where injury or damage is caused by the negligence or wrongful act of a government employee within the scope of his employment. However, this authority does not extend to personal injury cases where the citizen of the United States or a third party was injured while on the Canal Zone, as employees of the Canal Zone Government go into the Republic of Panama every day while within the scope of their employment, including those covered by the Federal Tort Claims Act can and do occur.

In 1949, Congress acted to permit the Canal Zone Government to settle property claims against the Canal Zone Government, so as to be able to deal with those instances in which tort claims for personal injury or wrongful death are made against the Canal Zone Government and are also covered by existing law; but H.R. 15229 is designed to plug a loophole which exists in this present statute, a loophole in which personal injury tort claims in the Republic of Panama against the Canal Zone Government cannot be handled by the Governor but would have to come to Congress for action. If we pass H.R. 15229 here today, it will be a step in the direction of being able to provide justice for the individual Panamanian who may be legally involved with the Canal Zone Government. Ultimately, H.R. 15229 would be a force for stability in the relations between the Canal Zone and Panama.

This is good, competent legislation designed to fill a precise statutory need. It is noncontroversial and has been passed by both Houses of Congress, and I believe that it is important that we give it our affirmation today.

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

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. Leggett) that the House suspend the rules and pass the bill H.R. 15229.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

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

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

There was no objection.

ANTITRUST PROCEDURES AND PENALTY ACT

Mr. SODINO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 782) to reform consent decree procedures, to increase penalties for violation of the Sherman Act, and to revise the Expediting Act, as it pertains to appellate review, as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Antitrust Procedures and Penalty Act."

CONSENT DEGREE PROCEDURES

Sec. 2. Section 5 of the Act entitled "An Act to supplement existing laws against unfair methods of competition and to provide for the enforcement of such laws, approved October 15, 1914 (15 U.S.C. 16), is amended by redesignating subsections (a), (b), and (c) thereof as subsections (a), (b), and (c), respectively, of said section."

(iii) Any proposal for a consent judgment submitted by the United States for entry in any civil proceeding brought by or on behalf of the United States under the antitrust laws shall be filed with the district court before which such proceeding is pending and published by the United States in the Federal Register at least 30 days prior to the effective date of such judgment. Such written comments relating to such proposal shall be filed within 30 days of the filing of the proposal. The comments shall be made available to the public at the district court and in such other districts as the court may direct by such means as it may subsequently direct. Simultaneously with the filing of such proposal, unless otherwise instructed by the court, the United States shall file with the district court, publish in the Federal Register, and thereafter furnish to any person upon request a competitive impact statement which shall include:

"(1) the nature and purpose of the proceeding;

"(2) a description of the practices or events giving rise to the alleged violation of the antitrust laws;

"(3) an explanation of the proposal for a consent judgment, including an explanation of any unusual circumstances giving rise to such proposal or any provision contained therein, relief to be obtained thereby, and the anticipated effects on competition of such relief;

"(4) the remedies available to potential private plaintiffs damaged by the alleged violation in the event that such proposal for the consent judgment is entered in such proceeding;

"(5) a description of the procedures available for modification of the proposal; and

"(6) a description and evaluation of alternatives to such proposal actually considered by the United States.

The United States shall also cause to be published, commencing at least 30 days prior to the effective date of the judgment described in subsection (b) of this section, for 7 days over a period of 2 weeks in newspapers of general circulation in the district in which the cases have been filed, in the District of Columbia, and in such other districts as the court may direct:

"(1) a summary of the terms of the proposal for the consent judgment;

"(2) a summary of the competitive impact statement filed under subsection (a) and

"(3) a list of the materials and documents under subsection (b) which the United States shall make available for purposes of meaningful public comment, and the place where such materials and documents are available for public inspection.

In determining the 60-day period as specified in subsection (b) of this section, and such additional time as the United States may request, the court may, in its discretion, suspend the rule.

The United States shall receive and consider any written comments relating to the proposal for the consent judgment submitted under subsec-
tion (h). The Attorney General or his desigee shall establish procedures to carry out the provisions of this subsection, but such procedures shall not be preempted except by order of the district court upon a showing that (1) extraordinary circumstances require such shortening and (2) such reduction will not conflict with the public interest. At the close of the period during which such comments may be received, the United States shall file with the district court and cause to be published in the Federal Register a response to such comments.

(h) Proceedings before the district court under subsection (e) and (f) of this section, and the competitive impact statement filed under subsection (d) thereof shall not be admissible against any defendant in any action or proceeding brought by any other party against such defendant under the antitrust laws, unless the defendant has been notified, in writing, of the entry of such judgment and the responses of the United States under subsection (e) and (f) of this section have been complied with and that such judgment is in the public interest. For the purpose of such determination, the court may consider—

(1) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, dissolution or relief sought, anticipated effects of alternative remedies actually considered, and any other considerations bearing upon the adequacy of such judgment;

(2) the impact of entry of such judgment upon the public generally and individuals alleged to be injured as the result of the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

(1) In making its determination under subsection (e), the court may—

(1) take testimony of Government officials or experts or such other expert witnesses, upon motion of any party or participant or upon its own motion, as the court may deem appropriate;

(2) appoint a special master and such court reporter as the court may deem appropriate; and request and obtain the views, evaluations, or advice of an individual, group or agency of government with respect to any aspects of the proposed judgment or the effect of such judgment, in such manner as the court deems appropriate;

(3) authorize full or limited participation in proceedings before the court by interested persons or agencies, including appearance amicus curiae, intervention as a party pursuant to the Federal Rules of Civil Procedure, or participation as a party to the case in the public interest.

(2) Any review of the decision of the court under subsection (e) pursuant to this section shall be docketed in the time and manner prescribed in such section.

(3) In any civil action brought in any district court of the United States under the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1, 2, and 3), there are seven exceptions.

(1) by striking out "misdemeanor" whenever such phrase appears and inserting in lieu thereof in each case the following: "non-trespassing";

(2) by striking out "fifty thousand dollars" whenever such phrase appears and inserting in lieu thereof in each case the following: "one million dollars if a corporation, or, if any other person, one hundred thousand dollars"; and

(3) by striking out "one year" whenever such phrase appears and inserting in lieu thereof in each case the following: "five years".

