COST

Gun owners share the unique American tax burden resulting from weapons crime and sometimes endure the death or disability therefrom. America pays up to $10,000 a year to jail a person for the misuse of an easily available $10 gun. Weapons crime also accounts for much of the cost of enforcement, justice, federal grants—now $900 million a year—welfare, insurance premiums, medical expenses, recuperation time waste, and business and personal property losses. The annual cost of weapons crime probably is well over $10 billion. It could be cut easier than the cost of food or fuel. Mostly hidden, crime taxes are not comprehended by taxpayers; they do know that the criminal pays his debt to society with their money.

OBLIGATION

Through government and a small minority, our society is heavily responsible for weapons crime by mental incompetents, drug addicts, alcoholics, former felons, convicted threateners, subversives, juveniles, etc., because it leaves guns, knives, etc., freely accessible to them. Safe owners should go with safe guns. Mankind is commanded not to kill or to steal. Normal people must try to remove the means for such misdeeds from abnormal people. Influential and public-spirited people must seek legislation to lighten the tax burden largely for the middle class and to lessen death and disability largely for the lower class. America must account for its slaughtering in steel—guns, knives, abortion instruments, carelessly driven vehicles. America must account for the fact that 40 per cent of its firearms fatalities are children aged one to 19. America must account for the loss of health, the use of blood plasma due to avoidable shootings and stabbings, and the waste of metals that provide weapons for the unfit.

PROTECTION

Society must be protected from the commission of crime as well as by the committal of convicts. A gun in dangerous hands in the home is as lethal as a concealed weapon on a dangerous person in the street. The range of reasons for Americans shooting and stabbing one another is appalling and barbaric. Protection from weapons in dangerous hands is as rightful as protection from bad or harmful drugs. The property right to own a gun must not nullify the right to life or other property. Many ex-felons and other unfit persons could be curtailed in the commercial or private purchase of weapons or ammunition or made liable for illegal possession, through licensing. Their sources in illegal transfers would risk prosecution. The gun group overestimates the cleverness and the education of the average criminal. Most criminals are small-timers without contacts or resources. To protect itself, the United States has greater need for controls due to weapons numbers, racial strife, crowded cities, ghetto life and para-military arsenals.

REGULATION

Regulating the ownership of lethal weapons should be parallel with gun-carrying permits and with accepted controls on poisons, narcotics, explosives, etc., as well as prosaic activities that involve fellow citizens. Fifty types of United States licensing have been counted. Independent polls show that 60 per cent of gun owners favor licensing.

FEDERAL CONTROL

The United States Supreme Court and the American Bar Association have said that there is no Constitutional barrier against federal firearms control. Federal cover is as legal and as appropriate as federal sentences for certain types of crimes. Open borders obviate a state's control of weapons from other states. State and local governments could go outside of a federal umbrella with their own restrictions.

CRIME EXPERTS

America should heed the counsel of its criminologists, police commissioners and psychologists, most of whom champion controls. Psychologists and crime experts say guns lead some types to crime. They say guns are more deadly, accurate, sensitive and impersonal than other weapons and are used illegally most often. Psychiatrists say that guns stimulate violent behavior.

SHORT-TERM REMEDIES

Short-term alternatives to weapons control—swift justice, mandatory penalties, stiffer sentences—overlook enforcement problems, preventive difficulties (murder in the home), the mental state of violators, the specter of ghetto life, current punishment in contrast with foreign moderacy, deterrent shortcomings, frequent withdrawals of charges, and justice and incarceration costs. Sentences harden rather than deter. Murder sentences are the most severe but potential murderers are generally unmindful of them. Only 20 per cent of serious crimes are cleared but prisoners are overcrowded. Juveniles need help, not isolation. In any case, there can be other reforms in addition to weapons control.

LONG-TERM REMEDIES

Long-term solutions for weapons crime—better social conditions, reformed rehabilitation programs, more mental treatment, more responsible child training—would delay the reduction of weapons crime for years.

SECURITY

Safeguarding of lethal weapons is more important than recording and protecting securities and automobiles. Guns unserviced, neglected and carelessly stored lead to fatal accidents, injuries and thefts. The home is the chief source of stolen weapons. Keeping of guns for protection or as heirlooms should be discouraged. They cause far more deaths and injuries to occupants by design or accident than apprehension of intruders. The frequent shootings of armed, alert policemen in public underscores the dubious defense provided by home weapons. Life is seldom in danger from intruders, who normally cannot be shot legally if there is no life threat. Losing property—especially if insured—is better than suffering wounds or death. Gun violence has increased with private arming. Reduced possession would be reflected in reduced violence, just as fewer vehicles on the highway due to fuel shortage has reduced accidents.

INCONVENIENCE

A minimum of inconvenience and a few dollars' worth of fees by hunters and others accustomed to regulations and form-filling would be a small sacrifice compared with years of misery, impairment of health, or death itself. Weapons control would be a blessing not a burden. Controls are not considered a burden around the world. Controls that some Americans think they can't live with would be better than the lack of controls that some of us may have to die with. We cannot isolate the dangerous unless we pass on all license applicants. The pledge of eligibility under the Gun Control Act of 1968 should be solidified with the proof of eligibility under licensing. Obtaining a permanent weapons-ammunition ownership license and presenting it for purchases or transfers would be more convenient than self-clearance, detailed recording or go-between mail orders for every commercial purchase.

CIVIL DEFENSE

The small arms civil defense designated in the Second Amendment has long since been superseded by state militias and modern military power. The Second Amendment reflects fear of a central standing army, not gun regulation, which was part of the colonies' European heritage. The Amendment has no qualifications for personal ownership. No President, Attorney General or Secretary of Defense has ever advocated citizen arming for protection, civil or private. The Bill of Rights does not provide absolute rights in speech, press, house privacy or real estate ownership.

LEGISLATION

I propose federal ownership requisites for state licensing to purchase, borrow or sell lethal weapons or transfer ammunition in person or by mail; state and local prerogatives on procurement procedures; a federal ban on cheap, non-sporting handguns; states' decision on the registration of guns and any participation in the FBI computer center for gun recoverability; state action on gun familiarity and safekeeping; a federal 30-day wait for all weapons acquisition; federal compensation for submitted handguns and for all guns of the disqualified; and a federal guarantee against arbitrary confiscation. These recommendations do not represent any other council board member.

CRIME WAR

Warring on weapons crime is even more important than fighting organized crime. Anything short of weapons control would be surrender on weapons crime. Without weapons control our citizens would continue to pay, bleed and die from such violence far more frequently than the rest of the industrialized world. Any American who does not live to see the day of weapons control will die as excessive weapons crime endures.

JAMES B. SULLIVAN,
Board Member, National Council for a Responsible Firearms Policy, Inc.

HOUSE OF REPRESENTATIVES—*Wednesday, March 13, 1974*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Come ye and let us go up to the mountain of the Lord; and He will teach us His ways and we will walk in His paths.—Isaiah 2: 3.

Eternal God, our Father, who hast opened the gates of a new day—we lift our hearts unto Thee in grateful praise for Thy goodness to us. We confess that in our enjoyment of Thy gifts we often forget the giver and because of the abundance of Thy blessings we fail to appreciate the greatness of Thy goodness. Help us to keep alive within us a continuous spirit of gratitude and to remember that though at times we do forsake Thee, Thou dost never forsake us.

Grant unto us and unto our people the realization that in these dark days of discouragement and disillusionment Thou art with us endeavoring to lead us in the ways of truth and give to each one of us the firm faith that right will triumph over wrong, goodness over evil, and love over hate.

Therefore, let us run with patience the

race that is set before us, looking unto Thee who art the God and Father of us all.

In Thy holy name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Marks, one of his secretaries, who also informed the House that on March 7, 1974, the President approved and signed a bill of the House of the following title:

H.R. 10203. An act authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 872. An act to facilitate prosecutions for certain crimes and offenses committed aboard aircraft, and for other purposes; and

S. 3066. An act to consolidate, simplify, and improve laws relative to housing and housing assistance, to provide Federal assistance in support of community development activities, and for other purposes.

CALL OF THE HOUSE

Mr. ROUSSELOT. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 80]

Alexander	Fraser	Murphy, N.Y.
Blatnik	Gibbons	Patman
Bolling	Gray	Podell
Brasco	Hanna	Reid
Breckinridge	Hansen, Wash.	Robison, N.Y.
Burke, Calif.	Harsha	Rooney, N.Y.
Carey, N.Y.	Hébert	Staggers
Chisholm	Hogan	Stark
Clark	Holifield	Steiger, Ariz.
Clay	Jarman	Stephens
Collier	Kuykendall	Teague
Conyers	McEwen	Thompson, N.J.
Derwinski	McKinney	Wilson, Charles, Tex.
Diggs	Macdonald	Young, Ill.
Dingell	Matsunaga	Young, Tex.
Esch	Mitchell, Md.	
Fisher	Mollohan	

The SPEAKER. On this rollcall 382 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

HON. ROBERT J. LAGOMARSINO

Mr. BOB WILSON. Mr. Speaker, I ask unanimous consent that the gentleman from California, Mr. ROBERT J. LAGOMARSINO, be permitted to take the oath of office today. His certificate of election has not arrived but there is no contest and no question has been raised with regard to his election.

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

There was no objection.

Mr. LAGOMARSINO appeared at the bar of the House and took the oath of office.

COMPOSITION OF COMMITTEE ON ARMED SERVICES AND COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

Mr. O'NEILL. Mr. Speaker, I offer a resolution (H. Res. 979) and ask unanimous consent for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 979

Resolved, That during the remainder of the Ninety-third Congress, the Committee on Armed Services shall be composed of forty-four members; and

The Committee on Interstate and Foreign Commerce shall be composed of forty-four members.

The resolution was agreed to.

A motion to reconsider was laid on the table.

LET US NOT GRANT AMNESTY

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, in view of the current congressional hearings on proposals to grant amnesty to the draft evaders and deserters during the Vietnam war, I would like to reemphasize my own personal views on this matter.

In fairness to those who served in answer to their Nation's call, many of whom were seriously wounded, many of whom were held prisoner, and many who gave their life, I just do not understand how we can even consider the granting of amnesty. This is especially true in light of the fact that over 1,000 U.S. servicemen are still listed as missing in action in Southeast Asia.

A person who breaks the law must answer for his actions. This is the firm principle upon which our system of justice in America is based. Those who fled America must understand that if they return, they will still be subject to military service or prison, depending on the outcome of their trials.

MAJORITY LEADER THOMAS P. O'NEILL, JR., SAYS WINDFALL PROFITS TAX IS NEEDED

(Mr. O'NEILL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. O'NEILL. Mr. Speaker, the gasoline lines may be diminishing, but the Nation still badly needs a windfall profits tax.

The fact is that although the supply pinch has eased, the price of gasoline at the pumps has doubled.

President Nixon vetoed a bill with an oil price rollback. That makes it all the more important that Congress act promptly on a windfall profits tax. We need to make sure that, first, the oil companies put their extra income into new oil exploration and development, and, second, that producers do not benefit enormously and unfairly at the expense of the people.

The oil companies have been spending a lot of money on advertising, trying to put across the idea that they are not to blame for the gasoline shortage. But the big squeeze on supply followed by the steady easing up can only give ammunition to those who think the oil companies are manipulating the fuel crisis to their own advantage.

That would be a serious matter because the Nation has taken a lot of punishment—long lines at the gas pumps, people worried about losing their jobs, States fighting each other to get fuel, truckers striking.

We need to make sure that there is no profiteering out of a situation like that, and the best way is a windfall profits tax and perhaps some other revisions in tax law.

The Ways and Means Committee is working on such legislation, and I eagerly await the report of that committee.

THE ECONOMIC STABILIZATION ACT'S DEATH CERTIFICATE

(Mr. GUYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUYER. Mr. Speaker, I rise to sign the death certificate for the Economic Stabilization Act which will expire on April 30, 1974. I will not only be willing to certify the demise of this unfortunate creature, but will volunteer to attend the funeral services and act as a pallbearer.

I can speak for the people of my district and join in the sentiments of our neighbors across this country in reaching the conclusion that now is the time for the end of this agonizing program—now is the time for phaseout.

These well-intended economic controls have not only not worked, they have led to shortages, disruptions, business and consumer hardships, and devastating aggravations of our Nation's economy.

America stands first in the world today because we have a system of free enterprise that provides greater blessings to

more people than any other in the history of mankind.

It is time to take Government's hand out of our pockets and business and consign the body of the Economic Stabilization Act to eternal rest.

FOOD STAMPS GIVE STRIKERS UNFAIR ADVANTAGE

(Mr. DICKINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DICKINSON. Mr. Speaker, we are all aware of the West Virginia coal miner's strike and the effect it is beginning to have on other segments of our economy such as the steel industry. The coal miners feel they should be exempt from a law prohibiting motorists from buying gasoline if their gas tanks are more than one-quarter full. Although I understand the hardship these coal miners are facing, they are not unlike a number of people in this country who have been inconvenienced by the energy crisis, and I do not feel their cause is worth sacrificing the economy of our Nation.

On the news this morning, there was a very interesting item on the coal strike which should be brought to the attention of every Member of this House. ABC Reporter Steven Geer talked to a striking miner, Cledith White, in Madison, W. Va., and Mr. White said in answer to a question about how long the strikers would stay out:

> As long as they put out food stamps and we can get them, we'll stay right out.

I have stated in the past and will continue to hold to the belief that the giving of food stamps to strikers interferes with the collective bargaining system and gives the strikers an unfair advantage in the process. This is a prime example of the unbalance that exists because of the availability of food stamps to strikers. Our Nation, in essence, is on the other side of the bargaining table from these strikers, and in the words of one of the strikers himself, they will wait us out—no matter what the cost to the Nation as a whole—in order to get what they want as long as they can get food stamps.

BOB LAGOMARSINO

(Mr. DON H. CLAUSEN asked and was given permission to address the House for 1 minute, and to revise and extend his remarks and include extraneous matter.)

Mr. DON H. CLAUSEN. Mr. Speaker, I take this opportunity to welcome BOB LAGOMARSINO to the House and express my congratulations for his recent victory in a special election.

He certainly has a big pair of shoes to fill for the legacy left by Chuck Teague is large indeed. However, I know BOB has all the qualifications, experience, and talent to become an outstanding Member of this body.

I look forward to working closely with him and to the contributions he is going to make.

