDIT FOR NON-FEDERAL SERVICE

The conference report contains two provisions which I oppose to provide retirement credit for periods of non-Federal service. The Senate insisted on these provisions and we were forced to recede. Nevertheless, I intend to stand in the way of any further attempts to provide Civil Service or Foreign Service retirement credit for periods of service with organizations which were not part of the Federal Government at the time the service was performed.

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

Mr. Speaker, I would first like to commend the chairman of our Subcommittee on International Operations, the gentleman from Florida, for his untiring efforts on what is a much needed reform of the Foreign Service structure. Without his leadership, this legislation would not be before us today.

I would also like to commend the gentlelady from Colorado and the gentleman from Iowa, the chair and ranking minority member of the Civil Service Subcommittee for their efforts and support.

While I am thanking people, I would be remiss if I did not express my own gratitude and I am sure that of the other Members involved in this legislation as well, to the staff for their work on this bill. Literally hundreds of hours have been spent on hearings, in drafting sessions and on committee and conference reports on this legislation.

Indeed, I have been involved in few pieces of legislation durng my 16 years in Congress in which so much effort has been expended.

In my judgment, this effort was justified because we are dealing with a very important group of people—the members of the Foreign Service of the United States.

The Foreign Service is comprised of many highly competent and dedicated individuals who serve through the world in a variety of posts, both friendly and hostile.

Their lives are on the line daily.

With this legislation, we have sought to provide a system which will produce the most capable and best trained Foreign Service personnel possible. It is essential that we do so. Our very future depends on it.

Mr. Speaker, the bill before us today is a good one which will provide many needed improvements in the Foreign Service.

It does, however, contain one flaw and that is in the area of pay comparability.

The House passed version of this bill included what I believe to be true pay comparability as required by the Federal Pay Comparability Act of 1970. The conference provision is somewhat less than the House version, but is a substantial improvement over the administration's initial proposals.

Mr. Speaker, it is nothing less than a scandal that the members of our Foreign Service, who are today in Iran, in Afghanistan, in El Salvador and other areas of unrest, over the years have been paid less than their civil service counterparts serving in Washington, California, or elsewhere in this country.

While the legislation before us today is a substantial first step toward the achievement of such comparability, I would strongly urge this administration or whatever administration is to follow to move expeditiously to insure full comparability between the Foreign Service and the civil service.

Notwithstanding this flaw, however, I believe H.R. 6790 is needed legislation and long-overdue legislation. I urge the adoption of the conference report.

Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa (Mr. LEACH).

(Mr. LEACH of Iowa asked and was given permission to revise and extend his remarks.)

[Mr. LEACH of Iowa addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

Mr. FASCELL. Mr. Speaker, I yield such time as he may consume to the gentleman from South Carolina (Mr. DERRICK).

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

Mr. DERRICK. Mr. Speaker, I rise today in support of the conference report before us. However, in so doing, I do wish to underscore the concerns I have regarding the grievance procedure established in law by this legislation.

During House consideration of this measure, Mr. Speaker, I had planned to offer an amendment to chapter 11 of this bill, which is the chapter dealing with grievances. My amendment would have been a substitute for that entire chapter.

For the sake of brevity, Mr. Speaker, I will not enumerate the concerns I have with this grievance procedure at this time. Rather, I would note that the fact that I had entertained the option of offering an entire substitute chapter should serve to indicate that the in-

terests I have in this matter are both substantial and significant.

This piece of legislation was the product of no small amount of time and effort, and I congratulate those responsible for it. And it was because the two House committees involved spent such an extended period of time on this, that I was sympathetic to their concerns that the amendment I was going to offer had not had the benefit of their full consideration. Although I would note, Mr. Speaker, that the bill to which I am sponsor and from which my amendment was drawn has a legislative history spanning the last decade.

It is with the interest of fully involving the many parties to this legislation that I did agree not to offer my amendment at the time this legislation was before the House. Rather, I was assured by both committee chairpersons, the Honorable DANTE FASCELL and the Honorable PATRICIA SCHROEDER, that hearings would be held at the earliest possible date to give full attention to the issues I had raised in my amendment.

Mr. Speaker, I am confident that the assurances given me by my distinguished colleagues will insure that the issues raised concerning the grievance procedure will be fully addressed by the House. And I look forward to the opportunity to do so.

Mr. FASCELL. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin (Mr. ZABLOCKI), chairman of the committee.

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

Mr. ZABLOCKI. Mr. Speaker, I rise in strong support of the conference report on H.R. 6790.