APPENDIX ACT REVISIONS

SEC. 4. (a) The Act of February 11, 1903 (15 U.S.C. 29; 49 U.S.C. 44), commonly known as the "Expediting Act", is amended to read as follows:

"SEC. 1. In any civil action brought in any district court of the United States under the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies', approved July 2, 1890, or any other Acts having like purpose that have or hereafter may be enacted, wherein it appears and inserting in lieu thereof in each case the following: "the case of general public importance."

Upon filing of such certificate, it shall be the duty of the judge designated to hear and determine the case, or the chief judge of the district court if no judge has as yet been designated, to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited.

(b) An appeal from a final judgment entered in any district court of the United States under the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies', approved July 2, 1890, or any other Acts having like purpose that have or hereafter may be enacted, approved February eleventh, nineteen hundred and three, shall apply to any case prosecuted under the direction of the Attorney-General in the name of the Interstate Commerce Commission'.

EFFECTIVE DATE OF EXPEDITING ACT REVISIONS

SEC. 5. (a) Section 401(d) of the Communications Act of 1934 (47 U.S.C. 401(d)) is amended by striking out "the end of the term" and inserting in lieu thereof "the expiration of the term".

(b) Section 3 of the Act entitled "An Act to further regulate commerce with foreign nations", approved February 19, 1903 (32 Stat. 849; 49 U.S.C. 43), is amended by striking out the following: "The provisions of an Act entitled 'An Act to expedite the hearing and determination of suits in equity pending or hereafter brought under, among them, eighteen hundred and ninety, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies', approved February fourth, eighteen hundred and eighty-seven, or any other Acts having a like purpose that may be hereafter enacted, approved February eleventh, nineteen hundred and three,' shall apply to any case prosecuted under the direction of the Attorney-General in the name of the Interstate Commerce Commission'.

The SPEAKER. Is a second demanded? It is so ordered.

The SPEAKER. Without objection, I demand a second. It is so ordered.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. RODINO. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, there are three main purposes which the Antitrust Procedures and Penalties Act, S. 782 as amended, accomplishes: First, enactments to improve or accelerate antitrust action; Second, enactments to improve or accelerate antitrust action; Third, enactments to improve or accelerate antitrust action; Fourth, enactments to improve or accelerate antitrust action; Fifth, enactments to improve or accelerate antitrust action; Sixth, enactments to improve or accelerate antitrust action. The SPEAKER. The Chair recognizes the gentleman from New Jersey (Mr. RODINO).

The SPEAKER. Without objection, a second will be considered as ordered.
November 19, 1974

Congressional Record—House

Page 7, strike out lines 11, 12, 13 and 14 and insert the following in lieu thereof:

U.S.C. 1, 2 and 3 are each amended by

(i) striking out “misdemeanor” and inserting “felony” that “one year” and inserting “five years” and (iii) striking out “fifty thousand dollars” and inserting “one thousand dollars or, if any other person, one hundred thousand dollars.

As you know, the Department has testified before your Committee in favor of an increase in fines from fifty thousand dollars to five million dollars in the case of corporations.

We respectfully suggest that your Committee support an amendment to Section 782 along the following lines:

P. 7, strike out lines 11, 12, 13 and 14 and insert the following in lieu thereof:

The President urges swift action on this proposal, which was referred to the Economic Message delivered by the President before a joint session of the Congress today.

To amend H.R. 17065 to increase the fine for Sherman Act violations to $1 million for corporations and $100,000 for individuals.

The President urges swift action on this proposal, which was referred to the Economic Message delivered by the President before a joint session of the Congress today.

Amendment to H.R. 17065

Page 7, strike out lines 17–26 and insert the following in lieu thereof:

Sc. 3, Sections 1, 2 and 3 of the Act entitled “An Act to protect trade and commerce against unlawful restraints and monopolies”, approved July 2, 1890 (15 U.S.C. 1, 2, and 3), are each amended by striking “fifty thousand dollars” where ever such phrase appears and inserting in each case the following “one million dollars if committed by a corporation, or, if committed by any other person, one hundred thousand dollars.”

November 1, 1974

Hon. Thomas E. Kauper, Assistant Attorney General, Antitrust Division, U.S. Department of Justice, Washington, D.C.

Dear Ms. Kauper: In your public address yesterday, you disclosed that the Antitrust Division was committed to making antitrust violations a felony and increasing jail sentences therefor to five years for five years, which we appreciate. In general, we believe that such measures are desirable, and we look forward to working with your Division in this regard.

Very truly yours,

Roy L. Ash, Director.

Amendment to H.R. 17065

Page 7, strike out lines 17–26 and insert the following in lieu thereof:

Sc. 3, Sections 1, 2 and 3 of the Act entitled “An Act to protect trade and commerce against unlawful restraints and monopolies”, approved July 2, 1890 (15 U.S.C. 1, 2, and 3), are each amended by striking “fifty thousand dollars” wherever such phrase appears and inserting in each case the following “one million dollars if committed by a corporation, or, if committed by any other person, one hundred thousand dollars.”

November 1, 1974

Hon. Thomas E. Kauper, Assistant Attorney General, Antitrust Division, U.S. Department of Justice, Washington, D.C.

Dear Ms. Kauper: In your public address yesterday, you disclosed that the Antitrust Division was committed to making antitrust violations a felony and increasing jail sentences therefor to five years for five years, which we appreciate. In general, we believe that such measures are desirable, and we look forward to working with your Division in this regard.

Very truly yours,

Roy L. Ash, Director.

Amendment to H.R. 17065

Page 7, strike out lines 17–26 and insert the following in lieu thereof:

Sc. 3, Sections 1, 2 and 3 of the Act entitled “An Act to protect trade and commerce against unlawful restraints and monopolies”, approved July 2, 1890 (15 U.S.C. 1, 2, and 3), are each amended by striking “fifty thousand dollars” wherever such phrase appears and inserting in each case the following “one million dollars if committed by a corporation, or, if committed by any other person, one hundred thousand dollars.”