TECHNOLOGY IN THE NUCLEAR AGE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 93–239)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Foreign Affairs and ordered to be printed:

To the Congress of the United States:

Technology in the Nuclear Age has become capable of virtually global devastation. We are thus called upon as never before in the history of American diplomacy—both by our traditions and by unprecedented responsibilities—to assume a role of leadership in seeking international arms restraints. This is a most important element of that structure of peace which is the broader goal of our foreign policy.

The coordinating instrument for this effort within our Government is the U.S. Arms Control and Disarmament Agency, now entering its fourteenth year. It has been the policy of my Administration to strengthen this Agency and to equip it for the essential role it must play in promoting our national security.

The year 1973 was a time of sustained effort and continued progress in arms control, building upon earlier achievements and laying the ground for future agreements which will be of utmost importance for our security and well-being.

It is with deep satisfaction in our continuing progress that I transmit to the Congress this thirteenth annual report of the U.S. Arms Control and Disarmament Agency.

RICHARD NIXON.

THE WHITE HOUSE, *March 13, 1974.*

PROVIDING FOR CONSIDERATION OF H.R. 12341, SPECIAL AUTHORIZATION FOR TRANSFER OF STATE DEPARTMENT PROPERTY IN VENICE

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 954 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 954

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12341) to amend the Foreign Service Buildings Act, 1926, to authorize sale of a property in Venice to Wake Forest University. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER The gentleman from Florida (Mr. PEPPER) is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the able gentleman *from* California (Mr. DEL CLAWSON), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 954 provides for an open rule with 1 hour of general debate on H.R. 12341, a bill to amend the Foreign Service Buildings Act of 1926.

H.R. 12341 permits the Department of State to sell to Wake Forest University the former consulate office and residence in Venice, Italy.

The consular office building in Venice was acquired in 1952 at a cost of $76,912. During its occupancy by the United States capital improvements amounting to $60,085 were made to the property, bringing the total U.S. investment to $136,997. The consulate was closed in 1963 and its functions transferred to the consulate in Milan. Since 1971 the property has been leased to Wake Forest University for a nominal sum.

Wake Forest operates a regular two-semester academic term in Venice. The Department of State foresees no reopening of the consulate in the near future and, therefore, has no need to retain the property. The bill provides that should Wake Forest University wish to dispose of the property, it must first be offered to the Secretary of State with the right to repurchase it at the original sale price of $250,000, plus the cost of any improvements.

Mr. Speaker, I urge the adoption of House Resolution 954 in order that we may discuss and debate H.R. 12341.

Mr. DEL CLAWSON. Mr. Speaker, House Resolution 954 is the rule on H.R. 12341, special authorization for transfer of State Department property in Venice. This bill will be considered under an open rule with 1 hour of general debate.

The purpose of H.R. 12341 is to authorize the State Department to sell to Wake Forest University the former consulate office and residence in Venice, Italy.

The bill will result in a return to the United States of $250,000. The building was acquired in 1952 at a cost of $76,912 and capital improvements costing $60,085 were made to the property. The consulate was closed in 1963.

Mr. Speaker, I urge the adoption of this rule.

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

Mr. PEPPER. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 12465, FOREIGN SERVICE BUILDINGS ACT SUPPLEMENTAL AUTHORIZATION

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 955 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 955

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12465) to amend the Foreign Service Buildings Act, 1926, to authorize additional appropriations for the fiscal year 1974. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Florida (Mr. PEPPER) is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the able gentleman from California (Mr. DEL CLAWSON) pending which I yield myself such time as I may consume.

I now yield such time as he may consume to the able majority leader.

EASTER RECESS

(By unanimous consent, Mr. O'NEILL was allowed to proceed out of order.)

Mr. O'NEILL. Mr. Speaker, the House will be in adjournment from the close of business on Thursday, April 11, until noontime Monday, April 22, for the annual Easter holidays. This has been discusssed with the leadership on the Republican side and the Speaker has also spoken with the chairman of the Committee on the Judiciary and has been assured that in no way will this vacation or these holidays prevent the work of the Committee on the Judiciary. In other words, the Committee on the Judiciary will continue its proceedings.

The resolution for these holidays will include the right of the leaders to call the House back into session in the same manner as we have been doing in the recent past. The minority leader of the House and the minority leader of the Senate, the majority leader of the House and the majority leader of the Senate or any two combinations will be able to call the House back in session if there is any emergency.

So I do want to announce that we will leave at the conclusion of business Thursday, April 11 and we will return at noontime Monday, April 22.

Mr. PEPPER. Mr. Speaker, House Resolution 955 provides for an open rule with 1 hour of general debate on H.R. 12465, a bill to amend the Foreign Service Buildings Act of 1926.

The bill authorizes an additional sum for the buildings program for the fiscal year 1974. The additional appropriation is required, because of inflation and the devaluation of the dollar.

H.R. 12465 authorizes the appropriation of $1,366,000 for each of the fiscal years 1974 and 1975 for the operating account and $154,000 in local currency equivalent under the capital account for fiscal year 1974.

Mr. Speaker, I urge adoption of House Resolution 955 in order that we may discuss and debate H.R. 12465.

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

Mr. Speaker, the rule on H.R. 12465, the Foreign Service Building Act, is an open rule with 1 hour of general debate.

The purpose of H.R. 12465 is to authorize an additional $1,366,000 for each of the fiscal years 1974 and 1975 for the Foreign Service buildings program.

This extra funding is necessary because of inflation and the devaluation of the dollar.

Mr. Speaker, I urge the adoption of this rule.

I have no further requests for time and I yield back the balance of my time.

Mr. PEPPER. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 12466, STATE DEPARTMENT SUPPLEMENTAL AUTHORIZATION

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 956 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 956

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12466) to amend the Department of State Appropriations Authorization Act of 1973 to authorize additional appropriations for the fiscal year 1974, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment recommended by the Committee on Foreign Affairs now printed in the bill on page 3 beginning at line 4, and all points of order against said amendment for failure to comply with the provisions of clause 7, Rule XVI, are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may be adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Florida is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the able gentleman from California (Mr. DEL CLAWSON), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 956 provides for an open rule with 1 hour of general debate on H.R. 12466, a bill to amend the Department of State Appropriations Authorization Act of 1973 to authorize additional appropriations for the fiscal year 1974.

House Resolution 956 provides that it shall be in order to consider the amendment recommended by the Committee on Foreign Affairs now printed in the bill on page 3 at line 4, and all points of order against the amendment for failure to comply with the provisions of clause 7, rule XVI of the Rules of the House of Representatives are waived—the germaness provision.

H.R. 12466 provides a new authorization in the amount of $15.7 million. It will be allocated and devoted to the areas of administration of foreign affairs, openings of diplomatic missions, allowance costs for the Law of the Sea Office, and increases in the salary, pay, retirement and other employee benefits.

Mr. Speaker, I urge the adoption of House Resolution 956 in order that we may discuss and debate H.R. 12466.

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

Mr. Speaker, House Resolution 956 provides for the consideration of H.R. 12406, State Department supplemental authorization for fiscal year 1974, under an open rule with 1 hour of general debate. In addition, the rule waives points of order against the committee amendment for failure to comply with clause 7, rule XVI, which is the rule dealing with germaneness.

The purpose of H.R. 12466 is to provide a supplemental authorization for the State Department for the balance of fiscal year 1974.

This bill authorizes $15,700,000 which will be used, among other things, to open diplomatic missions in East Berlin and the Mongolia Peoples Republic and offset extraordinary costs incurred as a result of the Middle East crisis.

The committee report includes a letter from the Department of State proposing legislation similar to this.

Mr. Speaker, I urge the adoption of this rule.

Mr. PEPPER. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

SPECIAL AUTHORIZATION FOR TRANSFER OF STATE DEPARTMENT PROPERTY IN VENICE

Mr. HAYS. Mr. Speaker, I call up the bill (H.R. 12341) to amend the Foreign Service Buildings Act, 1926, to authorize sale of a property in Venice to Wake Forest University, and ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The Clerk read the title of the bill.

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

There was no objection.

The Clerk read the bill, as follows:

H.R. 12341

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4 of the Foreign Service Buildings Act

1926 (22 U.S.C. 295), is amended by adding the following paragraph as subsection (i):

"(i) The Secretary of State is hereby authorized to sell, by quitclaim deed, to Wake Forest University the former consulate office building and residence at Rio Torre Selle and Canal Grande, in Venice, for the sum of $250,000, subject to such terms and conditions as the Secretary shall prescribe not inconsistent with the provisions of this Act.".

(a) Wake Forest University shall not lease or otherwise alienate this property except in accordance with the terms of this subsection.

(b) If the university determines that the property is no longer required and wishes to dispose of it, the university will offer the property, by quitclaim deed, to the Secretary of State at a price of $250,000, granting a one-year option at that price, and may only dispose of the property to a third party after written notice from the Secretary of State that the Department of State does not wish to exercise the option, or after the expiration of the year's option without its being exercised by the Secretary of State. In the event the Secretary of State shall exercise the option, the Secretary shall have one year from the date of exercise in which to make settlement. If the university has made capital improvements to the property during its ownership, such improvements shall be evaluated by the Department of State, and paid to the university in addition to the $250,000 price stated above in compensation therefor.

(c) Wake Forest University shall provide suitable office space for United States Government employees on official business in Venice at any time such space is requested by the American Embassy in Rome or the American Consulate in Milan, in accordance with arrangements to be determined by the parties prior to transfer of title to the aforesaid property.

With the following Committee amendment:

1. Strike out all after the enacting clause and insert in lieu thereof the following:

That (a) the Secretary of State is hereby authorized to sell, by quitclaim deed, to Wake Forest University the former consulate office building and residence at Rio Torre-Selle and Canal Grande, in Venice, for the sum of $250,000, subject to such terms and conditions as the Secretary shall prescribe not inconsistent with the provisions of the Foreign Service Buildings Act, 1926. Such $250,000 shall be applied or held pursuant to section 9(b) of such Act of 1926.

(b) Wake Forest University shall not lease or otherwise alienate this property except in accordance with the terms of this Act.

(c) If the university determines that the property is no longer required and wishes to dispose of it, the university will offer the property, by quitclaim deed, to the Secretary of State at a price of $250,000, granting a one-year option at that price, and may only dispose of the property to a third party after written notice from the Secretary of State that he does not wish to exercise the option, or after the expiration of the year's option without its being exercised by him. In the event the Secretary shall exercise the option, he shall have one year from the date of exercise in which to make settlement. If the university has made capital improvements to the property during its ownership, such improvements shall be evaluated by the Secretary, and paid to the university in addition to the $250,000 price stated above in compensation therefor.

(d) Wake Forest University shall provide suitable office space for United States Government employees on official business in Venice at any time such space is requested by the American Embassy in Rome or the American Consulate in Milan, in accordance with arrangements to be determined by the parties prior to transfer of title under this Act.

Mr. HAYS (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment be considered as read, and printed in the RECORD.

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

There was no objection.

Mr. HAYS. Mr. Speaker, I move to strike the last word.

Mr. Speaker, it is not often that this body has an opportunity to vote on a bill that will return money to the United States.

H.R. 12341 does just that. It is a simple measure. In 1952, our Government purchased a building in Venice to be used as the residence and office of our consul. It cost the Government $76,912. During the 11 years that it was used for a Government facility we spent an additional $60,085 to improve the property. In total, we invested $136,997 in that property.

In 1963, the consulate in Venice was closed and its functions were transferred to the consulate in Milan. The property was unoccupied until 1971 when Wake Forest University, an outstanding American educational institution, leased it.

The Government has no plans to reopen a consulate in Venice. Wake Forest has made an attractive offer of $250,000 to purchase the property. This bill authorizes the sale to the university. As a protection to the Government it is stipulated that should Wake Forest wish to dispose of the property, it must first offer it to the United States at the original sale price of $250,000 plus the cost of any improvements it may have made during the time it occupied the property. Only after a rejection by our Government can it offer the property to a third party. During the period that the university occupies the property it will make available to our embassy in Rome or our consulate in Milan adequate office space for our diplomatic or consular officials who must conduct business in Venice.

Wake Forest University has been using the property, and will continue to use it, for its programs in art history and criticism, Renaissance history, and international relations. I can think of no more suitable place to conduct such studies than in Venice with its rich cultural and intellectual history. While I have not had an opportunity to visit Venice, I have had enthusiastic letters from prominent Italian scholars who endorse the program that Wake Forest is carrying out there. These letters, along with letters and statements from prominent North Carolinians, have been included in the hearings.

Mr. Speaker, I urge the House to pass H.R. 12341.

Mr. Speaker, the gentleman from Wisconsin (Mr. THOMSON), the ranking member of the subcommittee, may wish to say a word on the bill.

Mr. THOMSON of Wisconsin. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I understand that in addition to the profit the Government will make on this transaction, arrangements have been made with Wake Forest University so that the State Department will have offices available in this building at any time they desire to make use of them.

Mr. Speaker, I support this legislation to authorize sale of the former consulate office building and residence in Venice, Italy to Wake Forest University.

The consulate was closed in 1963 and its functions transferred to the consulate in Milan. Since 1971 the property has been leased to Wake Forest University, which operates a regular academic program, emphasizing art history and criticism, international relations, and Renaissance history.

Since the Department of State foresees no need to retain the property, its sale to Wake Forest University is a wise decision, both for the U.S. Government and the university.

I urge passage of H.R. 12341.

Mr. BROYHILL of North Carolina. Mr. Speaker, I rise in support of H.R. 12341, authorizing sale of a State Department property in Venice to Wake Forest University.

This bill would be of great benefit to the U.S. Government, as well as to Wake Forest University. The university has used and maintained this facility for a number of years and has added substantial improvements to the property. I feel it is appropriate to allow the sale of the property to the university under the terms stated in the bill. By this action, the interests of the U.S. Government would be maintained, as the Government would have first right of refusal should Wake Forest decide to sell the property. In addition, the university would be required to provide office space for U.S. Government employees on official business as needed.

As a North Carolinian, I am most familiar with the high academic standing and educational achievements of Wake Forest University and its Venice program. I feel the United States has been well represented in Italy by Wake Forest students and faculty. Passage of H.R. 12341 would allow this fine relationship to continue, and I urge its approval by the House of Representatives.

Mr. PREYER. Mr. Speaker, I rise today to speak in favor of H.R. 12341—an act to facilitate the sale of the former Foreign Service consulate building in Venice to Wake Forest University of North Carolina. Until 1966, this building well served the United States as a bridge between Italy and America. It was vacated in 1966 when its work was moved to Milan. Since 1971 Wake Forest University has been using the building for their overseas study program. Once again this building represents our country in the best of ways: Expansion of knowledge and awareness between people.

