

## ¶129.150 PROCEEDINGS OF THE HOUSE SUBSEQUENT TO SINE DIE ADJOURNMENT

North Cascades National Park Service Complex in the State of Washington, and for other purposes.

S. 2204. An act to implement the Inter-American Convention on International Commercial Arbitration.

S. 2843. An act to amend the Federal Food, Drug, and Cosmetic Act to authorize abbreviated new animal drug applications and to amend title 35, United States Code, to authorize the extension of the patents for animal drug products.

S.J. Res. 303. Joint resolution to designate the month of October 1988 as "National Lupus Awareness Month".

S.J. Res. 325. Joint resolution designating the third week in May 1989 as "National Tourism Week".

On November 17, 1988:

S. 795. An act to provide for the settlement of water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in San Diego County, California, to authorize the lining of the All American Canal, and for other purposes.

S. 2100. An act to provide for the conservation and development of water and related resources, to authorize the United States Army Corps of Engineers to construct various projects for improvements to rivers and harbors of the United States, and for other purposes.

S. 2102. An act to prohibit the licensing of certain facilities on portions of the Salmon and Snake Rivers in Idaho, and for other purposes.

S. 2186. An act to improve the efficiency and effectiveness of management of public buildings.

S. 2209. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities, and research and program management, and for other purposes.

S. 2215. An act to amend and extend the Office of Federal Procurement Policy Act, and for other purposes.

S. 2470. An act to promote energy conservation and technology competitiveness in the American steel and aluminum industries.

S.J. Res. 327. Joint resolution commemorating January 28, 1989, as a "National Day of Excellence" in honor of the crew of the space shuttle *Challenger*.

S.J. Res. 332. Joint resolution to designate the period commencing December 11, 1988, and ending December 17, 1988, as "National Drunk and Drugged Driving Awareness Week".

S.J. Res. 352. Joint resolution designating September 24, 1989, as "United States Marshalls Bicentennial Day".

S.J. Res. 365. Joint resolution to designate January 28, 1989, as "National Challenger Center Day" to honor the crew of the space shuttle *Challenger*.

On November 18, 1988:

S. 11. An act to amend title 38, United States Code, to establish certain procedures for the adjudication of claims for benefits under laws adminis-

tered by the Veterans' Administration; to apply the provisions of section 553 of title 5, United States Code, to rule-making procedures of the Veterans' Administration; to establish a Court of Veterans' Appeals and to provide for judicial review of certain final decisions of the Board of Veterans' Appeals; to provide for the payment of reasonable fees to attorneys for rendering legal representation to individuals claiming benefits under laws administered by the Veterans' Administration; to increase the rates of compensation payable to veterans with service-connected disabilities; and to make various improvements in veterans' health, rehabilitation, and memorial affairs programs; and for other purposes.

S. 2030. An act to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to provide for termination of ocean dumping of sewage sludge and industrial waste, and for other purposes.

S. 2049. An act to amend title 38, United States Code, to improve the education, home loan guaranty, and other programs of the Veterans' Administration; and for other purposes.

S. 2840. An act to provide for the designation and conservation of certain lands in the States of Arizona and Idaho, and for other purposes.

### ¶129.150 BILLS DISAPPROVED AFTER SINE DIE ADJOURNMENT

The President announced his disapproval of the following bills with memorandums of disapproval as follows:

H.R. 3621

#### MEMORANDUM OF DISAPPROVAL

I am withholding my approval of H.R. 3621, which would establish, among other things, an Indian Development Finance Corporation that would be authorized to provide development capital to Indian businesses that meet certain criteria. The bill would have created an expensive and unnecessary new bureaucracy and duplicated currently existing programs. It would not have addressed the underlying problems of economic development in Indian country. Finally, the legislation places the Government at risk of substantial financial loss and does not provide sufficient authority for governmental oversight of the financial activities that could result in such loss.

Instead of creating a new institution to deliver additional capital, I believe that we need to better utilize existing sources of capital, including such Federal programs as the Indian Financing Act. In this regard, I recently signed Public Law 100-442, which increased the ceiling on guaranteed loans for Indian businesses under the Indian Financing Act from \$200 million to \$500 million, raised the limitation on loan guarantees to individual Indian and Indian economic enterprises from \$350,000 to \$500,000, and provided

other means for reservation economic development. Sufficient authority, therefore, exists to carry out the activities envisioned in H.R. 3621.