November 1, 1974

Hon. Thomas E. Kauper, Assistant Attorney General, Antitrust Division, U.S. Department of Justice, Washington, D.C.

Dear Ms. Kauper: In your public address yesterday, you disclosed that the Antitrust Division was committed to making antitrust violations a felony and increasing jail sentences therefor to five years for five years, which we appreciate. In general, we believe that such measures are desirable, and we look forward to working with your Division in this regard.

Very truly yours,

Roy L. Ash, Director.
Mr. HUTCHINSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this bill. S. 782 would make three changes in the way the antitrust laws are enforced. No change would be made in the substantive antitrust law itself. First, the bill would provide new rules for consent decree procedures; second, it makes changes in appellate review in Government-injunction suits; and third, it would decrease penalties and criminal violations of the Sherman Act.

Perhaps the most significant provision is that which would increase criminal penalties for antitrust violations, fines for those convicted of a criminal antitrust violation would be increased from $50,000 to $1,000,000 for corporations and to $100,000 for other persons. The maximum jail sentence that could be imposed would be increased from 1 year to 3 years, thereby transforming what has been a misdemeanor into a felony. These increases are intended to convey a message to conspire or to engage in antitrust violations that it can be every bit as expensive to be caught committing a criminal antitrust violation as it is to commit a felony. The maximum criminal penalties would be increased, so that fines need no longer be small or jail sentences light. One cannot unknowingly commit a criminal antitrust violation. This increase is designed to deter those who might conspire to fix prices or to monopolize a given market.

Judges complain that we tie their hands whenever we write minimum mandatory sentences into the law. Yet they leave little choice for Congress when they try too often to fix penalties leniently. We refrained from imposing minimum mandatory sentences this time with the hope that the courts would understand our firm resolve to crack down on antitrust violators.

Although I support this legislation and will vote for it, I do not subscribe to every part of the House bill. As I stated in my additional views to the committee's report, the first part of the bill which treats with consent decrees imposes on the courts what I feel is an essentially nonexistent problem. In what I believe to be a short, the courts will have to decide whether the Department of Justice has exercised its prosecutorial discretion to settle cases as well as it should. Since the bill offers no guidance to the courts in reviewing executive discretion other than that they are to decide if the proposed settlement is in the "public interest," the bill attempts to assist the courts by generalizing the law public interest or any "public interest" group to offer its views and comments after the proposed settlement has been published in the Federal Register. I am not such a process that is foreign to the judicial function.

In addition to this objection, there are two instances in which the Senate version of the bill is preferable to the House bill. The first deals with the public benefit of a trial versus a settlement; the second deals with lobbying contacts.

First, in making the determination whether a proposed consent decree is in the public interest, the court is authorized to consider the public impact of the consent decree. It seems to me that the court should be in a position to consider the actual effect of the consent decree both on the parties to the settlement and on the public at large.

Perhaps the most significant provision is that which would increase criminal penalties for antitrust violations, fines for those convicted of a criminal antitrust violation would be increased from $50,000 to $1,000,000 for corporations and to $100,000 for other persons. The maximum jail sentence that could be imposed would be increased from 1 year to 3 years, thereby transforming what has been a misdemeanor into a felony. These increases are intended to convey a message to conspire or to engage in antitrust violations that it can be every bit as expensive to be caught committing a criminal antitrust violation as it is to commit a felony. The maximum criminal penalties would be increased, so that fines need no longer be small or jail sentences light. One cannot unknowingly commit a criminal antitrust violation. This increase is designed to deter those who might conspire to fix prices or to monopolize a given market.

Judges complain that we tie their hands whenever we write minimum mandatory sentences into the law. Yet they leave little choice for Congress when they try too often to fix penalties leniently. We refrained from imposing minimum mandatory sentences this time with the hope that the courts would understand our firm resolve to crack down on antitrust violators.

Although I support this legislation and will vote for it, I do not subscribe to every part of the House bill. As I stated in my additional views to the committee's report, the first part of the bill which treats with consent decrees imposes on the courts what I feel is an essentially nonexistent problem. In what I believe to be a short, the courts will have to decide whether the Department of Justice has exercised its prosecutorial discretion to settle cases as well as it should. Since the bill offers no guidance to the courts in reviewing executive discretion other than that they are to decide if the proposed settlement is in the "public interest," the bill attempts to assist the courts by generalizing the law public interest or any "public interest" group to offer its views and comments after the proposed settlement has been published in the Federal Register. I am not such a process that is foreign to the judicial function.

In addition to this objection, there are two instances in which the Senate version of the bill is preferable to the House bill. The first deals with the public benefit of a trial versus a settlement; the second deals with lobbying contacts.

First, in making the determination whether a proposed consent decree is in the public interest, the court is authorized to consider the public impact of the consent decree. It seems to me that the court should be in a position to consider the actual effect of the consent decree both on the parties to the settlement and on the public at large.

Second, the bill would require that the defendant publish the contacts that it had with any employees of the Government in connection with the case. Since it is anticipated that this requirement will have a chilling effect on contact between the defendant and Government employees, the Senate version of the bill would exempt from the reporting requirement contacts "made by the Government counsel of record with the Attorney General or other employees of the Department of Justice." Since it is both common and appropriate for a defendant and his lawyer to meet with government counsel in the course of making an offer to settle a case, I think this exemption appears reasonable to me. The committee, on the other hand, took the position that such a contact was, in fact, a lobbying contact which should be reported. I disagree. Perhaps the counsel with employees of the Department of Justice are appropriate litigation contacts and should be encouraged. Very often it is in such meetings that the employees of the Department of Justice in talking both to the defendant and its counsel find the answer to the question of whether they should prosecute a case against a defendant. As we all know, lawyers are more circumspect in discussing their litigation posture than are regular businessmen. In these meetings where the legality of a particular transaction or the illegality of the activity in question may be more apparent than when it is couched in the verbiage of the law. On this point the Senate version appears preferable to me.