Venice is a beautiful city of pivotal historical significance in art, renaissance history, and international relations. Wake Forest now operates a regular two-semester academic term in Venice, presently with 97 students and 5 faculty. A summer study program for faculty members is offered to supplement their education. The program is also open to other colleges and universities; four institutions have already participated. The students and faculty have made significant contributions to basic Italo-American relations. H.R. 12341 allows Wake Forest to continue this exchange of knowledge.

I ask that H.R. 12341 be approved. In doing so, we will reaffirm our high dedication to education and especially to the strengthening of ties between our coun-

try and others. My congratulations go to Wake Forest University for their program in Venice. I hope they will have an even more successful program in the years to come.

Mr. DERWINSKI. Mr. Speaker, I, too, support H.R. 12341. The proposal of the Department of State to sell its former consulate office building and residence in Venice to Wake Forest University makes sense.

The consulate building is no longer used by the Department of State. It has been leased by Wake Forest University which now wishes to buy the property, while agreeing to provide suitable office space for U.S. Government employees on official business.

This proposal will save money for the taxpayer while assuring any future needs we may have for space.

We should approve this legislation.

Mr. MIZELL. Mr. Speaker, I rise in support of H.R. 12341, which authorizes the sale of the former consulate office building and residence in Venice to Wake Forest University.

As stated in the committee report, the consular office building in Venice was acquired by the Government in 1952 at a cost of $76,912. During its occupancy by the United States, capital improvements amounting to $60,085 were made to the property. Thus, the United States has invested $136,997. The consulate was closed in 1963, and since 1971 the property has been leased to Wake Forest University for a nominal sum.

The legislation provides that Wake Forest University will purchase the building for $250,000, and the university has already invested $42,000 in improvements and furnishings.

Wake Forest University is in the city of Winston-Salem, which I represent, and I urge my colleagues to vote for passage of this legislation.

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). The question is on the committee amendment.

The committee amendment was agreed to.

Mr. HAYS. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MONTGOMERY. 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 pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 402, nays 0, answered "present" 1, not voting 29, as follows:

[Roll No. 81]

YEAS—402

Abdnor	Dickinson	Kemp
Abzug	Diggs	Ketchum
Adams	Donohue	Kluczynski
Addabbo	Dorn	Koch
Anderson, Calif.	Downing	Kuykendall
Anderson, Ill.	Drinan	Kyros
Andrews, N.C.	Dulski	Lagomarsino
Andrews, N. Dak.	Duncan	Landgrebe
Annunzio	du Pont	Landrum
Archer	Eckhardt	Latta
Arends	Edwards, Ala.	Lehman
Armstrong	Edwards, Calif.	Lent
Ashbrook	Eilberg	Litton
Ashley	Erlenborn	Long, La.
Aspin	Esch	Long, Md.
Badillo	Eshleman	Lott
Bafalis	Evans, Colo.	Luken
Baker	Evins, Tenn.	McClory
Barrett	Fascell	McCloskey
Bauman	Findley	McCollister
Beard	Fish	McCormack
Bell	Flood	McDade
Bennett	Flowers	McFall
Bergland	Flynt	McKay
Bevill	Foley	McKinney
Biaggi	Ford	McSpadden
Biester	Forsythe	Macdonald
Bingham	Fountain	Madden
Blackburn	Frelinghuysen	Madigan
Boggs	Frenzel	Mahon
Bolling	Frey	Mallary
Bowen	Froehlich	Mann
Brademas	Fulton	Maraziti
Bray	Fuqua	Martin, Nebr.
Breaux	Gaydos	Martin, N.C.
Brinkley	Gettys	Mathias, Calif.
Brooks	Giaimo	Mathis, Ga.
Broomfield	Gibbons	Matsunaga
Brotzman	Gilman	Mayne
Brown, Calif.	Ginn	Mazzoli
Brown, Mich.	Goldwater	Meeds
Brown, Ohio	Gonzalez	Melcher
Broyhill, Va.	Goodling	Metcalfe
Buchanan	Grasso	Mezvinsky
Burgener	Gray	Michel
Burke, Calif.	Green, Oreg.	Milford
Burke, Fla.	Green, Pa.	Miller
Burke, Mass.	Griffiths	Mills
Burleson, Tex.	Gross	Minish
Burlison, Mo.	Grover	Mink
Burton	Gubser	Minshall, Ohio
Butler	Gude	Mitchell, N.Y.
Byron	Gunter	Mizell
Camp	Guyer	Moakley
Carney, Ohio	Haley	Mollohan
Carter	Hamilton	Montgomery
Casey, Tex.	Hammer-schmidt	Moorhead, Calif.
Cederberg	Hanley	Moorhead, Pa.
Chamberlain	Hanna	Morgan
Chappell	Hanrahan	Mosher
Chisholm	Hansen, Idaho	Murphy, Ill.
Clancy	Harrington	Murtha
Clark	Harsha	Myers
Clausen, Don H.	Hastings	Natcher
Clawson, Del	Hawkins	Nedzi
Clay	Hays	Nelsen
Cleveland	Hébert	Nichols
Cochran	Hechler, W. Va.	Nix
Cohen	Heckler, Mass.	Obey
Collins, Ill.	Heinz	O'Brien
Collins, Tex.	Helstoski	O'Hara
Conable	Henderson	O'Neill
Conlan	Hicks	Owens
Conte	Hillis	Parris
Conyers	Hinshaw	Passman
Corman	Hogan	Patten
Cotter	Holifield	Pepper
Coughlin	Holt	Perkins
Crane	Holtzman	Pettis
Cronin	Horton	Peyser
Culver	Hosmer	Pickle
Daniel, Dan	Howard	Pike
Daniel, Robert W., Jr.	Huber	Poage
Daniels, Dominick V.	Hudnut	Powell, Ohio
Danielson	Hungate	Preyer
Davis, Ga.	Hunt	Price, Ill.
Davis, S.C.	Hutchinson	Price, Tex.
Davis, Wis.	Ichord	Pritchard
de la Garza	Jarman	Quie
Delaney	Johnson, Calif.	Quillen
Dellenback	Johnson, Colo.	Railsback
Dellums	Johnson, Pa.	Randall
Denholm	Jones, Ala.	Rangel
Dennis	Jones, N.C.	Rarick
Dent	Jones, Okla.	Rees
Devine	Jones, Tenn.	Regula
	Jordan	Reid
	Karth	Reuss
	Kastenmeier	Rhodes
	Kazen	Riegle
	Kemp	Rinaldo
	Ketchum	Roberts
	Kluczynski	Robinson, Va.
	Koch	Rodino
	Kuykendall	Roe
	Kyros	Rogers
	Lagomarsino	Roncalio, Wyo.
	Landgrebe	Roncallo, N.Y.
	Landrum	Rooney, Pa.
	Latta	Rose
	Lehman	Rosenthal
	Lent	Rostenkowski
	Litton	Roush
	Long, La.	Rousselot
	Long, Md.	Roy
	Lott	Roybal
	Luken	Runnels
	McClory	Ruppe
	McCloskey	Ruth
	McCollister	Ryan
	McCormack	St Germain
	McDade	Sandman
	McFall	Sarasin
	McKay	Sarbanes
	McKinney	Satterfield
	McSpadden	Scherle
	Macdonald	Schneebeli
	Madden	Schroeder
	Madigan	Sebelius
	Mahon	Seiberling
	Mallary	Shipley
	Mann	Shoup
	Maraziti	Shriver
	Martin, Nebr.	Shuster
	Martin, N.C.	Sikes
	Mathias, Calif.	Sisk
	Mathis, Ga.	Skubitz
	Matsunaga	Slack
	Mayne	Smith, Iowa
	Mazzoli	Smith, N.Y.
	Meeds	Snyder
	Melcher	Spence
	Metcalfe	Staggers
	Mezvinsky	Stanton, J. William
	Michel	Stanton, James V.
	Milford	Stark
	Miller	Steed
	Mills	Steele
	Minish	Steelman
	Mink	Steiger, Ariz.
	Minshall, Ohio	Steiger, Wis.
	Mitchell, N.Y.	Stokes
	Mizell	Stratton
	Moakley	Stubblefield
	Mollohan	Studds
	Montgomery	Sullivan
	Moorhead, Calif.	Symington
	Moorhead, Pa.	Symms
	Morgan	Talcott
	Mosher	Taylor, N.C.
	Murphy, Ill.	Teague
	Murtha	Thomson, Wis.
	Myers	Thone
	Natcher	Thornton
	Nedzi	Tiernan
	Nelsen	Towell, Nev.
	Nichols	Treen
	Nix	Udall
	Obey	Ullman
	O'Brien	Van Deerlin
	O'Hara	Vander Jagt
	O'Neill	Vander Veen
	Owens	Vanik
	Parris	Veysey
	Passman	Vigorito
	Patten	Waggonner
	Pepper	Waldie
	Perkins	Walsh
	Pettis	Wampler
	Peyser	Ware
	Pickle	Whalen
	Pike	White
	Poage	Whitehurst
	Powell, Ohio	Whitten
	Preyer	Widnall
	Price, Ill.	Wiggins
	Price, Tex.	Williams
	Pritchard	Wilson, Bob
	Quie	Wilson, Charles H., Calif.
	Quillen	Winn
	Railsback	Wolff
	Randall	Wright
	Rangel	Wyatt
	Rarick	Wydler
	Rees	Wylie
	Regula	Wyman
	Reid	Yates
	Reuss	Yatron
	Rhodes	Young, Alaska
	Riegle	Young, Fla.
		Young, Ga.
		Young, S.C.
		Young, Tex.
		Zablocki
		Zion
		Zwach

NAYS—0

ANSWERED "PRESENT"—1

Broyhill, N.C.

NOT VOTING—29

Alexander	Fraser	Podell
Blatnik	Hansen, Wash.	Robison, N.Y.
Boland	King	Rooney, N.Y.
Brasco	Leggett	Stephens
Breckinridge	Lujan	Stuckey
Carey, N.Y.	McEwen	Taylor, Mo.
Collier	Mitchell, Md.	Thompson, N.J.
Derwinski	Moss	Wilson, Charles, Tex.
Dingell	Murphy, N.Y.	Young, Ill.
Fisher	Patman	

So the bill was passed.

The Clerk announced the following pairs:

Mr. Thompson of New Jersey with Mr. Fraser.

Mr. Rooney of New York with Mr. Blatnik.

Mr. Stephens with Mr. Collier.

Mr. Carey of New York with Mr. Stuckey.

Mr. Moss with Mr. Dingell.

Mr. Mitchell of Maryland with Mr. Lujan.

Mr. Murphy of New York with Mr. Robison of New York.

Mr. Breckinridge with Mr. Fisher.

Mr. Brasco with Mr. McEwen.

Mr. Boland with Mr. King.

Mrs. Hansen of Washington with Mr. Podell.

Mr. Charles Wilson of Texas with Mr. Taylor of Missouri.

Mr. Leggett with Mr. Young of Illinois.

Mr. Alexander with Mr. Derwinski.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to authorize sale of a former Foreign Service consulate building in Venice to Wake Forest University."

A motion to reconsider was laid on the table.

FOREIGN SERVICE BUILDINGS ACT SUPPLEMENTAL APPROPRIATION

Mr. HAYS. Mr. Speaker, I call up the bill (H.R. 12465) to amend the Foreign Service Buildings Act, 1926, to authorize additional appropriations for the fiscal year 1974, and ask unanimous consent

that the bill be considered in the House as in the Committee of the Whole.

The Clerk read the title of the bill.

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

There was no objection.

The Clerk read the bill, as follows:

H.R. 12465

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (g) of section 4 of the Foreign Service Buildings Act, 1926 (22 U.S.C. 295), is amended—

(1) by striking out "$590,000" in subparagraph (1)(A) and inserting in lieu thereof "$631,000";

(2) by striking out "$160,000" in subparagraph (1)(C) and inserting in lieu thereof "$204,000";

(3) by striking out "$2,218,000" in subparagraph (1)(E) and inserting in lieu thereof "$2,287,000";

(4) by striking out "$45,800,000" and "$21,700,000" in paragraph (2) and inserting in lieu thereof "$48,532,000" and "$23,066,000", respectively.

Mr. HAYS. Mr. Speaker, I move to strike the last word.

Mr. Speaker, when I became chairman of the Subcommittee on State Department Organization and Foreign Operations in 1957, one of the first items that concerned me was the casual way that the Executive and the Congress handled the properties owned or leased by the Government overseas.

I have directed my efforts since then to bringing some kind of order and organization to this situation. Today we have some 1,600 pieces of property—houses, office buildings, apartments, garages, and warehouses—scattered in 270 posts. Some we own and some we lease. As old buildings deteriorate beyond repair or new posts are opened that require facilities, the Department of State has to meet the needs not only of the Department but of other civilian agencies of the Government. I can say without contradiction that over the last decade both the Executive and the Congress have cooperated to achieve maximum results at minimum expenditures of public funds.

The buildings program has two accounts, both of which are amended by this bill. The first is the capital account that deals with the acquisition of properties. The second is the operating account that is used for repairs, improvements, and maintenance of properties we have.

Instead of a blanket authorization for these accounts, I have always insisted on a 2-year authorization. That is a period long enough to permit the Department to do some advanced planning and enable Congress to keep abreast of how the funds are being used.

Last year Congress passed a 2-year authorization. We voted the funds for the capital account on a geographic basis. Paragraphs 1, 2, and 3 of this bill permit the Department to use some of the fiscal year 1975 authorizations this fiscal year—specifically $154,000—not for the expenditure of dollars abroad but for the purchase of local currency that we own. This is a bookkeeping transaction that Congress devised to keep some control over the use of our local currencies. The shift of authorization from fiscal year 1975 to fiscal year 1974 will enable the Department to complete residences and staff housing in Tunis, Yugoslavia, Poland, and India, all countries where the United States owns excess local currencies.

The only additional authorization provided by this bill is for the operating account. When the Department presented its case last year, it was aware that inflation abroad and devaluation would require an increase but it was not then prepared to give the committee specific amounts. Rather than authorize a blanket sum, I told them to come back. Since then it has made a post-by-post survey and is requesting in this bill additional authorizations of $1,366,000 for each of the 2 fiscal years. The costs of local materials and of local salaries have been mounting more rapidly abroad than at home.

