

Peter J. Marx

Rhinos and Tigers and Bays (Oh My!), and Other Congressional Tales

There are two things, so goes an old adage, that Americans should never witness the making of: sausages and laws. Those who have witnessed the first can count a number of new vegetarians in their midst, while those in the second group engage in some head-scratching and then can eventually admire a system that ultimately works. I will save the carnivore-vs.-herbivore discussion for another day, but for now will focus on the U.S. Congress and Chesapeake Bay.

Congress has always had an interest in the Chesapeake Bay. The Bay was, and still is, a major avenue for commerce, with Norfolk and Baltimore being two of the four largest ports on the East Coast, and Congress has always played a significant role in the maritime affairs of the nation. The Bay region, because of its historical transportation ties and proximity to the nation's capital, is also home to many federal facilities, particularly Department of Defense installations, and Congress has played key roles in many of those siting decisions. But most importantly, the 535 members of Congress spend most, if not all, of the year living in the Chesapeake Bay watershed. The tidal Potomac River, an arm of the Chesapeake, flows by the nation's capital. And the Bay itself is only 20 miles outside of the Capital Beltway. Many members of Congress fish, hunt, boat, and otherwise recreate on or near the Bay, and some

have vacation homes in the area. In many ways, Chesapeake Bay is America's estuary.

It was not until the 1970s, however, that Congress began to specifically address the health of the Bay. In 1972 Congress passed the landmark Clean Water Act over the veto of President Nixon. This began a relationship that has slowly made the Bay a healthier body of water. But in late June 1972 tropical storm Agnes came hurtling up the Bay and left a wake of destruction. The impact was not felt by humans alone. The intense floods caused severe erosion and tremendous pulses of pollutants and sediment to be deposited in the Bay at a time of year when it was rich with biological activity. The underwater grass beds were decimated, and Agnes sped up a cycle of decline that had only been noticed by those close to the Bay—watermen, scientists, boaters, and fishermen.

The noticeable decline of the Bay

at a time when environmental awareness was dramatically increasing created an intersection that did not go unnoticed. U.S. Senator Charles "Mac" Mathias (R-MD) decided to see for himself what the increasing talk about the Bay's problems was all about. He set out on a friend's boat in the summer of 1973 to see firsthand what was going on. His subsequent trips around the Bay led him to introduce legislation directing the U.S. Environmental Protection Agency (EPA) to embark on a major research project to determine the Bay's problems and make recommendations on how to solve them.

Six years and \$27 million later, the EPA finished the comprehensive study and eventually released an innovative blueprint for the intergovernmental, interjurisdictional Chesapeake Bay Program that was formed in 1983.

Also in 1983, the Bay area's congressional delegation was working to garner support to fund this new effort. In October, Representative Roy Dyson (D-MD) led eight other House members on a tour of the Bay. Dyson was very specific in his goal: he wanted to get \$10 million a year to fund the newly formed Chesapeake Bay Program. It was a different time

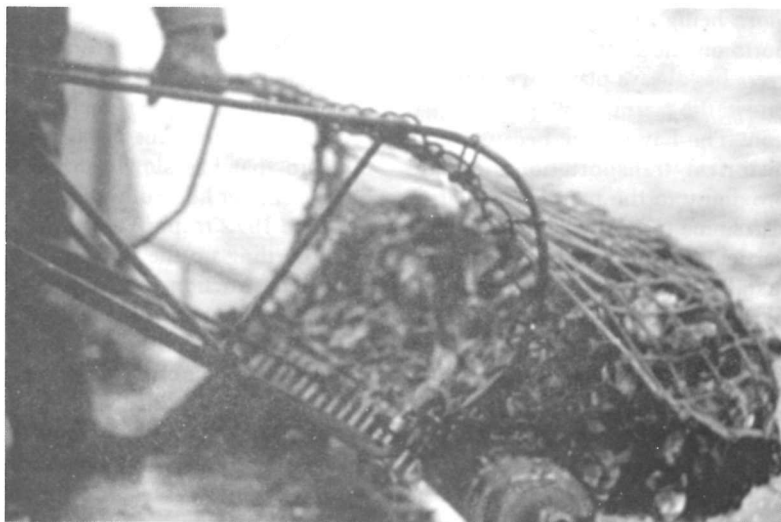


Figure 8. An oyster dredge comes aboard, having harvested one of the Bay's ancient reefs, or "rocks." Live, legal-sized oysters are separated from undersized ones and empty shell, or "cultch," which is thrown back overboard. Photo courtesy Kent Mountford.

and a different Congress, and a diverse group of older veteran members embraced the Bay in a bipartisan manner. Representative Tom Bevill (D-AL), an appropriations subcommittee chair and member of Congress's "College of Cardinals" (senior members who controlled quite a few purse-strings), was quoted on the trip as saying, "[Dyson] tells me what he needs and I help him get it." Representative John Paul Hammerschmidt (R-AR) said: "I think this [the Bay] is seen as a national resource and not just a parochial item, and I think that's the story we'll be able to sell."

The next year fell under the title of "strange bedfellows" when it came to the Bay. In 1984 the Reagan administration was under siege for being anti-environment. Anne Burford had recently resigned as EPA administrator after several years of scandal. There was very negative press coverage about the views of Secretary of the Interior James Watt, as well as about other budget and policy decisions. After reinstalling William D. Ruckelshaus as EPA administrator, and urged on by Senators Mathias and John Warner (R-VA), President Reagan decided to embrace the Chesapeake Bay and its restoration as the centerpiece of his environmental platform for the 1984 presidential campaign. The president mentioned his support for the Bay cleanup in his State of the Union message in January and then toured

the Bay during the summer and announced his new platform. Not to be outdone, House Speaker Thomas "Tip" O'Neill, Jr. (D-MA), quickly followed suit, and had a very public tour of the Bay. The health of America's bay was now the topic of a presidential campaign.