The third part of the bill deals with appellate review in injunction cases brought by the Government. The bill makes much needed changes. It permits the court to certify by motion of a preliminary injunction without having to await the completion of a typically lengthy trial. In merger cases, this change will be much welcomed. The other major change regarding appellate review deals with final orders. Under current law all antitrust cases may be appealed from the district court to the Supreme Court of the United States. In practice this procedure which treats all cases as special simply does not work. For the Supreme Court does not permit itself to be appealed from in important cases. Instead, it summarily affirms the decisions of the lower courts. What this means in practice is that in the majority of antitrust cases there is no real appellate review. The majority of antitrust cases are treated as something less than an ordinary Federal case.

The Senate version of the bill would provide a mechanism whereby the routine cases could be treated as routine and the special cases could be treated as special. The Senate version would permit the trial judge on application of either party to certify that defendant or third parties are of general public importance in the administration of justice. The problem with that procedure, however, is that the trial judge is not in the best position to determine which cases are of general public importance, while in the enforcement of the antitrust laws.

Mr. Speaker, I rise in support of this bill. S. 782 would make three changes in the way the antitrust laws are enforced. No change would be made in the substantive antitrust law itself. First, the bill would provide new rules for consent decree procedures; second, it makes changes in appellate review in Government-injunction suits; and third, it would decrease penalties and criminal violations of the Sherman Act.

Perhaps the most significant provision is that which would increase criminal penalties for antitrust violations, fines for those convicted of a criminal antitrust violation would be increased from $50,000 to $1,000,000 for corporations and to $100,000 for other persons. The maximum jail sentence that could be imposed would be increased from 1 year to 3 years, thereby transforming what has been a misdemeanor into a felony. These increases are intended to convey a message to conspire or to engage in antitrust violations that it can be every bit as expensive to be caught committing a criminal antitrust violation as it is to commit a felony. The maximum criminal penalties would be increased, so that fines need no longer be small or jail sentences light. One cannot unknowingly commit a criminal antitrust violation. This increase is designed to deter those who might conspire to fix prices or to monopolize a given market.

Judges complaint that we tie their hands whenever we write minimum mandatory sentences into the law. Yet they leave little choice for Congress when they try too often to fix penalties leniently. We refrained from imposing minimum mandatory sentences this time with the hope
November 19, 1974

CONGRESSIONAL RECORD—HOUSE

36341

Attorney General solely and directly, for he is in the best position to know. If he is clearly aware of the Supreme Court as authorized to remit the case to the court of appeals where the appeal should have been brought.

It may be argued that the committee's version is inequitable since it does not provide the defendant with the same power as the Attorney General. The answer to that is that no one simply be authorized to remit the case to the court Attorney General solely and directly, for cases have been brought.

November 19, 1974

cases are of general public importance provide the defendant with the same version is inequitable since it does not provide him the means to meet that responsibility.

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

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

Mr. McCLORY. Mr. Speaker, the bill before us today (S. 782) will restructure the consent decree procedures in antitrust cases. The measure corrects various deficiencies and omissions that have resulted in abuses in the enforcement of our antitrust laws. Some of all antitrust complaints never come to trial but are settled by consent decree. S. 782 opens these pretrial settlement procedures to public scrutiny. Publication of the terms of consent decrees is required at least 60 days before they become effective and mechanisms are established for public comment and Justice Department responses. The Department is required to file a “competitive impact statement” for each consent judgment detailing the alleged violations, setting forth the proposed decree, delineating the remaining remedies for private persons damaged by the antitrust violations and outlining the alternatives considered to the proposed consent judgment. Federal courts are to determine whether both the approved consent judgments are in the public interest—a provision intended to eliminate district court “rubberstamping” of proposals submitted by the Justice Department. The Department is to report the appearance and the occurrence of “political justice” in public civil antitrust cases because of heavy lobbying, defendants are required to report all their “lobbying” contacts in connection with the pending antitrust cases.

Mr. Speaker, this measure will bring all aspects of the case that results in a consent decree out into the open. Considerations which contribute to development of a consent decree will be made known to the Court—and to interested parties. There will be no backdoor arrangements—and no secret agreements or understandings.

Mr. Speaker, those who wish to comment on a proposed consent decree will be given far greater opportunity under this bill as amended.

Mr. Speaker, in addition, it is important also that we increase the penalties for violations of the antitrust laws as recommended by the President—and as set forth in this legislation.

Mr. Speaker, the committee is to be commended for bringing this measure to the House—and I urge an overwhelming vote on final passage.

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

Mr. HUTCHINSON. I will be glad to yield to the gentleman from Pennsylvania.

Mr. HEINZ. Mr. Speaker, I want to join in support of the gentleman's statement that this is a necessary piece of legislation.

I rise in support of S. 782, the “Antitrust Procedures and Penalties Act.” It has long been a guiding principle of the Republican Party to support strong antitrust enforcement. This bill is designed to increase the effectiveness of antitrust enforcement. A similar although weaker version passed the Senate in July of 1973 by a vote of 92 to 0. In September of this year, along with other members of the House Republican Task Force on Antitrust and Monopoly Problems, became apprehensive that the bill might never be reported out of the House Committee on the Judiciary for the completion of subcommittee action in the spring of this year. We urged the distinguished chairman of the committee to bring this bill to the floor of the House. Later, on the day that the House acted on the bill, the President asked for greater criminal antitrust penalties than had been approved by the committee. Both the Republican Antitrust Task Force and the House Republican Policy Committee have taken positions in support of the bill, and have recommended that the maximum criminal penalties for antitrust violations be increased along the lines of the President's request. I commend the committee for considering the President's request and reporting the bill along with an amendment to increase the maximum criminal penalties to $1 million for corporations and up to 3 years for individuals. Let us act now and vote favorably on this bill and the amendment.