These funds, as I indicated earlier, are to maintain, repair, and improve the property we have abroad. Last year it was estimated that such property had a capital value of $310 million but the current market value would be at least double, more likely triple, that figure. Anyone familiar with home maintenance or repairs in this country knows the importance of keeping real property in first-rate condition.

Mr. Speaker, I urge the House to pass H.R. 12465.

Mr. THOMSON of Wisconsin. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, this legislation is needed by the Foreign Service buildings program as a result of inflation and devaluation of the dollar.

An additional authorization of $1,366,000 is required for the operating account for each of the fiscal years 1974 and 1975, if the Department of State is to maintain and operate the hundreds of pieces of property owned by our Government abroad both efficiently and in a way that will maintain and increase their value.

This legislation is a good investment in our Foreign Service buildings program. It should be approved.

Mr. DERWINSKI. Mr. Speaker, I would like to join in the expression of support for H.R. 12465. This legislation is obviously needed if the Foreign Service buildings program of the Department of State is to continue to represent the United States abroad in an effective and efficient manner. Our Government owns a great deal of valuable property which must be maintained properly so that it will not depreciate.

We should approve this legislation.

Mr. HAYS. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is on the engrossment and third reading of the bill.

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

STATE DEPARTMENT SUPPLEMENTAL AUTHORIZATION

Mr. HAYS. Mr. Speaker, I call up the bill (H.R. 12466) to amend the Department of State Appropriations Authorization Act of 1973 to authorize additional appropriations for the fiscal year 1974, and for other purposes, and ask unanimous consent that the bill will be considered in the House as in the Committee of the Whole.

The Clerk read the title of the bill.

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

There was no objection.

The Clerk read the bill, as follows:

H.R. 12466

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

AUTHORIZATION OF APPROPRIATIONS

SECTION 1. Section 2(a)(1) of the Department of State Appropriations Authorization Act of 1973 (87 Stat. 451), providing authorization of appropriations for the Administration of Foreign Affairs, is amended by striking out "$282,565,000" and inserting in lieu thereof "$288,968,000".

SEC. 2. Section 2(a)(2) of such Act (87 Stat. 451), providing authorization of appropriations for International Organizations and Conferences, is amended by striking out "$211,279,000" and inserting in lieu thereof "$212,777,000".

SEC. 3. Section 2(a)(3) of such Act (87 Stat. 451), providing authorization of appropriations for International Commissions, is amended by striking out "$15,568,000" and inserting in lieu thereof "$12,528,000".

SEC. 4. Section 2(a)(4) of such Act (87 Stat. 451), providing authorization of appropriations for Educational Exchange, is amended by striking out "$59,800,000" and inserting in lieu thereof "$57,170,000".

SEC. 5. Section 2(b)(1) of such Act (87 Stat. 451), providing authorization of appropriations for increases in salary, pay, retirement, or other employee benefits authorized by law, is amended by striking out "$9,328,000" and inserting in lieu thereof "$16,711,000".

SEC. 6. Section 2(b)(2) of such Act (87 Stat. 451), providing authorization of appropriations for additional overseas costs resulting from the devaluation of the dollar, is amended by striking out "$12,307,000" and inserting in lieu thereof "$9,905,000".

SEC. 7. Section 2(c) of such Act (87 Stat. 451), providing authorization of appropriations for protection of personnel and facilities from threats or acts of terrorism, is amended by striking out "$40,000,000" and inserting in lieu thereof "$20,000,000".

BUREAU OF OCEANS AND INTERNATIONAL ENVIRONMENTAL AND SCIENTIFIC AFFAIRS

SEC. 8. Section 9 of such Act (87 Stat. 453), providing for an additional Assistant Secretary to head the Bureau of Oceans and International Environmental and Scientific Affairs, is amended by inserting "(a)" immediately after "SEC. 9." and by adding at the end thereof the following new subsections:

"(b) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"'(99) Assistant Secretary for Oceans and International Environmental and Scientific Affairs, Department of State.'

"(c) Paragraph (109) of section 5316 of title 5, United States Code, relating to the Director of International Scientific Affairs, Department of State, is repealed.".

With the following committee amendments:

1. Page 3, immediately after line 4, insert the following:

INTERNATIONAL COMMITTEE OF THE RED CROSS

SEC. 8. (a) The Act entitled "An Act to authorize a contribution by the United States

to the International Committee of the Red Cross", approved October 1, 1965 (79 Stat. 901), is amended by striking out "$50,000" and inserting in lieu thereof "$500,000".

(b) The amendment made by subsection (a) shall apply with respect to contributions to be made commencing in 1974.

2. Page 3, line 14, strike out "SEC. 8." and insert in lieu thereof "SEC. 9."

The committee amendments were agreed to.

Mr. HAYS. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, H.R. 12466, a bill for a supplemental authorization for the Department of State, is an unusual bill in that it reduces some authorization already given the Department and increases others.

As Members know, 2 years ago Congress took away the open-ended authorization for the Department and insisted on "periodic" authorizations—which actually have been annual authorizations. The authorizations are on a line-item basis for the principal programs and activities of the Department. But the line-items in the authorization bill are not the same as the line-items in the State appropriation bill. A number are funded under other authorization or appropriation measures. Hence a simple comparison of the two acts is not possible.

Comparing only those items in the authorization law with those that also appear in the appropriation law for State shows that for the current fiscal year the authorizations exceeded the appropriations by $41.2 million. What the Department is doing in this bill is rescinding those authorizations that are in excess of the appropriations and that are not needed for the current fiscal year. These recissions amount to $28 million.

On the other hand, the Department does need $15.3 million to meet requirements that have arisen since the original authorization bill was passed last fall. The result of these modifications is a net reduction of $12.7 million in authorizations. The two major increases are in the category called administraiton of foreign affairs and in salary benefits.

Our Government has taken a number of new initiatives that come under the heading administration of foreign affairs. Chief among these is the planned opening of three new posts in East Berlin, Mongolia, and New Guinea. Events in the Middle East have also necessitated new obligations. It is planned to increase our representation in the lower Persian Gulf states. The Middle East crisis has not only called for large outlays for travel to support the efforts of the Secretary of State but has resulted in increased per diem and overtime for clerks, communicators, and security personnel. In that area we have set up special interest sections in Cairo and Damascus to facilitate the work of the Secretary. In fact, in the last few days we have resumed diplomatic relations with Egypt. In Vietnam the various civilian agencies have sharply reduced their personnel. The Department has had to take up the slack in economic activities, and in continued reporting on the ceasefire agreements. This increase in State responsibilities has resulted in the need for additional personnel in that country. All of these developments add $6.4 million to this bill.

Last October the salaries of Government employees were increased by Executive order. For the Department this means an additional $7.4 million which is included in this bill. This is a matter over which the Department has no control.

The committee made one addition to the Executive request. It increased the authorization for the International Committee of the Red Cross from $50,000 to $500,000—an increase of $450,000. For more than a century this organization has devoted its efforts to humanitarian enterprises. It was of particular assistance to our government in Vietnam where it aided and protected American POW's and civilians detained by Communist forces in Indochina. In many situations it is the only agency permitted to enter and provide timely relief in politically sensitive areas. The modest increase in funds which this bill provides represents a sound investment in promoting its international activities.

Mr. SPEAKER. I urge the Members to support the passage of H.R. 12466.

Mr. THOMSON of Wisconsin. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I support this supplemental authorization of appropriations for the Department of State for fiscal year 1974.

As noted in the committee report, it adjusts sums in the various categories of authorizations contained in the Department of State Appropriations Authorization Act of 1973. Some of the categories are increased; others are decreased. For example, an increased authorization is provided for administration of foreign affairs, including the opening of several diplomatic missions and expanded commercial representation. Increased authorizations are also needed for international organizations and conferences and to cover the costs of pay increases.

At the same time reductions were authorized for international commissions, and the category providing for additional overseas costs.

These amended authorizations will permit the Department to request supplemental appropriations of $15.7 million.

Mr. Speaker, I urge approval of this legislation.

Mr. GROSS. Mr. Speaker, I move to strike the necessary number of words.

Mr. Speaker, this bill is something of a now-you-see-it and now-you-don't presentation. Evidently the State Department was overfunded in the matter of authorizations in previous authorization bills, so we are told that this is a decrease in spending. If it is a decrease, it is a paper cut and nothing else, because the bill, according to the report, on page 3 calls for an additional $28,800,000 as a supplemental appropriation. No matter how the figures are juggled with respect to previous authorization of funding, this is how it comes out.

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

Mr. GROSS. I yield to the gentleman.

Mr. HAYS. Let me say to the gentleman that as chairman of the subcommittee I could plead guilty to the fact we gave them more money in the authorization than they were given in the appropriations bill and apparently more money than they are able to get by with. The gentleman is right. It is a paper cut, but the actual increase over the appropriation will be $15.7 million and the decrease is still less than was authorized last year. In short it is an increase over the appropriation but a decrease over last year's authorization.

Mr. GROSS. Mr. Speaker, I will say to my friend from Ohio that we ought to be more careful in the future about authorizing legislation. This money could very well have gone down the drain somewhere. I am glad it has not vanished, but it could have.

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

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

Mr. HAYS. I think the gentleman knows I have a reputation around here for being a little bit on the miserly side. Some national magazine wrote an article—I am not bragging about it—but they called me Chairman Skinflint, which seems to indicate that I am a little cautious.

I have found in my years as a subcommittee chairman that sometimes if we have people on whom we can rely and we give them the amount of money they ask for on the understanding they will be careful with it and return some, that we get better cooperation than we do trying to cut them down to the very marrow of the bone.

I might say to the gentleman that I had such assurance from the previous Secretary of State, Mr. ROGERS, whom I consider one of the most honorable men to serve in any capacity.

I have a continuing assurance from the present Secretary of State, Mr. Kissinger, whom I also find is a man of his word.

Let me say to the gentleman, if it had been the gentleman from the U.S. Information Agency I would not have this confidence, because I would not believe they would use this money so carefully and properly.

As the gentleman knows, we did cut down substantially last year, so the only excuse I can say is that we have some confidence in the Department and they have proved by their husbanding of the money they have spent, they have been careful and spent less than they were authorized.

Mr. GROSS. Mr. Speaker, I am glad it turned out that way, but this stingy individual would much prefer that in the future we whittle them down to what we think they ought to have and not rely upon their assurance that they will not spend the money.

In all too many instances in the departments and agencies of this Government, as the gentleman well knows, that is the fate of overabundant authorizations.

Mr. HAYS. Mr. Speaker, I am aware of that. I will say to the gentleman that

his reprimand will be taken to heart and I will try to do better in the future.

Mr. GROSS. Mr. Speaker, I thank the gentleman. This legislation also points up the cost of devaluation of the dollar. There is a substantial amount of money in this bill to take care of the devaluation of the dollar.

Mr. Speaker, let me say to the Members of the House again that unless—unless the House and the other body across the way do something to stop inflation, we will have another devaluation of the dollar that will cost us more billions in our improvident spending overseas.

But you had better believe the taxpayers of this country are not going to be compensated for the shortfall in the value of their dollars. We take care of the foreigners in our operations overseas, but the hell with the people in this country.

The SPEAKER. The time of the gentleman from Iowa has expired.

(By unanimous consent, Mr. GROSS was allowed to proceed for an additional 2 minutes.)

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

Mr. GROSS. Mr. Speaker, I yield to the gentleman from Ohio.

Mr. HAYS. Mr. Speaker, let me say to the gentleman that I am not going to get into any argument with him about devaluation because I feel exactly the way he does about it.

When the Secretary of the Treasury, Mr. Connally, was going around the country saying what a great thing devaluation was going to be and that it would enable us to sell more products abroad and would not cost Americans anything, I said then that he was wrong. He was wrong. It is costing the American taxpayer higher taxes, higher prices in the marketplace, and it is giving him a beating in every respect.

Mr. Speaker, I was up in Canada at the time Mr. Connally was preaching devaluation. I was on the Canadian national network on television, and I criticized him. The moderator said, "Well, you know, are you sure Mr. Connally does not know what he is doing?"

I said, "In international finance he is not out of kindergarten yet."

He said, "But he is a millionaire."

I said, "That is one thing you Canadians do not understand. In Texas, you can get to be a millionaire without knowing anything if you know somebody."

Mr. GROSS. Mr. Speaker, I certainly agree with the gentleman with regard to devaluation.

Mr. DERWINSKI. Mr. Speaker, I support H.R. 12466. This legislation adjusts the sums in the various categories of the Department of State Appropriations Authorization Act of 1973. The legislation will enable the Department to meet certain costs resulting from expanded foreign service operations overseas, as well as higher personnel-related costs including the pay raise granted in October 1973 by Executive order.

Mr. Speaker, I urge approval of this bill.

Ms. ABZUG. Mr. Speaker, I question the authorization of $338,000 for increased personnel in Vietnam. I am told that these new people will be reporting on economic conditions and cease-fire violations, not in Saigon but in various outlying areas of the country. I question the propriety of increasing the American presence in Vietnamese villages, when international monitoring teams are provided for by the Paris agreements.

In the light of history a bit of skepticism is justified. What are these people really going to do? Will they actually be serving as "advisers" to the Thieu regime?—reminding the villagers, however subtly, that billions of dollars from the United States keep their economy going? If fighting increases, will they be needing the "protection" of American troops? Does their presence threaten us with reinvolvement in Asia?

The American Embassy in Saigon is already the largest embassy we maintain anywhere in the world. Considering the size of Vietnam, this is baffling. It is even stranger when we consider that military troops have been withdrawn and personnel for such agencies as AID has been cut back.

Why, then, should we expand our State Department personnel? I would like some reassurance that these people are not to be military advisers in civilian clothing, nor pressure agents for the long-discredited dictatorship of President Thieu.

For this reason I will vote against this bill.