I would also emphasize that H.R. 3621, with its further proliferation of Federal credit programs, is contrary to this Administration's long-standing and ongoing efforts to manage more effectively Federal credit programs.

Because this legislation takes the wrong approach to Indian economic development, I am withholding my approval of H.R. 3621. I note that this bill also contains an unrelated and beneficial provision relating to the transfer of Federal land in Southern California to several bands of Southern California Mission Indians. My disapproval of H.R. 3621 does not affect this needed legislation, which was also included in H.R. 2677, an omnibus Indian affairs bill that I have already approved.

RONALD REAGAN.

THE WHITE HOUSE, November 2, 1988.

H.R. 3966

#### MEMORANDUM OF DISAPPROVAL

I am withholding my approval of H.R. 3966, the "Children's Television Act of 1988". This bill would limit the amount of advertising during children's television programs to between 10½ and 12 minutes per hour. It would also require the Federal Communications Commission, when reviewing an application for renewal of a television broadcast license, to consider whether the broadcaster has "served the educational and informational needs of children in its overall programming".

This Administration has firmly supported the re-establishment of government and private sector policies sensitive to the needs of children and of the family. While I applaud efforts to increase the amount and quality of children's television programming, the Constitution simply does not empower the Federal Government to oversee the programming decisions of broadcasters in the manner prescribed by this bill.

Conditioning license renewals upon the Federal Government's determination as to the adequacy of a licensee's programming would violate the First Amendment. It would inhibit broadcasters from offering innovative programs that do not fit neatly into regulatory categories and discourage the creation of programs that might not satisfy the tastes of agency officials responsible for considering license renewals.

The bill's limitation on advertising revenue for certain types of programming places the Federal Government in the inappropriate position of favoring certain kinds of programming over others. This type of government regulation may well undermine its stated purpose by discouraging commercial networks from financing quality children's programming. In addition, it raises constitutional issues both by

virtue of the difficulty of defining "children's television programming" in a manner consistent with the Supreme Court's proscription of either overinclusive or underinclusive regulation of speech and by virtue of the manifest incongruence between the stated purpose of the provision and the means chosen to effectuate it. See *Posadas de Puerto Rico Associates v. Tourism Company of Puerto Rico*, 106 S. Ct. 2968, 2977 (1986).

The bill simply cannot be reconciled with the freedom of expression secured by our Constitution. Moreover, despite its laudable goals, it is likely to be counterproductive. Accordingly, I am compelled to disapprove this measure.

No policy concerns can override the requirements of the First Amendment.

RONALD REAGAN.

THE WHITE HOUSE, November 5, 1988.

H.R. 4833

MEMORANDUM OF DISAPPROVAL

I am withholding my approval of H.R. 4833, the "Nursing Shortage Reduction and Education Extension Act of 1988," because I signed its provisions into law on Friday, November 4, 1988, as Title VII of S. 2889, the "Health Omnibus Programs Extension of 1988".

RONALD REAGAN.

THE WHITE HOUSE, November 5, 1988.

H.R. 4432

MEMORANDUM OF DISAPPROVAL

I am withholding my approval of H.R. 4432, a bill "to amend title 13, United States Code, to require certain detailed tabulations relating to Asian Americans and Pacific Islanders in the decennial censuses of population". This bill would also require certain housing-related questions in the 1990 decennial census.

My decision not to approve this bill is based on the following reasons. First, the bill would unnecessarily restrict the form of the race question in future censuses. Second, it would require the Census Bureau to use a form of race question that the Bureau has tested and found to be less accurate than the one it plans to use in 1990. Third, it would specifically require questions relating to plumbing facilities and heating and cooling equipment in housing units that would not produce data sufficiently useful to justify their inclusion. Adequate data on plumbing and heating will continue to be available through the census and other sources. Finally, these changes would increase administrative costs and add to the paperwork burden imposed on the public by the census.