Mr. Speaker, I am sure the Members will be pleased to learn that your conferees on this bill have done a marvelous job and I want to take this time to pay tribute to my esteemed colleague Hon. DANTE B. FASCELL, the chairman of the Subcommittee on International Operations, chairman of Post Office, Mr. HANLEY, and the able PAT SCHROEDER, chairperson of the Subcommittee on the Civil Service, for their work in this conference. I also want to thank the ranking minority members of the subcommittees, the gentleman from Alabama (Mr. BUCHANAN) and the gentleman from Iowa (Mr. LEACH) and the staffs of the two committees for the many hours of work put in on this legislation and on the conference with the Senate.

Mr. Speaker, this bill and conference report are the culmination of a year and a half of legislative work and over 3 years of review within the executive branch. It is vitally important to the Foreign Service and to the U.S. foreign policy effort.

I am particularly pleased that the conferees were able to reach agreement on the important issue of pay comparability for the Foreign Serivce. At long last, we can begin to halt the decline in the numbers of applicants entering the Foreign Service.

The conference report also raises the mandatory retirement age for the Foreign Service to 65 and reaffirms the requirement of worldwide availability for those who serve in the Foreign Service.

Mr. Speaker, this conference report has already passed the Senate. The President is ready to sign it once the House acts. Let us agree to this conference report without delay.

Mr. FORD of Michigan. Mr. Speaker, I rise in reluctant support of the conference report on the Foreign Service Act of 1980. The bill provides a badly needed first step toward pay comparability between the Foreign Service and the Civil Service, an improvement too important to delay at a time when American diplomats and their staffs are enduring the hardships of one of the most difficult periods in the history of American foreign relations. But I find myself in deep philosophical disagreement with that section of the bill that provides annuities for former spouses of Foreign Service officers.

When H.R. 6790 was considered on the House floor, the Post Office and Civil Service Committee offered an amendment to modify the provisions in section 814 that provided for an automatic allocation of retirement and survivor benefits between a member of the Foreign Service and current spouses and former spouses of the member. Those provisions were identical to the provisions in the Senate bill.

By an overwhelming vote of 229 to 111, the House rejected the provision for an automatic allocation and approved the Post Office and Civil Service Committee amendment, which provided that retirement and survivor's benefits should be treated like all other property for purposes of division by a State court pursuant to a divorce. The amendment approved by the House also required that notice be afforded a spouse before a Foreign Service officer elects not to establish a survivor's benefit.

Despite the mandate of the House, the conferees have substantially adopted the Senate's position on this matter. The conference substitute does contain one major improvement over the Senate bill, in that the substitute will not disrupt the rights of any parties who have already divorced before the act's effective date.

Nevertheless, I have several strong objections to the act's treatment of pensions which I would like to make clear. My first objection is the most serious: I believe it is wrong to readjust the pension rights of Foreign Service members after those rights have ben earned and vested. It is wrong to induce an employee to work for 20 or 30 years by promising him a certain pension, only to renege on part of that pension. It was wrong in the private sector 6 years ago when we enacted ERISA and it is wrong today in the federal sector.

The same principles that engendered ERISA will be jeopardized by the legislation we are considering today: the principle that every employee should be secure in his or her retirement income; the principle that a promise should be kept; and the principle that property that a person has earned should not be taken away without that person's consent. For this legislation takes pension money promised to Foreign Service officers in return for their years of service and gives it to someone else.

The conferees, including the House sponsor of the provision in question, were unanimous in their intention that no precedent be established by the conference substitute. They each stressed, in the clearest terms, that the situation of the spouses of Foreign Service officers, which section 814 seeks to correct, is unique among Federal employees and their spouses. Unique prohibitions on the employment of Foreign Service spouses and unique duties and hardships, combined with the inability of these spouses to qualify for social security, differentiate them from the spouses of military personnel and other Federal employees and make this legislation inapplicable as a precedent for any other group.

But Federal employees in general will be anxious about a different precedent as they struggle to protect the cost of living adjustments to their retirement annuities promised to them by previous Congresses. They will worry, with good cause, when they see the sanctity of the Government's promise to Foreign Service officers compromised by this legislation. For each time a principle is ignored it is weakened.

What does a congressional action such as this say to future and present Federal employees to whom the Federal retirement program is a decisive attraction? They know they can neither bargain over nor strike for pay and benefits, but must trust to Congress at least to maintain their retirement program intact. As pay levels are capped and pay compression in the higher grades worsens, recruitment of quality people will be increasingly difficult. By undermining the Federal employees' trust in their retirement security we only make recruitment that much more difficult.

I fear that in its zeal to correct one injustice the Congress has committed a greater injustice and one with more lasting impact. Mr. Speaker, I yield back the balance of my time.

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

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

NOTICE

Incomplete record of House proceedings. Except for concluding business which follows, today's House proceedings will be continued in the next issue of the Record.