Mr. HAYS. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. GOODLING. 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. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 331, nays 75, not voting 26, as follows:

[Roll No. 82]

YEAS—331

Abdnor	Bennett	Broyhill, N.C.
Adams	Bergland	Broyhill, Va.
Addabbo	Biaggi	Buchanan
Alexander	Biester	Burgener
Anderson, Ill.	Bingham	Burke, Calif.
Andrews, N.C.	Boggs	Burke, Fla.
Andrews, N. Dak.	Boland	Burke, Mass.
	Bolling	Burleson, Tex.
Annunzio	Bowen	Burton
Arends	Brademas	Butler
Armstrong	Breaux	Carney, Ohio
Ashley	Brooks	Carter
Aspin	Broomfield	Casey, Tex.
Badillo	Brotzman	Cederberg
Bafalis	Brown, Calif.	Chamberlain
Barrett	Brown, Mich.	Chisholm
Bell	Brown, Ohio	Clark
Clawson, Del	Horton	Railsback
Clay	Hosmer	Randall
Cleveland	Howard	Rangel
Cochran	Huber	Rees
Cohen	Hungate	Reuss
Collins, Ill.	Jarman	Riegle
Conable	Johnson, Calif.	Rinaldo
Conte	Johnson, Colo.	Roberts
Corman	Johnson, Pa.	Rodino
Cotter	Jones, Ala.	Roe
Coughlin	Jones, N.C.	Rogers
Cronin	Jones, Okla.	Roncalio, Wyo.
Culver	Jones, Tenn.	Rooney, Pa.
Daniels, Dominick V.	Jordan	Rose
	Karth	Rosenthal
Danielson	Kastenmeier	Rostenkowski
Davis, Ga.	Kazen	Roush
Davis, S.C.	Kemp	Roy
Davis, Wis.	Kluczynski	Roybal
de la Garza	Koch	Runnels
Delaney	Kuykendall	Ruppe
Dellenback	Kyros	Ruth
Dellums	Landrum	Ryan
Dennis	Latta	St Germain
Dent	Leggett	Sandman
Derwinski	Lehman	Sarasin
Dickinson	Litton	Schneebeli
Diggs	Long, La.	Schroeder
Donohue	Long, Md.	Seiberling
Dorn	Lujan	Shriver
Downing	Luken	Sikes
Drinan	McClory	Sisk
Dulski	McCloskey	Skubitz
du Pont	McCollister	Slack
Eckhardt	McCormack	Smith, Iowa
Edwards, Ala.	McDade	Smith, N.Y.
Edwards, Calif.	McFall	Staggers
Eilberg	McKay	Stanton, J. William
Erlenborn	McKinney	
Esch	McSpadden	Stanton, James V.
Eshleman	Macdonald	
Evans, Colo.	Madden	Stark
Evins, Tenn.	Madigan	Steed
Fascell	Mahon	Steele
Findley	Mallary	Steelman
Fish	Mann	Steiger, Wis.
Flood	Martin, Nebr.	Stokes
Flowers	Mathias, Calif.	Stratton
Flynt	Mathis, Ga.	Stubblefield
Foley	Matsunaga	Studds
Ford	Mayne	Sullivan
Forsythe	Mazzoli	Symington
Fountain	Meeds	Talcott
Frelinghuysen	Melcher	Taylor, N.C.
Frenzel	Metcalfe	Thomson, Wis.
Frey	Mezvinsky	Thone
Fulton	Michel	Thornton
Fuqua	Milford	Tiernan
Gaydos	Mills	Udall
Gettys	Minish	Ullman
Giaimo	Mink	Van Deerlin
Gibbons	Minshall, Ohio	Vander Jagt
Gilman	Mitchell, N.Y.	Vander Veen
Ginn	Moakley	Vanik
Gonzalez	Mollohan	Veysey
Grasso	Montgomery	Vigorito
Gray	Moorhead, Pa.	Waggonner
Green, Oreg.	Morgan	Waldie
Green, Pa.	Mosher	Walsh
Griffiths	Moss	Ware
Gubser	Murphy, Ill.	Whalen
Gude	Murtha	White
Gunter	Natcher	Whitehurst
Guyer	Nedzi	Whitten
Hamilton	Nelsen	Widnall
Hammer-schmidt	Nix	Wiggins
	Obey	Williams
Hanley	O'Brien	Wilson, Bob
Hanna	O'Hara	Wilson, Charles H., Calif.
Hansen, Idaho	O'Neill	
Harrington	Owens	Winn
Hastings	Parris	Wolff
Hawkins	Passman	Wright
Hays	Patten	Wyatt
Hébert	Pepper	Wydler
Hechler, W. Va.	Perkins	Wylie
Heckler, Mass.	Pettis	Wyman
Heinz	Peyser	Yates
Helstoski	Pickle	Yatron
Henderson	Pike	Young, Ga.
Hicks	Poage	Young, S.C.
Hillis	Preyer	Young, Tex.
Hinshaw	Price, Ill.	Zablocki
Hogan	Pritchard	Zion
Holifield	Quie	Zwach
Holtzman	Quillen	

NAYS—75

Abzug	Bevill	Clancy
Anderson, Calif.	Blackburn	Collins, Tex.
	Bray	Conlan
Archer	Brinkley	Conyers
Ashbrook	Burlison, Mo.	Crane
Baker	Byron	Daniel, Dan
Bauman	Camp	Daniel, Robert W., Jr.
Beard	Chappell	

Denholm	Lagomarsino	Rousselot
Devine	Landgrebe	Satterfield
Duncan	Lent	Scherle
Froehlich	Lott	Sebelius
Goldwater	Maraziti	Shipley
Goodling	Martin, N.C.	Shoup
Gross	Miller	Shuster
Grover	Mizell	Snyder
Haley	Moorhead, Calif.	Spence
Hanrahan	Myers	Steiger, Ariz.
Harsha	Nichols	Symms
Holt	Powell, Ohio	Taylor, Mo.
Hudnut	Price, Tex.	Towell, Nev.
Hunt	Rarick	Treen
Hutchinson	Regula	Wampler
Ichord	Robinson, Va.	Wylie
Ketchum	Roncallo, N.Y.	Young, Alaska
King		Young, Fla.

NOT VOTING—26

Blatnik	Hansen, Wash.	Sarbanes
Brasco	McEwen	Stephens
Breckinridge	Mitchell, Md.	Stuckey
Carey, N.Y.	Murphy, N.Y.	Teague
Clausen, Don H.	Patman	Thompson, N.J.
Collier	Podell	Wilson, Charles, Tex.
Dingell	Reid	Young, Ill.
Fisher	Rhodes	
Fraser	Robison, N.Y.	
	Rooney, N.Y.	

So the bill was passed.

The Clerk announced the following pairs:

Mr. Thompson of New Jersey with Mr. Rhodes.

Mr. Rooney of New York with Mr. Patman.

Mr. Teague with Mr. Stuckey.

Mr. Sarbanes with Mr. Charles Wilson of Texas.

Mr. Mitchell of Maryland with Mr. Fraser.

Mr. Brasco with Mr. Fisher.

Mr. Breckinridge with Mr. Don H. Clausen.

Mr. Podell with Mr. Stephens.

Mr. Blatnik with Mr. Collier.

Mr. Carey of New York with Mr. Young of Illinois.

Mr. Dingell with Mr. McEwen.

Mr. Murphy of New York with Mr. Reid.

Mrs. Hansen of Washington with Mr. Robison of New York.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

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

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

There was no objection.

ANTIHIJACKING ACT OF 1974

Mr. DELANEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 978 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 978

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3858) to amend sections 101 and 902 of the Federal Aviation Act of 1958 to implement the Convention for the Suppression of Unlawful Seizure of Aircraft; to amend title XI of such Act to authorize the President to suspend air service to any foreign nation which he determines is encouraging aircraft hijacking by acting in a manner inconsistent with the Convention for the Suppression of Unlawful Seizure of Aircraft; and to authorize the Secretary of Transportation to suspend the operating authority of foreign air carriers under certain circumstances. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, all points of order against said substitute for failure to comply with the provisions of clause 7, rule XVI are hereby waived, and said substitute shall be read for amendment by titles instead of by sections. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from New York (Mr. DELANEY) is recognized for 1 hour.

Mr. DELANEY. Mr. Speaker, I yield 30 minutes to the gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 978 provides for an open rule with 1 hour of general debate on H.R. 3858, the Antihijacking Act of 1974.

House Resolution 978 provides that it shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment.

House Resolution 978 also provides that all points of order against the substitute for failure to comply with the provisions of clause 7, rule XVI of the Rules of the House of Representatives—the germaneness provision—are waived.

House Resolution 978 also provides that the substitute shall be read for amendment by titles instead of by sections.

H.R. 3858 amends the Federal Aviation Act of 1958 to implement the Convention for the Suppression of Unlawful Seizure of Aircraft—Hague Convention. It also amends the 1958 act to authorize the President to suspend air service to any foreign nation which he determines is encouraging air hijackng by acting in a manner inconsistent with the Hague Convention.

H.R. 3858 also limits the circumstances under which the death penalty may be imposed for aircraft piracy, and deals with security provisions at airports in the United States. Mr. Speaker, I urge the adoption of House Resolution 978 in order that we may discuss and debate H.R. 3858.

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

Mr. Speaker, House Resolution 978 provides for the consideration of H.R. 3858, the Antihijacking Act of 1974, under an open rule with 1 hour of general debate. This rule has several other provisions. It makes the committee substitute in order as an original bill for the purpose of amendment, and waives points of order against that substitute for failure to comply with the provision of clause 7, rule XVI, which deals with germaneness. The rule also provides that the bill be read for amendment by titles instead of by sections.

The primary purpose of H.R. 3858 is to provide additional protection against hijacking.

Title I implements the provisions of the Convention for the Suppression of Unlawful Seizure of Aircraft signed at the Hague. Among other things the Hague convention requires states to establish jurisdiction over hijackers to agree to extradition or to prosecute offenders. In addition, title I allows the President to suspend air service to any foreign nation which he determines is encouraging hijacking. Title I modifies the circumstances under which the death penalty can be imposed for aircraft hijacking in order to conform with recent U.S. Supreme Court decisions.

Title II provides, in legislation, security against acts of criminal violence against air transportation through the imposition of such measures as the screening of passengers and requiring the presence of adequate enforcement personnel at U.S. airports.

Mr. Speaker, I urge the adoption of this rule.

Mr. Speaker, I have no requests for time, but I reserve the balance of my time.

Mr. DELANEY. Mr. Speaker, I have no further requests for time, and, Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. STAGGERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3858) to amend sections 101 and 902 of the Federal Aviation Act of 1958 to implement the Convention for the Suppression of Unlawful Seizure of Aircraft; to amend title XI of such act to authorize the President to suspend air service to any foreign nation which he determines is encouraging aircraft hijacking by acting in a manner inconsistent with the Convention for the Suppression of Unlawful Seizure of Aircraft; and to authorize the Secretary of Transportation to suspend the operating authority of foreign air carriers under certain circumstances.

The SPEAKER. The question is on the motion offered by the gentleman from West Virginia (Mr. STAGGERS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 3858, with Mr. ANNUNZIO in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from West Virginia (Mr. STAGGERS) will be recognized for 30 minutes and the gentleman from Tennessee (Mr. KUYKENDALL) will be recognized for 30 minutes.

The Chair recognizes the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the bill H.R. 3858, the Anti-Hijacking Act of 1974 under title I implements the Hague Convention;

Expands jurisdiction of hijacking to include aircraft landing in the United States on which a hijacking or hijacking attempt has occurred, and aircraft leased by an individual having principal place of business or permanent residence in the United States;

Establishes jurisdiction over the hijacker who is found in the United States; and

Provides a limited death penalty for hijacking.

The death penalty or life imprisonment is possible only if death of another person results from hijacking; otherwise imprisonment for not less than 20 years.

The death penalty may be imposed only after separate sentencing hearing.

The President can suspend air service to and from any country that provides sanctuary for any terrorist organization which engages in hijacking.

The President can suspend service to and from any country which maintains air service between itself and a country harboring hijackers.

The bill authorizes the Secretary of DOT to revoke operating authority of any foreign air carrier which fails to meet security standards established by the International Civil Aviation Organization.

The bill under title II, the Air Transportation Security Act, provides for airlines to screen passengers pursuant to FAA regulations;

For airport operators to maintain security programs at airports using qualified law enforcement personnel; for use of personnel from other Federal agencies or FAA-employed personnel if operator certifies, and FAA agrees, that State, local, and private officers not available;

For uniform training of law enforcement personnel required;

For FAA to conduct R. & D. on procedures, systems, devices, and so forth;

For FAA to have exclusive jurisdiction over hijacking incidents;

That airlines need not carry persons who refuse to be searched; and

That airlines must provide reasonable insurance for property that cannot lawfully be carried in the aircraft cabin.

Mr. Chairman, I reserve the balance of my time.

Mr. KUYKENDALL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman from Tennessee (Mr. QUILLEN), said earlier this is a piece of legislation that is long overdue.

I want to congratulate the chairman of the subcommittee and the chairman of the full committee for having both the wisdom and I think in some cases the good luck of having been able to bring this bill out in the timely manner that it is today.

The chairman covered the international parts of the bill, I think, as fully as need to be covered. It has to do with the ratification of conventions and so forth, so I shall dwell on title II of the bill which deals primarily with domestic hijacking and the prevention thereof.

We were fortunate that we were able in the full committee to reintroduce title II to the bill, because we had expected to bring out a separate domestic hijacking bill later in the year, but because of recent activities it became incumbent upon the committee for the sake of the safety of our country that we get to the domestic matter at this time.

Something else happened week before last which also made this bill most timely; that is, that a Federal court had questioned in two instances the standing system that has worked so well in the country today preventing a successful hijacking for something like I think 15 or 16 months. A Federal judge had ruled in two matters against the X-ray surveillance apparatus being used. He also questioned whether or not the legislative mandate given by the Congress was sufficient for the Administrator of FAA.

I am happy to say that title II takes care of both of those things in the committee bill, the present existing force which has been so successful in preventing hijackings for these many months, and I always knock on wood when I say this, because this phenomenon can happen at any time. Inspection is mandated and put into full operation and financed under present law and regulations.

Mr. Chairman, I know that the chairman of the committee and I are both very happy to bring such an important piece of legislation in here and be able to say that it already being paid for. Usually we have a big bill attached to it, as the gentleman from Iowa (Mr. GROSS) knows; but the checkoff, the surcharge that is being collected in the airline passenger ticket is paying both the airport operators for their policing personnel and is paying the airlines for the cost of the search equipment.

The CAB has given permission for both these surcharges. It is also conducting an audit with the airlines to see that these charges are proper, to see that the airlines are not making a windfall profit, and to see that the charges are adequate.

Most of the information we have based on experience so far is that we were fortunate enough and, hopefully, wise enough to have made the charges almost exactly right. This enables us to have a bill with no appropriations or authorization in it.