I believe that when the marketplace is truly open and competitive, it is the best regulator of industry and an indispensable safeguard against inflation. The antitrust laws provide the rules for competition. They are a cornerstone in our free enterprise system. They are intended to prevent predatory conduct or combinations which unreasonably raise consumer prices. These laws are designed to encourage businesses to use their energies to increase efficiency, and lower prices. They are at the heart of our ability to allocate the scarce resources of capital, management, and labor among the competing sectors of our economy.

The antitrust laws are very important, but they cannot do the job if they are not enforced promptly and fairly, or if those who violate them receive such little punishment that it pays them to ignore the law. At present, antitrust enforcement has drawn out so many times that the same corporation must be prosecuted repeatedly. We must slow down inflation, we must speed up enforcement, and we must deter great corporations and the executives that run them from continuing to violate the antitrust laws.

This bill will speed up Government and defense appeals of antitrust cases by permitting circuit court consideration. In the past, antitrust cases were often taken years to be resolved and the public has suffered from delays. The public cannot afford delayed enforcement of the antitrust laws. Consent decree review would also reduce the Supreme Court's caseload and allow that court to spend its time dealing with only the most important cases.

This bill will also strengthen the Government's hand in dealing with large corporate mergers by granting the right of appeal if a district court denies a request for an injunction to stop a merger. At present, if a district court does not grant the Government's request to stop a merger before it takes place, it may be many years before the companies are separated. The companies make money and the public suffers from the loss of competition. We cannot tolerate delay any longer.

As an important additional provision, this bill provides for increased public disclosure of settlements in Government's antitrust cases. It insures that settlements are open to public view and comment and that they are in the public interest. We believe that settlements will not result from improper lobbying contacts. We must be sure that the laws are enforced fairly and this bill goes a long way in that direction.

The maximum fines that may now be levied against corporations that violate the antitrust laws do not amount to much compared to the sales and profits of some of the larger companies. Corporate officials may now reasonably expect that they will not receive any meaningful punishment for criminal violations of the Sherman Act even when they commit the most serious of price-fixing offenses. In this time of double-digit inflation, the public cannot afford to let giant corporations commit repeated violations of the antitrust laws. The bill must amend those laws to make the penalties for antitrust violations strong enough to act as a real deterrent. The bill before us will increase the maximum criminal penalties to $1 million for corporations and up to 3 years for individuals. I hope that the most serious penalties might never need to be used. I hope that if these penalties are enacted that criminal violations of the antitrust laws will become a rare event. We know that the current penalties are too low to do this job and must be increased.

When the House approved in June of this year my amendment to increase the staff of the Antitrust Division of the Department of Justice, we took a step forward in antitrust enforcement. We have given the Antitrust Division most of the manpower it needs to enforce the law. Let us now give them a meaningful law to enforce. I urge your support of this necessary and overdue bill.

Mr. RODINO. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, I think the committee and in particular, the chairman, the gentleman from New Jersey (Mr. ROKNO), are to be commended for bringing up this legi-
ation at this time. We are all concerned with inflation, and the antimonopoly laws, which are intended to prevent anticompetitive behavior in our free enterprise system, can have important consequences for the price of goods. It has been estimated by a member of the Federal Trade Commission that price-fixing conspiracies cost the public about $10 billion a year, and that ineffective competition harms consumers by reducing the variety of goods available and by increasing the prices of goods.

The Senate has recently recommended that the Federal Trade Commission and the Federal Trade Commission, in addition to their antitrust functions, be given the additional power to investigate price-fixing conspiracies. The Senate's recommendation was made in the context of its investigation of the Watergate incident. The Senate's recommendation is not without precedent. In 1960, the Supreme Court held that the Federal Trade Commission had the power to investigate price-fixing conspiracies. The Senate's recommendation is also consistent with the recommendation of the President's Commission on Industrial Relations.

The Senate's recommendation is important because it would enable the Federal Trade Commission to investigate and prevent antitrust violations more effectively. The Federal Trade Commission has the authority to investigate and prevent antitrust violations, but it is not able to investigate them effectively because it does not have the power to investigate price-fixing conspiracies. The Senate's recommendation would enable the Federal Trade Commission to investigate and prevent antitrust violations more effectively.

The Senate's recommendation is also important because it would enable the Federal Trade Commission to investigate and prevent antitrust violations more effectively. The Federal Trade Commission has the authority to investigate and prevent antitrust violations, but it is not able to investigate them effectively because it does not have the power to investigate price-fixing conspiracies. The Senate's recommendation would enable the Federal Trade Commission to investigate and prevent antitrust violations more effectively.

The Senate's recommendation is also important because it would enable the Federal Trade Commission to investigate and prevent antitrust violations more effectively. The Federal Trade Commission has the authority to investigate and prevent antitrust violations, but it is not able to investigate them effectively because it does not have the power to investigate price-fixing conspiracies. The Senate's recommendation would enable the Federal Trade Commission to investigate and prevent antitrust violations more effectively.

The Senate's recommendation is also important because it would enable the Federal Trade Commission to investigate and prevent antitrust violations more effectively. The Federal Trade Commission has the authority to investigate and prevent antitrust violations, but it is not able to investigate them effectively because it does not have the power to investigate price-fixing conspiracies. The Senate's recommendation would enable the Federal Trade Commission to investigate and prevent antitrust violations more effectively.

The Senate's recommendation is also important because it would enable the Federal Trade Commission to investigate and prevent antitrust violations more effectively. The Federal Trade Commission has the authority to investigate and prevent antitrust violations, but it is not able to investigate them effectively because it does not have the power to investigate price-fixing conspiracies. The Senate's recommendation would enable the Federal Trade Commission to investigate and prevent antitrust violations more effectively.

The Senate's recommendation is also important because it would enable the Federal Trade Commission to investigate and prevent antitrust violations more effectively. The Federal Trade Commission has the authority to investigate and prevent antitrust violations, but it is not able to investigate them effectively because it does not have the power to investigate price-fixing conspiracies. The Senate's recommendation would enable the Federal Trade Commission to investigate and prevent antitrust violations more effectively.