There are always more questions proposed for the census than can be accommodated. The Administration has proposed a questionnaire that represents a careful and reasonable balancing between the Nation's need for

information and the reporting burden the census places on respondents.

RONALD REAGAN.

THE WHITE HOUSE, November 8, 1988.

H.R. 5043

MEMORANDUM OF DISAPPROVAL

Public service is a public trust. It requires a high and exacting standard of conduct, and we should go forward with more clear, far-reaching restrictions to ensure that this standard of conduct is always met. But the final provisions of this bill were poorly drafted, would have applied unevenly, and would discourage from Government service America's best talent because of the unfair burdens it would impose. This bill would not have affected anyone who leaves office with my Administration, but my concern is to secure good government for our country's future. This bill has good provisions, which I support, but on the whole it is flawed, excessive, and discriminatory. I asked 20 Cabinet Members and agency heads to review this bill. Not one recommended approval; 16, including the Director of the Office of Government Ethics, specifically advised that it be vetoed. Therefore, I am withholding my approval from H.R. 5043, the "Post-Employment Restrictions Act of 1988".

The 100th Congress cobbled together the final version of H.R. 5043 in its closing moments. Post-employment restrictions are needed if the Nation is to govern itself effectively. They deserve careful and thoughtful consideration, but this bill reflected the political and other pressures that mount in the closing days of a Congress. In December, we will have the recommendations of the nonpartisan Quadrennial Commission on Executive, Legislative, and Judicial Salaries, which is currently considering Federal salaries and related issues. The President-elect also has indicated that he will have his own initiative next year, and I have encouraged him to do so. This bill would not have taken effect until August of next year, and this interval should be used to craft balanced and comprehensible post-employment legislation.

Fair and impartial governance is the hallmark of our constitutional democracy. Current laws concerning the conduct of current and former Federal employees were designed to secure that fairness and impartiality. They prohibit conduct that produces conflicts of interest between Federal employees' official duties and their personal interests. Specifically, current law is designed to prevent two primary abuses—the misuse of confidential information or the exercise of improper influence over Government action by former Federal employees and less-than-faithful performance of official functions by current Federal employees to favor a future employer.

While there are some positive aspects of the bill, the Post-Employment Restrictions Act would have prohibit-

ed conduct of former Federal employees unrelated to genuine ethical concerns. In effect it would have punished them for their service to the Nation. For example, in certain circumstances, the bill would have prohibited a senior former employee of an agency from communicating with a senior current employee of a different agency with whom he is not personally acquainted to seek assistance his employer or client needs on a matter with which the former employee had absolutely nothing to do while in Federal employment. The bill would make that communication a Federal crime punishable by imprisonment and fines.

The law already precludes a former Federal official from representing private parties in specific matters in which that official was involved while in Government and also imposes a 1-year cooling-off period during which a former official generally cannot contact his agency on any matter. It is excessive and unjustifiable also to insist, as this bill would, that former officials not represent any client before any senior Executive official wherever located and no matter how unrelated to the former officials' Government service.

That kind of unnecessary and drastic criminal prohibition is unfair to those who have served their country. It is already difficult to recruit talented people into the senior ranks of Government. This bill would have begun to make former senior Federal employees unemployable in the private sector after their Government service. Many of the most talented might never sign up to serve their country, and the country would be the worse for it.

The bill also unreasonably favors the Congress with restrictions lighter than those that would apply to the Executive branch. Under the bill, all Executive branch employees would have been subject to certain prohibitions, but most congressional employees would have been subject to none. Even for senior congressional personnel, the restrictions would have been substantially less rigorous than the restrictions placed on Executive branch employees of equivalent responsibility. Members of Congress and senior staff would be subject only to 1-year cooling-off periods of very modest scope and would not be subject to the lifetime and 2-year particular matter bans currently imposed on all Executive branch officials. The Congress' relatively favorable treatment of itself in imposing restrictions in comparison with its treatment of the Executive branch may indicate some congressional recognition that a number of the bill's restrictions are overboard and, to the extent of that overbreadth, unfair. In future consideration of post-employment restrictions legislation, the Congress should determine what restrictions are reasonable and necessary to protect the integrity of Government and then apply them equally