Mr. DEVINE. Mr. Chairman, will the gentleman yield?

Mr. KUYKENDALL. Mr. Chairman, I yield to the gentleman from Ohio.

Mr. DEVINE. Mr. Chairman, I would like to ask the gentleman to yield to answer a question in the interests of the legislative history of this matter.

Mr. Chairman, I would invite the gentleman's attention to section 316, subsection (e) of the bill. I have been led to believe that there is some concern by the Federal Bureau of Investigation relative to the jurisdiction over investigations in matters of this nature; that under the present arrangement, the Federal Aviation Agency does not need that jurisdiction as long as the aircraft is in the air, on the taxi strips or on the runways.

However, there is some type of agreement existing between the Department of Transportation and the Justice Department as to jurisdiction other than in the air or on the runways or on taxi strips.

Will the gentleman clarify that section?

Mr. KUYKENDALL. Mr. Chairman, I shall be happy to. The gentleman from Ohio has asked possibly one of the most important questions we have discussed in this bill. That is actually, not so much what the jurisdiction of the FBI and FAA may be, but what the jurisdiction of the air crew is.

There have been many disagreements as to when the pilot is in charge and when he ceases to be in charge. A few months ago they had a rule that the pilot was not in charge until the tires left the runway, and lost his responsibility as soon as the tires touched the runway, even though the landing run was not actually complete. To us, this might have been right in discussing runway construction or something like that, but when it came to the safety of the passengers, this simply made no sense at all. Therefore, the committee probably discussed and debated this issue as long as any other when we decided that the pilot—from the moment he boards the aircraft until the moment he departs, is in charge. The passengers or the crew may be gone during that period.

This is in the report, it is not in the law, but unless the ground forces have reason to know that this pilot is disabled and is unable to operate the aircraft, then he is in charge and the aircraft cannot be disabled from outside unless permission is given.

The question of who is in charge on the ground arises, because we have here a new style of crime that has come into being in the last few years. I suppose that kidnaping was the only crime prior to this that could have lengthy duration. For instance, I cannot imagine that in a kidnaping there would be anyone in total charge of a kidnaping, a regular interstate kidnaping, but the FBI, because it is a clear-cut case of having to have one central, responsible force.

In the case of a hijacking, from the moment of its inception—and this means from the moment the hijacker sets foot on that airplane regardless of whether it

is on the ramp, halfway down the runway, or in the air—until that hijacker or the captain are off that aircraft, there has to be some one agency in charge to coordinate the efforts.

Mr. Chairman, I am very happy to say that presently there is a gentleman's agreement—it is not in force of law—there is a gentleman's agreement between the FAA and the FBI which is working perfectly and which this law in now way interferes with. These two will work together and they have an understanding. The understanding is almost exactly what we have written in here. However, after lengthy discussions in executive session with the FBI, with the Justice Department, with air crew members and others, we think it is absolutely essential that some one agency be in charge during the act of a hijacking, just as some one agency is in charge during the act of a kidnaping.

If the Members think about it, those are about the only two crimes committed against society that may have lengthy duration. A bank robbery is over within a matter of minutes.

A killing is over with in a matter of seconds.

So I will say to the gentleman from Ohio (Mr. DEVINE) that I hope this explains the point. Does the gentleman wish to ask any other questions?

Mr. DEVINE. Yes. I thank the gentleman for yielding further.

I think it is very important again from a legislative history standpoint that this be clarified, because the gentleman knows how sensitive and how delicate this matter is and how many emergency situations develop when there is a hijacking or an attempted hijacking. We just cannot afford to have anyone get into a jurisdictional dispute while lives are in danger as to whether it is the FAA or the FBI or some other agency that is going to be in charge.

Mr. Chairman, I think the procedure should be made quite clear as to this particular matter.

Mr. KUYKENDALL. Mr. Chairman, I wish to reply to the gentleman from Ohio (Mr. DEVINE) that I want to make it clear in this colloquy that this in no way casts any reflection on the future willingness of any agency to cooperate.

Some person has to be designated, and this bill does just that.

The bill covers, as we have said, the matter of mandating and paying for the force that is now in place. It does reinstitute the death penalty in a very limited way, which was worked out carefully with the Justice Department, to coordinate with the objections raised against the death penalty by the two judges on the Supreme Court who did not totally eliminate the death penalty, but said that application of it must be applied in a much closer manner.

We have carefully tried to write the bill, taking into consideration the opinions of the four minority judges and the two swing judges, in conjunction with our staff and the Justice Department, and we have supplied a totally constitutional death penalty, a death penalty that is not couched in such language as to encourage suicidal hijacking attempts.

Now, an absolutely mandatory death penalty, with no contributing circumstances and no mitigating circumstances, encourages suicidal hijackings. The psychiatrists in the development of this fact have proven that.

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. KUYKENDALL. I am happy to yield to the gentleman from Indiana.

Mr. DENNIS. Mr. Chairman, I thank the gentleman for yielding.

If I understand the gentleman's explanation, what he has done in this bill, as I look at it rather quickly—because, as the gentleman knows, the bill was not scheduled until tomorrow—is this: The bill does take up the subject of the death penalty which, as the gentleman knows, is an exceedingly important and controversial subject.

It attempts to meet the standards of the decision in the case of Furman against Georgia, which held that the death penalty was unconstitutional under certain circumstances, and it does that by saying that if a death results from the air piracy, then the death penalty can be applied; and it says it must be applied in those situations, if none of certain listed mitigating circumstances, as listed in the act exist, and if any one of the aggravating circumstances, as listed, do exist, without any mitigating circumstances; then the death penalty is mandatory, as I understand it.

Mr. KUYKENDALL. Mr. Chairman, the gentleman is correct.

Mr. DENNIS. Now, that is an attempt to meet the standards of the court in Furman against Georgia.

I think the gentleman will agree that no one really knows whether that does it or not. But this is an approach which is taken in general legislation pending before the Committee on the Judiciary which revises the entire U.S. Criminal Code in all the cases where the death penalty might be applied, and the proposed legislation would follow this same scheme.

Now, the gentleman is lifting that out of the code, in his committee, and is trying to do it for air piracy in this one particular case. That is the situation, is it not?

Mr. KUYKENDALL. Mr. Chairman, the gentleman is exactly correct.

Mr. DENNIS. Mr. Chairman, I would have to say to the gentleman—and I know, of course, that people have varying views on this matter and they usually hold them very strongly—that while I was never able to see, personally, where the death penalty was unconstitutional, as the court said, inasmuch as we have been applying it for 200 years, I personally disapprove of the death penalty on moral and practical grounds.

One of the grounds is that when we make a mistake, as we do now and then, it is not possible to correct it; and I do not like to play God in that fashion, so I proceed from that bias to begin with.

In addition to that, it seems to me that if we are going to go into such an important and highly controversial business and try to circumvent this court decision in this rather complicated way, it would be far preferable to wait until we do get to the subject of the general legislation on the criminal code which is pending in this Congress rather than trying to get into this very technical, difficult, and controversial matter in this particular bill, most of which we would all be for, but this section, which gives me great pause and probably will make me vote against the measure.

Mr. KUYKENDALL. I would like to respond to the gentleman if I may have some further colloquy with him.

In the committee we discussed at length the fact that in the Federal Aviation Act on the books there is a death penalty. This death penalty provision, as the gentleman very accurately stated, is an exact word-for-word repetition of the legislation being considered before the Committee on the Judiciary. We knew absolutely, without a question of doubt, that there would be a death penalty introduced into this bill on the floor if not in the committee. The fact is that there will be an amendment offered in a few moments that says this death penalty is much too weak and is not proper and that an amendment for a much stronger one will be offered.

There will also be an amendment offered by the gentleman from Illinois (Mr. METCALFE) totally against the death penalty. So you will have a choice to vote to eliminate it entirely and you will have a choice to make it much stronger.

We knew we were not going to have the privilege of doing nothing in this House. Frankly, I would have liked to have waited for your committee to have operated, but we knew we did not have that privilege. So the gentleman from Indiana will have the privilege of voting with the gentleman from Illinois (Mr. METCALFE'S) amendment to strike this section out. The gentleman will also have the privilege of voting with the gentleman from Georgia (Mr. MATHIAS) to strengthen this section, or else the gentleman will have the privilege of voting for this section.

Mr. DENNIS. Will the gentleman yield further?

Mr. KUYKENDALL. Yes, but may I yeld first to a member of the committee, the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. I thank the gentleman for yielding.

As a matter of fact, if the gentleman will permit me to, I should like through him to engage in some colloquy with the gentleman from Indiana.

Mr. KUYKENDALL. Yes.

Mr. ECKHARDT. I rather share the gentleman's view that if one should attempt to get around the Georgia case, it should be on a general proposition, well thought out, with regard to all offenses that might carry the death penalty.

One thing that troubles me a great deal about treating this separately is that this particular kind of offense is one in which perhaps, at least for a period of time, a certain degree of flexibility with respect to whether or not a crime will result in the death penalty is desirable. That is the time when the hijackers are being sought to be persuaded to give up. Suppose there are 250 people in an airplane. The hijacker has someone with him, let us say, who has killed the copilot but the hijacker in control has not. He is in charge, and he is talking to someone on the ground. It is not possible for them

honestly to say, "Come down. You will have at least the chance of a hearing and a trial" Under these circumstances, which would exist if there is a compulsory death penalty from his sole and personal standpoint, he might just as well blow up the plane.

Mr. KUYKENDALL. I would like to respond to that point.

Mr. ECKHARDT. Certainly.

Mr. KUYKENDALL. I will yield further to the gentleman as soon as I respond.

On this point I think it is one of the five circumstances. On this point you set up a circumstance whereby a man had not killed but one of his colleagues had killed and finally he changed his mind and decided to bring in the airplane. One of those five mitigating circumstances clearly covers the particular situation of the person that was not the one directly involved in the aggravating circumstances, which is the death itself.

The person who did the killing, if he is sane and not under age, yes, the death penalty is for all practical purposes mandatory. In other words, if a person murdered someone, and he is not under age, and if he is sane, that death penalty is practically mandatory.

Any Member who does not think that the man up at Friendship Airport the other day, if he is proven sane, if they do not think that he ought to be executed then should vote for the Metcalfe amendment. If they think he should be executed, if he is sane, then they should vote for the committee amendment.

Mr. DENNIS. Mr. Chairman, if the gentleman will yield further, I cannot agree with what the gentleman says. If there are no mitigating circumstances as listed in the bill and any one of the aggravating circumstances exists the death penalty is mandatory. Relatively minor participation may be a mitigating circumstance, but that would not necessarily mean that the fellow who did not happen to pull the trigger, but where he might have been an active principal in every other respect, would enjoy any mitigating circumstance. Under this bill you might not personally kill anyone, or mean to kill anyone, and yet the death penalty might be mandatory.

Another thing I might point out, and these are not the only mitigating circumstances that are in the bill, but if you are 18 years and one-half hour old, and everything else is the same, you do not get the mitigating circumstances under this bill. So I do not believe it amounts to what the gentleman says it does.

Mr. KUYKENDALL. I would say this, again. I know the gentleman from Indiana is going to vote for the Metcalfe amendment, and that the gentleman from Texas (Mr. ECKHARDT) also is going to vote for the Metcalfe amendment, and I know that there are many others who will vote for the Metcalfe amendment, and I know that I will stick to the position adopted by the committee.

So that I know that on this matter everyone will vote their own conscience.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield further?

Mr. KUYKENDALL. I will yield 1 more minute to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. I am not sure if I would vote for the Metcalfe amendment if I thought the matter could be taken care of otherwise. I am troubled by this proposition, and I would like, if the gentleman from Tennessee would permit me to, to pose a question to the gentleman from Indiana.

Mr. KUYKENDALL. Please do.

Mr. ECKHARDT. Instead of to the gentleman in the well.

Mr. KUYKENDALL. Certainly. Please do.

Mr. ECKHARDT. Mr. Chairman, I undertstand that the theory of this bill and the bill in the Committee on the Judiciary is that some device should be effectuated by which standards are set for the application of the death penalty in certain cases and a lesser penalty in others, a devise which reduces the possibility of disparate penalties applied indiscriminately to very similar facts. It is postulated that if those standards are sufficiently detailed to result in more uniform treatment respecting the death penalty in some way a majority might be gathered on the Supreme Court to uphold the death penalty. But I also understand it is not at all clear that this process will avoid the constitutional problem.

The question is whether such an approach will swing a sufficient number of votes on the Court to support the imposition of the death penalty as constitutional. Is that what the gentleman from Indiana understands?

Mr. DENNIS. Mr. Chairman, if the gentleman will yield, I think that the gentleman from Texas has made a very fair and excellent and accurate statement of that opinion, as I understand it.

Mr. ECKHARDT. Mr. Chairman, I have one followthrough question.

Mr. Chairman, I am not at all certain in the first place that such an approach would cure the defect—and I know that those who propose an absolute mandatory death penalty under defined standards have argued that that is the only way that imposition of the death penalty can be supported constitutionally. I have proposed that after setting up the area in which mitigating circumstances will militate against the death penalty, that the other area of activities, that makes the death penalty mandatory might well be made permissive.

Some of those who disagree with me on that point say it would run right into the unconstitutionality problem, but does the gentleman from Indiana see any more reason why that would be attacked as unconstitutional than the original language?

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. KUYKENDALL. Certainly I yield. I will yield an additional 30 seconds.

Mr. DENNIS. I am not sure that I do. I am not sure that either one will meet the standard in this opinion which is pretty hard to understand, but certainly the suggestion of the gentleman from Texas makes better sense, and it is more humanitarian. I object violently to writing a bill that is going to impose a death penalty as a mandatory matter under these circumstances as set out here, or practically under any circumstances.

I imagine the gentleman's version will have as good a chance of getting by the court as would the committee's.

Mr. KUYKENDALL. Mr. Chairman, I yield to the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. Mr. Chairman, I should just like to say that I support the death penalty on this air piracy as outlined in the bill. In effect piracy is really a form of kidnaping. If it could really even be considered germane, as it probably would not be in the House, I should like to see attached to this the mandatory death penalty in dealing with kidnaping where the kidnaping victim himself or herself is killed. I understand it probably is not germane, but I would certainly support that if it could possibly be put in this bill.