The Senate's recommendation is also important because it would enable the Federal Trade Commission to investigate and prevent antitrust violations more effectively. The Federal Trade Commission has the authority to investigate and prevent antitrust violations, but it is not able to investigate them effectively because it does not have the power to investigate price-fixing conspiracies. The Senate's recommendation would enable the Federal Trade Commission to investigate and prevent antitrust violations more effectively.

The Senate's recommendation is also important because it would enable the Federal Trade Commission to investigate and prevent antitrust violations more effectively. The Federal Trade Commission has the authority to investigate and prevent antitrust violations, but it is not able to investigate them effectively because it does not have the power to investigate price-fixing conspiracies. The Senate's recommendation would enable the Federal Trade Commission to investigate and prevent antitrust violations more effectively.

The Senate's recommendation is also important because it would enable the Federal Trade Commission to investigate and prevent antitrust violations more effectively. The Federal Trade Commission has the authority to investigate and prevent antitrust violations, but it is not able to investigate them effectively because it does not have the power to investigate price-fixing conspiracies. The Senate's recommendation would enable the Federal Trade Commission to investigate and prevent antitrust violations more effectively.

The Senate's recommendation is also important because it would enable the Federal Trade Commission to investigate and prevent antitrust violations more effectively. The Federal Trade Commission has the authority to investigate and prevent antitrust violations, but it is not able to investigate them effectively because it does not have the power to investigate price-fixing conspiracies. The Senate's recommendation would enable the Federal Trade Commission to investigate and prevent antitrust violations more effectively.

The Senate's recommendation is also important because it would enable the Federal Trade Commission to investigate and prevent antitrust violations more effectively. The Federal Trade Commission has the authority to investigate and prevent antitrust violations, but it is not able to investigate them effectively because it does not have the power to investigate price-fixing conspiracies. The Senate's recommendation would enable the Federal Trade Commission to investigate and prevent antitrust violations more effectively.

The Senate's recommendation is also important because it would enable the Federal Trade Commission to investigate and prevent antitrust violations more effectively. The Federal Trade Commission has the authority to investigate and prevent antitrust violations, but it is not able to investigate them effectively because it does not have the power to investigate price-fixing conspiracies. The Senate's recommendation would enable the Federal Trade Commission to investigate and prevent antitrust violations more effectively.

The Senate's recommendation is also important because it would enable the Federal Trade Commission to investigate and prevent antitrust violations more effectively. The Federal Trade Commission has the authority to investigate and prevent antitrust violations, but it is not able to investigate them effectively because it does not have the power to investigate price-fixing conspiracies. The Senate's recommendation would enable the Federal Trade Commission to investigate and prevent antitrust violations more effectively.

The Senate's recommendation is also important because it would enable the Federal Trade Commission to investigate and prevent antitrust violations more effectively. The Federal Trade Commission has the authority to investigate and prevent antitrust violations, but it is not able to investigate them effectively because it does not have the power to investigate price-fixing conspiracies. The Senate's recommendation would enable the Federal Trade Commission to investigate and prevent antitrust violations more effectively.

The Senate's recommendation is also important because it would enable the Federal Trade Commission to investigate and prevent antitrust violations more effectively. The Federal Trade Commission has the authority to investigate and prevent antitrust violations, but it is not able to investigate them effectively because it does not have the power to investigate price-fixing conspiracies. The Senate's recommendation would enable the Federal Trade Commission to investigate and prevent antitrust violations more effectively.

The Senate's recommendation is also important because it would enable the Federal Trade Commission to investigate and prevent antitrust violations more effectively. The Federal Trade Commission has the authority to investigate and prevent antitrust violations, but it is not able to investigate them effectively because it does not have the power to investigate price-fixing conspiracies. The Senate's recommendation would enable the Federal Trade Commission to investigate and prevent antitrust violations more effectively.

The Senate's recommendation is also important because it would enable the Federal Trade Commission to investigate and prevent antitrust violations more effectively. The Federal Trade Commission has the authority to investigate and prevent antitrust violations, but it is not able to investigate them effectively because it does not have the power to investigate price-fixing conspiracies. The Senate's recommendation would enable the Federal Trade Commission to investigate and prevent antitrust violations more effectively.

The Senate's recommendation is also important because it would enable the Federal Trade Commission to investigate and prevent antitrust violations more effectively. The Federal Trade Commission has the authority to investi...
trust laws, particularly with respect to settlement procedures. This bill, I believe, will also serve as a strong deterrent to anticompetitive practices. The increased penalties for violations of the antitrust laws. For corporations that do hundreds of millions of dollars worth of business per year, penalties have to be substantial in order to deter violations. I am particularly pleased by the section which will increase the maximum corporate fine—which is an important measure, in this regard. The bill, I believe, is realistic in deterring violations of the antitrust laws.

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

Mr. DENNIS. I thank my colleague on the subcommittee for yielding.

Mr. SEIBERLING. I, too, rise in support of this bill which our subcommittee has worked on. Since I will not have the pleasure of serving with the gentleman and other members of the committee in the next Congress, I should like to express the hope that he and others may agree with me that in our further studies on the questions of free competition and price fixing, and so on, to which we have been addressing ourselves, we may consider the question of whether or not we ought not to take up the topic of whether the antitrust laws should also be extended in certain particulars to our great labor unions of this country which, by negotiating national contracts with the great corporations may also have the power of price fixing and non-competitive areas.

Mr. SEIBERLING. I might say that is an important question, although, as the gentleman undoubtedly knows, there is a very long history as to the reasons for exemption of labor relations from the antitrust laws, which would have to be gone into at great length, and I think they are not particularly germane to this bill.

Mr. DENNIS. I agree with the gentleman. If he will yield further, it certainly needs to be gone into carefully and thoroughly. I am simply hoping for the prospect of the gentleman's labors and attention during the next session.

Mr. SEIBERLING. I should also like to call for a further observation. One of the things that this bill as amended would do is to increase the penalties for violation of the antitrust laws in criminal cases. As I am sure the gentleman on the other side who has spoken of this previously knows, criminal prosecutions under the antitrust laws are not brought except in cases where the law is very clear and where the violation is obviously very serious, and the defendants' actions are very clear, because the prosecution must meet the burden of proof in criminal proceedings and prove guilt beyond any reasonable doubt. So we are not dealing with fuzzy areas but very clear black-and-white areas of the antitrust laws.