Ronald Reagan won a second term in 1984, and neither the House nor Senate changed hands. Was it support for the Bay that did it? Probably not, but it certainly couldn't have hurt. And Congress appropriated \$10 million for the Chesapeake Bay Program in Fiscal Year 1985. Was it the bipartisan camaraderie of the 1983 Congressional boat trip? Representative Dyson sure thought so.

In 1986, Congress reauthorized the Clean Water Act for five more years. With strong legislative support in the Senate from Mathias, Warner and Paul Sarbanes (D-MD), and in the House from such representatives as Steny Hoyer (D-MD), Herb Bateman (R-VA), and Barbara Mikulski (D-MD) (who was soon to succeed Mathias in the Senate), the Clean Water Act included a new section entitled "Chesapeake Bay." This provision, known as Section 117, basically codified the Chesapeake Bay Program and committed Congress to continue funding the restoration effort. President Reagan, who ran on a Chesapeake Bay platform in 1984, vetoed the bill (although not because of Section 117).

The first act of the new 100th Congress, and the first formal vote by the now-Senator Barbara Mikulski, was to override Reagan's veto. So the Clean Water Act was reauthorized and Section 117, mandating the continuation of the Chesapeake Bay Program, was now law. Since then, Senator Mikulski has worked to ensure that Section 117 remains fully funded, first as chair of the Senate appropriations subcommittee with jurisdiction over the EPA budget, and now as its ranking minority member. She, along with the entire

Bay watershed Congressional delegation, has been vocal and successful in supporting funds to carry out Section 117.

The latest congressional tale comes from waning days of last year's 105th Congress—and this is where the rhinos and tigers come in. Senator Sarbanes had been trying for several years to pass a package of Chesapeake Bay legislation targeting environmental restoration. Larger substantive and procedural issues in Congress related to the reauthorization of the Clean Water Act pre-



Figure 9. EPA Administrator Carol Browner, along with Maryland Senators Paul Sarbanes and Barbara Mikulski, visit the Bay Program Office.

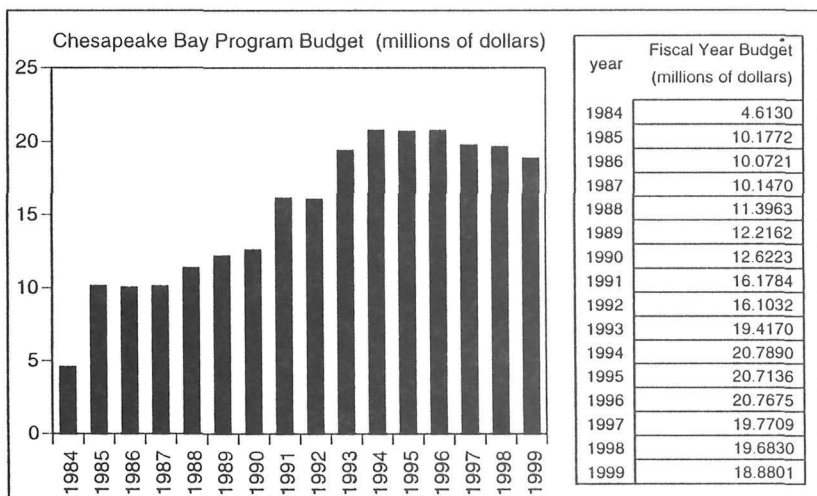


Figure 10. Chesapeake Bay Program budget, 1984-1999.

vented Sarbanes from successfully moving his legislative package. Early in 1998, however, Sarbanes was able to attach two of his bills, the Chesapeake Bay Restoration Act and the Chesapeake Bay Gateways and Watertrails Act, to S. 1222, the Estuary Habitat Restoration Partnership Act of 1998. The Senate passed S. 1222 late in the 1998 session, but it languished and died at the last minute in the House of Representatives. Congress rarely has the time or support to act on small regional stand-alone pieces of legislation, so their sponsors frequently attach them to bills that appear to have a chance for passage. During the last week of the legislative session in October 1998, Sarbanes employed that tactic to attach his Gateways and Watertrails bill to H.R. 2807, which appeared to

be moving swiftly through the House and Senate. The Gateways bill directs the National Park Service to establish a network of Chesapeake Bay cultural, historic, and natural sites. Sarbanes' maneuver was successful, and H.R. 2807 was passed by both houses of Congress and signed into law by the president.

The legislation the Gateways bill was attached to—H.R. 2807—was the "Rhinceros and Tiger Conservation Act." And what does the Rhinceros and Tiger Conservation Act have to do with the Bay? Not much. But no matter how successful the new law is at conserving rhinos and tigers, it is doubtful that any will be spotted at Chesapeake Bay Gateways sites—unless, of course, the National Zoo in Washington is designated as a Gateways site. Nevertheless, rhinoc-

eroses and tigers and the Bay will be forever linked in the legislative history of the U.S. Congress.

There are many other congressional tales: members caught on the Eastern Shore violating migratory bird hunting laws that they them-

selves helped to enact, mysterious "midnight amendments" for Bay projects that did very little to help the Bay, and many others that didn't make headlines. Perhaps the 106th Congress will give us another Bay tale or two.

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