Mr. KUYKENDALL. Under the 5-minute rule on the amendment that will be offered later, this subject will be covered in great length and in great detail, and the Members will hear discussion concerning the mandatory provision. In the debate under the 5-minute rule, the Members will hear discussed that there were certain requirements imposed by the two swing judges. For example, as far as the hearing by the jury concerning the sentence itself is concerned, the penalty must be mandatory to prevent capricious action against minorities and against the poor who have not been able to afford massive appeals, and this type of thing.

So the matter of the mandatory provision, instead of making it go away from possible constitutionality, brings it much closer to it under a very difficult thing to understand.

The two learned attorneys, both of whom I respect very much, say that there is no way to determine this. Certainly there is no way to determine it, but I will tell the Members one way to find out is to pass this bill. The death penalty might be contested immediately in the Baltimore case, and we will find out what is constitutional. But if the Members do not think it strong enough, then they are going to get a chance to vote for something stronger.

Mr. STAGGERS. Mr. Chairman, I yield whatever time he may consume to the chairman of the subcommittee from which this legislation came, the gentleman from Oklahoma (Mr. JARMAN).

Mr. JARMAN. Mr. Chairman, the basic purpose for this legislation was to implement the Hague Convention which expands U.S. jurisdiction over hijacking to include aircraft which lands in the United States on which a hijacking has occurred, or aircraft leased by a business having a place of business or permanent residence in the United States.

The legislation also empowers the President to suspend air service to and from countries providing sanctuary for hijackers and it authorizes the Secretary of the Department of Transportation to revoke the authority of any foreign air carrier which does not meet prescribed minimum security standards. You may

recall that very similar legislation was passed in the 92d Congress, but the Senate version went much further than the House version and would have established a permanent national security for a police force and we were unable to reconcile our differences in conference. This time the committee added a title II which, in substance, ratifies existing security measures which are now provided by the FAA with the participation of the airlines and the airport operators.

The cost to support the present security practices are obtained by passenger ticket surcharges which have the approval of the CAB.

Title II also provides for increased uniform training of security personnel and calls for improvement in research and development with the participation of the FAA and the entire aviation industry. Since the costs are now being obtained through the ticket surcharges, we do not recommend any new authorizations. I might add that the surcharges are now under review by the CAB and it is my belief that they have the authority and statutory flexibility to make adjustments to assure that the moneys collected are sufficient to meet the needs of a complete security system and that these moneys are properly allocated to the airlines and airport operators who incur the actual expenses.

Finally, I would like to highlight one particular area of concern over the complex hijacking problem. While there is much evidence of general responsibility on the part of the news media including radio, television and the press, there have been unfortunate examples of irresponsibility where the on-the-scene coverage of hijacking and later reports of hijackings have complicated and undercut the efforts of the responsible agencies to abort hijacking and in some of the reporting, our hearings disclose that additional hijackings were stimulated by the live coverage of an existing hijacking. I would encourage the news media to study carefully its role in coverage of crimes of this type and to work closely—as I know many representatives are now doing—with the Federal, State, and local agencies and the airlines and airport operators to assure that there is no interference with all of the efforts to prevent and to curtail aircraft hijackings.

Mr. WHITE. Mr. Chairman, will the gentleman yield?

Mr. KUYKENDALL. I yield to the gentleman from Texas.

Mr. WHITE. Mr. Chairman, I may have missed a portion of the debate but in reading the bill under the penalty it says "if the death of another person results from the commission or attempted commission of the offense" the death penalty shall be imposed.

I did not read the court's decision but did not the Supreme Court say that the death penalty statutes were unconstitutional because of discretion in the hands of the jury?

Mr. KUYKENDALL. The gentleman is correct. I am glad he brought this up because the way this language is written, the judge has no choice in the case of the death penalty. The jury determines that conditions exist for the death penalty, that is, that there were no mitigating circumstance and there were one or more aggravating circumstances which must exist. If they do, the judge does not have capricious or other discretion as to the death penalty.

Mr. WHITE. What the gentleman is saying is the jury determines whether mitigating circumstances exist.

Mr. KUYKENDALL. In a separate hearing after the jury verdict of guilty, they have the determination as to if there are mitigating circumstances and if there are aggravating circumstances, one of which is that death of another person resulted.

Mr. WHITE. As I understand, the bill says the death penalty or life imprisonment, if there is a death. The gentleman is saying the jury must determine whether or not the death penalty must be invoked.

Mr. KUYKENDALL. The jury must determine it.

Mr. WHITE. I am afraid I have not read that far into the bill.

Mr. KUYKENDALL. It is on page 15, starting at line 3. I assure the gentleman that the circumstances I describe are there.

Mr. WHITE. The point I am saying is that if we still leave it to the jury to determine what penalty is to be invoked, then I am afraid the Supreme Court will say this is discretionary power in the hands of the jury and it will start the question all over again.

Mr. KUYKENDALL. The only authority we had was the majority of our committee and the majority of the full committee and the best experts in the Justice Department tried to arrive at this. According to the Justice Department, this is constitutional based primarily on the opinions of Justice White and Justice Stewart, who were the swing votes, who did not outlaw society's right to take a life but who said primarily it was the capricious use of the death penalty against the poor and minorities which was one of the great evils of this capricious use.

So one of those two Justices, and I do not know which one, made it very clear that this capricious use of the death penalty must be eliminated, and this attempts to do that.

Mr. STAGGERS. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. ECKHARDT) a member of the subcommittee.

Mr. ECKHARDT. Mr. Chairman, I have not asked time until the gentleman from Texas (Mr. WHITE) asked his question, but I think it ought to be clarified.

Justices Stewart and White were the concurring members who made the difference in making up the majority. I read the decision of Justice Stewart and what he is saying is that if the death penalty were compulsory in the cases of all matters of murder or rape such would be within the power of the legislature without constitutional inhibition.

Justice White said about the same thing but of course neither of these Justices I think for a moment thought that every case of murder or every case of rape should simply bring about the death penalty without any question of mitigating circumstances. They were posing this as more or less an extreme hypothetical case in which the death penalty could be applied constitutionally.

However, actually, Justice White seemed to me to make his case totally upon the proposition that such wide discretion as is permitted under existing laws, such as in Georgia and Texas, and the manner in which it has been applied constituted a situation which he described as similar to the possibility of one being struck by lightning.

He says:

> These death sentences are cruel and unusual in the same way that being struck by lightning is cruel and unusual. For, of all the people convicted of rapes and murders in 1967 and 1968, many just as reprehensible as these, the petitioners are among a capriciously selected random handful upon whom the sentence of death has in fact been imposed.

That is in the decision, 408 U.S. 309–310. Justice Wright makes similar remarks on page 314.

It seems absolutely obvious that the objections here leveled could as well be answered by defining standards by which the death penalty could never be applied and, on the other hand, standards under which the death penalty could be permissibly applied. If this be true, then we are creating a structure of law that would well be described by Mr. Bumble in Dickens' novel; that is, "if the law says that, the law is a ass, a idiot."

Certainly it could not be reasonably argued that the death penalty can only be constitutionally justified when a judge and a jury are deprived of the authority to make a decision upon the merits of the case before it.

Mr. OWENS. Mr. Chairman, I regret that I must oppose the bill under consideration today. The Antihijacking Act of 1974, H.R. 3858, contains some important and necessary measures to deal with a serious international problem. Though we have experienced a welcome relief from the rash of hijackings several years ago, the problem still exists, and legislation is needed to insure United States and foreign government cooperation in this area. For example, the act would implement the Hague Convention under which participating nations are obligated to establish jurisdiction over hijackers and agree to extradite or prosecute offenders. The President is authorized to suspend air services with any foreign nation which he determines is encouraging aircraft hijacking by acting in a manner inconsistent with the convention, and the Secretary of Transportation is authorized to suspend the operating authority of foreign air carriers whose government does not maintain security measures relating to foreign air transportation equal to the minimum standards established under the Convention on International Civil Aviation. I support these measures.

But the bill also contains a provision mandating the death penalty for hijackers who cause a death under certain conditions. The inclusion of the death penalty in this bill would have pernicious consequences and make a serious problem worse.

I realize the committee has attempted to meet the special requirements of the

Supreme Court's Furman against Georgia decision.

No legislatively determined factors, however, can meet the unique problem posed by the crime of hijacking. Hijacking itself is illegal, and law enforcement officers are already dealing with a criminal when they attempt to regain control of a plane. If the hijacker kills, even accidentally kills, the act as written would require the death penalty in most cases. This means bluntly that the hijacker whose activities have led to a death, even accidental, has no incentive at all to give up in this situation. He would have everything to gain by attempting any dangerous escape; he would have nothing to lose if the plane was destroyed. This bill would decrease possibilities of a safe return of passengers and crew by cutting off all hope for the hijacker.

The committee's bill tried to deal specifically with the accidental death issue, the situation where a hijacker does not plan to kill anyone, but does so during the course of the crime. The bill states that presence of a mitigating factor would stop the death penalty. One of these would be that the defendant could not reasonably have foreseen that his conduct would cause death to another or create a grave risk of causing death. But it is impossible to conceive, to me at least, that any hijacking would not be interpreted by the courts as such a situation. The hijacker brandishes a gun, knife, or bomb, near innocent bystanders in his crime. Can anyone really believe that he could not reasonably foresee his actions would seriously imperil the lives of others? The death penalty will become required in nearly every case of a hijacking death, accidental or not, if this bill is enacted.

The bill's death penalty provisions were added without hearings, I am told, and without proper jurisdiction, which rests in the Judiciary Committee. This could be a very dangerous error and I regret that I must oppose this well-intentioned, but unwise, bill.

Mr. DULSKI. Mr. Chairman, I rise in support of H.R. 3858, the Antihijacking/Air Transportation Security Act of 1974.

I am a sponsor of H.R. 3470, which contains many of the same provisions as this bill, but I want to commend the committee members for their work on the more comprehensive measure which was reported.

We are apparently experiencing a new wave of international aircraft hijacking, and I believe an important part of this measure is the incentive for firm action by foreign governments. We must take greater strides toward security on our own aircraft, but increasing foreign travel around the globe makes it imperative for all nations to cooperate to protect passengers and crews. Implementing the Hague Convention will give our Government the means to apply pressure to formerly uncooperative nations in hijacking incidents.

The provisions for statutory authority of airport security are also worthwhile. The public deserves protection from the occasional deranged individual, and stiff screening regulations, backed up by enforcement personnel and legal penalties are essential to that protection.

This is good legislation, Mr. Chairman, and it is needed. I urge passage of H.R. 3858.

Mr. KOCH. Mr. Chairman, I am voting for the bill.

Earlier today I voted against the amendment to strike the provision from the bill providing the death penalty under certain circumstances. While I believe that there are certain mitigating circumstances that should bar the application of the death penalty—and I voted to retain five such circumstances in the bill—I do not object categorically to the death penalty. I am not one who objects to the use of the death penalty for philosophical or religious reasons. But, I believe that its application should be limited; it should be used only when it can act as a deterrent. Furthermore, it is essential that the penalty conform with the Supreme Court decision outlawing the death penalty under existing State and Federal laws which allow for its prejudicial application.

The question before us today involves the use of the death penalty for conviction of hijacking when people are killed as a result of this criminal act.

The great majority of cases of murder are crimes of passion. They involve family members and are committed without forethought and thus the death penalty cannot act as a deterrent. The death penalty should not be used in these cases.

However, there are crimes in which the criminal pursues his criminal act with deliberation and foresight and he has within his discretion whether it is committed with the loss of life. I believe that in such limited cases—and kidnaping is another example—where the criminal has the choice of returning the victim or killing him, the death penalty can act as a deterrent. That is why I support the provisions in the bill which relate to the death penalty under very special circumstances. I opposed the amendment which would have struck all of the mitigating factors with the exception of age and would have made the death penalty mandatory in every case. In my judgment this would be morally wrong and I am pleased that this amendment was not accepted by the House. The death penalty should be available in very limited, appropriate cases which this bill provides.

Mr. BADILLO. Mr. Chairman, I believe that the legislation before us this afernoon must be enacted in an effort to bring an end to international indifference toward the long reign of terror perpetrated by such organizations as the Popular Front for the Liberation of Palestine and to the casual attitude of airlines and other officials toward the safety of international—and in some instances domestic—travelers. There can be no question but that the seemingly unending reign of terror against airline passengers, especially by Arab terrorists and their misguided allies, which has plagued the world during recent years demands the sternest possible measures by the United States and the community of nations. Only firm and concerted action by responsible members of the world community can bring an end to this terror campaign and H.R. 3858 represents such action.

While I intend to support this legislation, I want to express my concern over and opposition to the provisions for the imposition of the death penalty. Leaving aside a lengthy discussion of the constitutionality of the issue, I believe that the circumstances under which the death penalty would be imposed under this measure are unrealistic and are contrary to our basic traditions and values. Also, I believe it is important to note that the measure enacted last year by the Senate, S. 39, has no provision for the death penalty and the civil rights of defendants charged under the act are well protected. I intend to vote for the amendment to be offered by the gentleman from Illinois (Mr. METCALFE), which would make this bill conform to the Senate one. However, should that amendment fail, I urge that the House-Senate conferees give this particular issue their most careful consideration and attention and adopt the Senate language which provides for adequate and just penalties for violators.

Mr. Chairman, the time for empty rhetoric has long ended and we must move decisively to guarantee air travelers throughout the world that they can fly without fear of some terrorist hijacking the aircraft. We cannot afford any more Lod Airport massacres or disasters such as occurred a few short months ago in Rome. Meaningful and effective action can be taken—without the imposition of the death penalty—and we must act today to insure that innocent civilians are no longer jeopardized by terrorists allowed to ply their vicious trade by uncaring governments.

Mr. GILMAN. Mr. Chairman, I rise in support of H.R. 3858, the Antihijacking Act of 1974, providing for implementing Articles of the Hague Convention on Aircraft Piracy and establishing severe penalties for aircraft hijackers.

Last year more than 173 million passengers traveled to the remotest corners of the world by air. It is estimated that within the next 10 years we will be transporting 800 million passengers annually. Each year we transport billions of tons of commodities. With air travel becoming such a significant part of our economy and our daily lives, it is essential that we have freedom from oppression in the skies.

While the past 5 years has seen a decrease in the numbers of successful hijackings, it is evident that we have not yet fully come to grips with this public offense.

The advent of screening devices in all of our airports has thwarted some hijacking attempts—the constant awareness of those people in charge of our Nation's skyways has also helped to deter would-be hijackers. However, we have not yet attacked this problem with sufficient force.