At the time the Sherman Act was adopted in 1890, violations were made a misdemeanor rather than a felony, and the maximum penalties were in an amount which was considerable in those days but today, in our view, considering what has happened to our money value since. So in an effort to emphasize the seriousness of these economic offenses, the bill increases the maximum fines for corporations to $1 million per offense from the present $50,000 and makes the violations punishable by 3 years in jail. That would make them a felony.

I might add that if there is any one thing from my own experience that has made the enforcement of the antitrust laws meaningful, it was when courts started sentencing corporate executives to jail, because if there is one thing that courts do, it is to punish. If it is a criminal label attached to them for the rest of their lives and having the reputation of having served time in jail. Believe me, that has had a tremendous effect on antitrust compliance within the major businesses of this country.

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

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

Mr. MEZVINSKY. I thank the gentleman for yielding.

Mr. SEIBERLING. I just want to say that I strongly support the legislation. I think it is a significant step in antitrust law.

This legislation is one of the most important bills to come before Congress this year. I believe that everyone who has studied and tried to come to grips with the problems of inflation recognizes the necessity for strong antitrust laws and strict enforcement of the statutes already on the books.

The most frequently used tool to stop anticompetitive practices is consent decrees. This procedure compels those who engage in monopolistic activities to cease such activities without the several-year delay which can result from a long and complicated trial. To take every case to trial would far outstrip the resources of the Justice Department and our judicial system as well as allow many of these anticompetitive practices to go unchecked during litigation. For this reason, I consider one of my very useful procedures to force certain companies to voluntarily stop practices which are not in the best interests of competition.

But this process is not without fault. Under the present system, once a consent decree is entered, the public remains unaware of those practices which necessitated that consent decree actions be instituted. It is my hope that the public should know of those illegal activities and the effect they have had on competition and ultimately on consumer prices. The legislation before us will give this information to the public and help them to understand the problems caused by anticompetitive practices and to evaluate the effects of the settlement.

Basic to the wide support commanded by this bill is its simple purpose: to eliminate the consent decree process by which the Justice Department disposes of...
more than 80 percent of all antitrust cases do not actually get to trial and negotiations predominate. The filing of a proposed consent decree in a district court. S. 782 would pierce the secrecy with a requirement that the Justice Department file a competitive impact statement with the bill along with the proposed consent decree. The public will have 60 days to comment on the proposed decree.

Under the Antitrust Procedures and Penalties Act provides procedures to be employed by the courts upon the submission to it of a proposed consent judgment. During testimony on the bill it was pointed out that some members of the bar felt district courts were "rubber-stamping" proposed consent decrees after having been submitted by the Justice Department. Section 2(c) of the bill is written to correct this practice. For the first time, judges will be able to look to statutory language for explicit guidance prior to rendering judgment on a proposed decree. The bill provides clear distinction between what the courts "shall do" and "may do" in evaluating proposed decrees. This distinction is necessary in order to preserve maximum judicial discretion on a case-by-case basis. District court judges shall be required to find that each proposed consent judgment is in the public interest. The courts will thus be required to make a positive finding that the decree is in the public interest.

The committee believes this requirement will serve to remedy the so-called rubber-stamping practice. It is hoped that flexible judicial discretion will exist in the process of correcting judicial rubber-stamping. It is not the intention of the committee to require the courts to conduct a hearing or trial on the public interest question. It is anticipated the trial judge will adduce the necessary information through the least complicated and least time-consuming means possible.

To assist the court in resolving the public interest question the bill includes language suggesting a series of questions the judge may wish to consider. Will the decree increase competition? Will the court may wish to consider. Will the injured parties and the public generally, benefit from a determination of the alleged violations? And finally, would the present bill strengthen the Government's hand when dealing with large corporate mergers by granting right of appeal whenever a district court denies an injunction to halt a merger. While operating under the banner of free enterprise, many of our largest and most influential business organizations have consistently schemed, combined, and plotted together to defeat that very system of free enterprise by fixing the prices under which their products are sold or their services are rendered, thereby denying the American people the benefits of competition and the free en-
enterprise system which we have traditionally supported.

S. 782 purportedly seeks to add strength to our antitrust laws by increasing the penalties incident to the violation of those laws, particularly by increasing the maximum period of imprisonment and by increasing the maximum fine which can be imposed because of a violation.

While I do not question the motivation of those who have sponsored this bill, in fact I commend them for having done something to improve our antitrust laws. However, I doubt seriously whether the provisions of this bill will have any practical effect, if any.

The approach taken in this bill, increasing maximum potential confinement and increasing maximum fine, are not meaningful when considered in the light of the history of the enforcement of our antitrust laws. In fact, a practical change will be brought about by this bill are mere window dressing and could be considered as sham. It means nothing to increase the maximum period of imprisonment for violation of antitrust laws if one stops to recall that, under the existing laws, the penalty for confinement has rarely been imposed at all. The fact of the matter is that the largest sentences which have been imposed are for confinement for 30 days, and usually those sentences have been suspended. We seek to have a fascination with the idea that imprisonment and fines are the proper methods of punishment for crime. We consistently labor under the delusion that potential imprisonment and potential fines are such as will effectively deter a corporate executive from seriously contemplating a violation of those laws and that the threat of confinement and monetary penalties through fines has no significant deterrent effect whatever.

I respectfully submit that if the punishment for criminal antitrust law violators is to fit the crime, the penalties imposed must be such as will effectively deter a corporate executive from seriously contemplating a violation of those laws and it must be penalties which the courts will either be willing to impose or must impose. Under the present structure of our antitrust laws, which is not changed by the present bill, except to increase the size of the possible but mythical fines which the antitrust laws are violated, the corporate executive pays a fine and conceivably receives a 30-day suspended sentence and then he is free to continue in the same course as before, without noticeable impairment in his financial well-being or in his social or economic status.

It is notorious that an American citizen is not necessarily a more law-abiding citizen when a fine is imposed, even for a multiple of millions of dollars from the American people. I respectfully submit that if these laws are to have any practical effect whatsoever, we must for-
the interest of protecting the consumer and the business which both suffer from restraints on trade.

It seems to me that the Justice Department should be given the statutory authority to order a delay in a merger when questions of possible antitrust violations arise. That delay could be for 60 days or for 90 days, some reasonable period of time to permit a thorough review.

The Justice Department should also have the right to request pertinent documents. The next step would be to work out a consent decree which would then be subject to the legislation we are discussing today or, barring an agreement, a contest of the case in court. There really should be nothing short of total cooperation between the Justice Department and those seeking a merger. Because if there is a violation, there should not be a merger. In any case, the determination should not hinge on how cleverly the parties involved kept the facts from the Justice Department.

I offer these as suggestions to my friends of the new Congress, some of whom may read these remarks. My experience in attempting to convince the Justice Department to move forcibly to delay the Signal-Burmah merger makes me believe that there is an important contribution to be made in antitrust legislation by Members of the 91st Congress.

Mrs. HOLT. Mr. Speaker, the Antitrust Procedures and Penalties Act should be a powerful deterrent against price fixing and the creation of monopolies. This is the best kind of consumer protection legislation, because it gives the tools we need to prevent such things as the current exorbitant sugar profits through price manipulation. This legislation will go a long way toward preserving competition in the free market.

I will vote in favor of this because I believe that giant corporate monopolies are as dangerous to a free society as big government. They are prone to fix prices and to strangle business in a number of ways. I will have the opportunity to discuss this matter more fully in the near future. I am urging President Ford to maintain pressure on the Justice Department for vigorous enforcement of antitrust laws. This legislation gives the administration the authority it needs for an effective attack on monopolies and price fixing. We do not need vast new bureaucracies to strangle business in a number of ways. We do need tough enforcement of laws to preserve our free economy in the marketplace.

This is an important step against inflation by conspiracy, but I would also remind this Congress of the necessity to fight inflation caused by deficit Federal spending—inflation caused by irresponsible fiscal policy.

We have demonstrated our will to curb abuses by big business, but it is also time for the people on restricting the abuses by big government.

Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Pursuant to the provisions of clause 3(b) of rule XXVII and the prior announcement of the Chair, further proceedings on this motion will be postponed.

Does the gentleman from Iowa withdraw his point of order that a quorum is not present?

Mr. GROSS. Yes, I do, Mr. Speaker.

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may be permitted to sit while the House is in session for reading the request of the gentleman from Ohio?

Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may be permitted to sit while the House is in session for reading the request of the gentleman from Ohio?

There was no objection.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO MEET WHILE HOUSE IS IN SESSION

Mr. RODINO. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may be permitted to sit while the House is in session for reading of the bills under the 5-minute rule so the committee may conduct hearings on the Vice Presidential nomination.

Mr. Speaker, I ask unanimous consent that the request of the gentleman from New Jersey?

There was no objection.

AMENDING THE COMMUNICATIONS ACT OF 1934 WITH RESPECT TO THE PERIOD OF LIMITATIONS ON CERTAIN PROCEEDINGS OR ACTIONS AGAINST COMMUNICATIONS CARRIERS

Mr. STAGGERS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1227) to amend section 415 of the Communications Act of 1934, as amended, to provide for a 2-year period of limitations in proceedings against carriers for recovery of overcharges or damages not based on overcharges.

The Clerk read as follows:

"Section 415 of the Communications Act of 1934, as amended, to provide for a 2-year period of limitations in proceedings against carriers for recovery of overcharges or damages not based on overcharges."

It is enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsections (a), (b), and (c) of section 415 of the Communications Act of 1934, as amended (47 U.S.C. 415), are amended to read as follows:

"(a) All actions at law by carriers for recovery of their lawful charges, or any part thereof, shall be begun within two years from the time the cause of action accrues, and not after."

"(b) All complaints against carriers for recovery of damages not based on overcharges shall be filed with the Commission within two years from the time the cause of action accrues, and not after, subject to subsection (d) of this section."

"(c) For recovery of overcharges action at law shall be begun within two years from the time the cause of action accrues, and not after, subject to subsection (d) of this section."

"(d) For recovery of overcharges action at law shall be begun with the Commission against carriers within two years from the time the cause of action accrues, and not after."

The Speaker pro tempore of the Senate and the Speaker of the House, respectively, have been notified of the time and place of the hearing. Pursuant to the prior announcement of the Chair, the Committee on the Judiciary may be permitted to sit while the House is in session for the purpose of hearing the request of the gentleman from New Jersey.

Mr. STAGGERS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1227) to amend section 415 of the Communications Act of 1934, as amended, to provide for a 2-year period of limitations in proceedings against carriers for recovery of overcharges or damages not based on overcharges. The bill also grants the same extension of time for actions by communications common carriers to recover their lawful charges.

"Damages not based on overcharges" are amounts recovered from carriers for services of a telephone or telegraph company, even though those services are included in a tariff on file with the FCC, are unjust, unreasonable, or unduly discriminatory.

Section 415 of the Communications Act requires that: proceedings against communications common carriers for recovery of overcharges and damages not based on overcharges must be commenced within 1 year. Similarly actions by such carriers for recovery of their lawful charges must be brought within 1 year.

When the Communications Act was enacted into law in 1934, the 1-year limitation on proceedings to recover overcharges and damages not based on overcharges of telephone and telegraph companies was reasonable. Most interstate communications services were easy to determine. The FCC reports that some large industrial users of communications common carriers have been prevented from making substantial claims for overcharges because of the 1-year period of limitations.

The same considerations apply to complaints for damages not based on overcharges. It is believed that extending the period of limitation to 2 years will correct this problem.

As a matter of fairness the 1-year period of limitations on actions by communications common carriers to recover their lawful charges is also increased to 2 years. This will also avoid problems