Evidence of this is the recent hijacking attempt at nearby Friendship Airport in Baltimore. While the hijacking was averted, it was not without sacrifice—the loss of two lives.

While we have come some distance in preventing the actual hijacking, we have

a real need to defuse hijacking attempts during their contemplation—before the hijacker approaches the gate.

The criminal provisions of this bill as reported from committee—stipulating that the hijacker is subject to the death penalty if the death of another person is involved—should help to remedy the situation.

I am not fully convinced that threat of death always fulfills its role as a crime deterrent. However, the incredible risks of the many lives involved in any hijacking attempt warrants the severity of this proposed penalty. Imposition of the death penalty may very well be the only way in which we can assure that a hijacker would seriously consider the consequences before embarking on his acts of piracy.

Accordingly, Mr. Chairman, I intend to support the provisions of the Anti-Hijacking Act of 1974 and urge my colleagues to vote in favor of this measure.

Mr. DRINAN. Mr. Chairman, I am compelled to cast a vote against the Anti-Hijacking Act of 1974 because it contains, in title I, the provision for the death penalty. I believe, at the same time, that the United States should act to provide the international cooperation required to implement the principles of the 1971 Hague Convention for the Suppression of Unlawful Seizure of Aircraft.

Title I of the bill purports to create a procedure for the application of the death penalty to reflect the Supreme Court's decision in Furman against Georgia, June 29, 1972. The bill provides that following the determination of guilt in a skyjacking for which the death penalty is provided, a separate sentencing hearing would be held at which the court or jury would consider mitigating and aggravating factors. The formula proposed provides if any of the aggravating factors exist and none of the mitigating factors exist, the court is required to impose the death penalty. Similarly, if none of the aggravating factors are present or if any one of the mitigating factors is present, the death penalty cannot be imposed. Not only do I believe that the factors are vague and difficult to administer, but also, I believe this bill controverts the explicit rule of the Supreme Court in Furman against Georgia.

In *Furman* v. *Georgia* (408 U.S. 238) the Supreme Court held that infliction of capital punishment is unconstitutional under the cruel and unusual punishment clause of the eighth amendment. I, along with many others, read the Court's decision as prohibiting the death penalty under all circumstances.

I have introduced a bill in the House with 26 of my colleagues, to abolish the death penalty under all Federal laws. I believe this legislation to be consistent with and a codification of the opinion in Furman against Georgia. President Nixon transmitted on March 14, 1973, his state of the Union message on criminal justice, calling upon Congress to reinstate the death penalty in certain circumstances as a means of combating serious crime. In that message, the President outlined his attempt to avoid the constitutional limitations on the death penalty by authorizing the sentencing judge or jury to automatically impose the death penalty where it is warranted. After the trial and prior to sentencing, a hearing would be held to consider either aggravating or mitigating factors in the case. If one mitigating factor is found, then the death penalty could not be imposed. In the absence of mitigating factors and in the presence of aggravating factors, imposition of the death penalty would be mandatory. This is precisely the scheme which appears in the legislation before us.

Mr. Chairman, I believe the fallacy of the President's plan is that there is no evidence whatever that capital punishment as a sanction for skyjacking will reduce the number of skyjackings.

It is highly doubtful whether the arbitrary and cruel penalty prescribed in this legislation would survive constitutional scrutiny by the courts. The overwhelming evidence presented by eminent jurists and dedicated students of justice suggests that the death penalty has virtually no effect in deterring serious and violent crimes.

The criteria provided in title I of this bill are so difficult of judicial administration that I can imagine little other than a death penalty applied randomly and discriminatorily. The manner in which the death penalty is administered also undermines its effectiveness as a deterrent. In order to be effective, punishment must be administered immediately, consistently, and relentlessly, and the public must expect this to happen in all cases. The actual practice of capital punishment does not satisfy any of these conditions. Nor do the criteria enunciated under title I of this bill provide any assistance. By remaining sporadic and random, capital punishment has no status as a regular and rational part of criminal justice. The trend of history is toward the abolition of capital punishment. While it was once in use everywhere for a great variety of crimes, the death penalty has been virtually abandoned in practice. The move toward disuse of the death penalty in America, culminating in the decision in Furman against Georgia, has been paralleled and largely outstripped by the rest of the world.

My reasons for introducing legislation to abolish the death penalty are the very same reasons which compel me to cast my vote against this legislation today. I have summed up these reasons as follows: In my view, the taking of a human life is morally unacceptable; capital punishment does not serve as a corrective measure because it does not provide for the rehabilitation of criminals; capital punishment is not a deterrent to crimes and is ineffective, because of long delays of sentencing execution; capital punishment allows discrimination by race and class; capital punishment violates the mark of a civilized society because it contradicts the ideal of human dignity; capital punishment is a cruel and excessive and irrevocable punishment, which serves society less adequate than life imprisonment.

Mr. Chairman, I am also troubled, though to a lesser extent, by the fact that this legislation would overrule the U.S. District Court decision in Nader against Butterfield. The committee, in its report, notes its disagreement with that decision which banned the use of X-ray devices at airports, and argues that the provisions of the Administrative Procedure Act and the National Environmental Policy Act are not applicable to the FAA memorandum authorizing the use of X-ray devices for screening. Despite the presence of congressional authority to do so, I, like the plaintiffs in the court case, would prefer to see a complete record of hearings developed on any possible side effects of X-ray examinations prior to their implementation.

For the foregoing reasons, Mr. Chairman, I cast my vote against the Anti-hijacking Act of 1974.

Mr. SEIBERLING. Mr. Chairman, much as I desire to see enactment into law of effective legislation to curb air hijacking, I have reluctantly decided to vote against H.R. 3858 in its present form. I am hopeful that the House-Senate conferees will take the opportunity to eliminate what I consider to be the principal infirmity of the bill.

The infirmity lies in the provisions which would impose a mandatory death penalty, if so-called aggravating factors exist and no mitigating factors exist.

In my opinion, the definitions of aggravating factors and mitigating factors contain such vague phraseology that they allow the imposition of the death penalty to be based on subjective and even emotional considerations. For this reason, it seems to me that the death penalty provision is likely to suffer from the same constitutional infirmities as brought about the Supreme Court's decision in Furman against Georgia.

But there is an even more serious practical objection to imposing a mandatory death penalty in air hijacking situations, and that is this: Many hijackers are unstable or even unbalanced persons. If a hijacker believes, whether correctly or incorrectly, that he is going to be subject to the death penalty once the hijacking has taken place, he no longer has an incentive to exercise restraint. In fact, it is entirely possible that he may decide that, since he is subject to a death sentence anyway, he will take all the rest of the passengers and crew down to destruction with him.

A strong case can be made that the death penalty is ineffective for deterring crimes of the type involved in air hijacking. Certainly, the burden should be on those who would impose the death penalty to demonstrate the likelihood of its deterrent effect. But where the penalty may even have the opposite effect, as I believe it would in this case, then the proposed legislation becomes not merely useless but positively dangerous. I would hope that the conferees appointed by the House will use the opportunity to reflect further on the very serious risks that the death penalty provisions of this bill create.

To the extent that this bill expands the measures that the Government may take to curtail aircraft hijacking and strengthens the ability of the Government to impose security measures, it is highly desirable legislation. It seems ob-

vious that such measures have already drastically curbed air hijacking and that they are the most effective way to bring it further under control. It is, therefore, doubly unfortunate that these good features of the bill have been mixed in with the misconceived and counterproductive provisions on the death penalty.

The CHAIRMAN. The time of the gentleman has expired.

Mr. STAGGERS. Mr. Chairman, we have no further requests for time.

The CHAIRMAN. If there are no further requests for time, pursuant to the rule the Clerk will now read by title the committee amendment in the nature of a substitute printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—ANTIHIJACKING ACT OF 1974

SEC. 101. This title may be cited as the "Antihijacking Act of 1974".

SEC. 102. Section 101(32) of the Federal Aviation Act of 1958 (49 U.S.C. 1301(32)), relating to the definition of the term "special aircraft jurisdiction of the United States", is amended to read as follows:

"(32) The term 'special aircraft jurisdiction of the United States' includes—

"(a) civil aircraft of the United States;

"(b) aircraft of the national defense forces of the United States;

"(c) any other aircraft within the United States;

"(d) any other aircraft outside the United States—

"(i) that has its next scheduled destination or last point of departure in the United States, if that aircraft next actually lands in the United States; or

"(ii) having 'an offense', as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft, committed aboard, if that aircraft lands in the United States with the alleged offender still aboard; and

"(e) other aircraft leased without crew to a lessee who has his principal place of business in the United States, or if none, who has his permanent residence in the United States;

while that aircraft is in flight, which is from the moment when all external doors are closed following embarkation until the moment when one such door is opened for disembarkation or in the case of a forced landing, until the competent authorities take over the responsibility for the aircraft and for the persons and property aboard.".

SEC. 103. (a) Paragraph (2) of subsection (i) of section 902 of such Act (49 U.S.C. 1472), relating to the definition of the term "aircraft piracy", is amended by striking out "threat of force or violence and" and inserting in lieu thereof "threat of force or violence, or by any other form of intimidation, and".

(b) Section 902 of such Act is further amended by redesignating subsections (n) and (o) as subsection (o) and (p), respectively, and by inserting immediately after subsection (m) the following new subsection:

"AIRCRAFT PIRACY OUTSIDE SPECIAL AIRCRAFT JURISDICTION OF THE UNITED STATES

"(n)(1) Whoever aboard an aircraft in flight outside the special aircraft jurisdiction of the United States commits 'an offense', as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft, and is afterward found in the United States shall be punished—

"(A) by imprisonment for not less than twenty years; or

"(B) if the death of another person results from the commission or attempted commission of the offense, by death or by imprisonment for life.

"(2) A person commits 'an offense', as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft when, while aboard an aircraft in flight, he—

"(A) unlawfully, by force or threat thereof, or by any other form of intimidation, seizes, or exercises control of, that aircraft, or attempts to perform any such act; or

"(B) is an accomplice of a person who performs or attempts to perform any such act.

"(3) This subsection shall only be applicable if the place of takeoff or the place of actual landing of the aircraft on board which the offense, as defined in paragraph (2) of this subsection, is committed is situated outside the territory of the State of registration of that aircraft.

"(4) For purposes of this subsection an aircraft is considered to be in flight from the moment when all the external doors are closed following embarkation until the moment when one such door is opened for disembarkation, or in the case of a forced landing, until the competent authorities take over responsibility for the aircraft and for the persons and property aboard.".

(c) Subsection (o) of such section 902, as so redesignated by subsection (b) of this section, is amended by striking out "subsections (i) through (m)" and inserting in lieu thereof "subsections (i) through (n)".

SEC. 104. (a) Section 902(i)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1472 (i)(1)) is amended to read as follows:

"(1) Whoever commits or attempts to commit aircraft piracy, as herein defined, shall be punished—

"(A) by imprisonment for not less than twenty years; or

"(B) if the death of another person results from the commission or attempted commission of the offense, by death or by imprisonment for life.".

(b) Section 902(i) of such Act is further amended by adding at the end thereof the following new paragraph:

"(3) An attempt to commit aircraft piracy shall be within the special aircraft jurisdiction of the United States even though the aircraft is not in flight at the time of such attempt if the aircraft would have been within the special aircraft jurisdiction of the United States had the offense of aircraft piracy been completed.".

SEC. 105. Section 903 of the Federal Aviation Act of 1958 (49 U.S.C. 1473), relating to venue and prosecution of offenses, is amended by adding at the end thereof the following new subsection:

"PROCEDURE IN RESPECT OF PENALTY FOR AIRCRAFT PIRACY

"(c)(1) A person shall be subjected to the penalty of death for any offense prohibited by section 902 (i) or 902 (n) of this Act only if a hearing is held in accordance with this subsection.

"(2) When a defendant is found guilty of or pleads guilty to an offense under section 902(i) or 902(n) of this Act for which one of the sentences provided is death, the judge who presided at the trial or before whom the guilty plea was entered shall conduct a separate sentencing hearing to determine the existence or nonexistence of the factors set forth in paragraphs (6) and (7), for the purpose of determining the sentence to be imposed. The hearing shall not be held if the Government stipulates that none of the aggravating factors set forth in paragraph (7) exists or that one or more of the mitigating factors set forth in paragraph (6) exists. The hearings shall be conducted—

"(A) before the jury which determined the defendant's guilt;

"(B) before a jury impaneled for the purpose of the hearing if—

"(i) the defendant was convicted upon a plea of guilty;

"(ii) the defendant was convicted after a trial before the court sitting without a jury; or

"(iii) the jury which determined the defendant's guilt has been discharged by the court for good cause; or

"(C) before the court alone, upon the motion of the defendant and with the approval of the court and of the Government.

"(3) In the sentencing hearing the court shall disclose to the defendant or his counsel all material contained in any presentence report, if one has been prepared, except such material as the court determines is required to be withheld for the protection of human life or for the protection of the national security. Any presentence information withheld from the defendant shall not be considered in determining the existence or the nonexistence of the factors set forth in paragraph (6) or (7). Any information relevant to any of the mitigating factors set forth in paragraph (6) may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials; but the admissibility of information relevant to any of the aggravating factors set forth in paragraph (7) shall be governed by the rules governing the admission of evidence at criminal trials. The Government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any of the factors set forth in paragraph (6) or (7). The burden of establishing the existence of any of the factors set forth in paragraph (7) is on the Government. The burden of establishing the existence of any of the factors set forth in paragraph (6) is on the defendant.

"(4) The jury or, if there is no jury, the court shall return a special verdict setting forth its findings as to the existence or nonexistence of each of the factors set forth in paragraph (6) and as to the existence or nonexistence of each of the factors set forth in paragraph (7).

"(5) If the jury or, if there is no jury, the court finds by a preponderance of the information that one or more of the factors set forth in paragraph (7) exists and that none of the factors set forth in paragraph (6) exists, the court shall sentence the defendant to death. If the jury or, if there is no jury, the court finds that none of the aggravating factors set forth in paragraph (7) exists, or finds that one or more of the mitigating factors set forth in paragraph (6) exists, the court shall not sentence the defendant to death but shall impose any other sentence provided for the offense for which the defendant was convicted.

"(6) The court shall not impose the sentence of death on the defendant if the jury or, if there is no jury, the court finds by a special verdict as provided in paragraph (4) that at the time of the offense—

"(A) he was under the age of eighteen;

"(B) his capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to prosecution;

"(C) he was under unusual and substantial duress, although not such duress as to constitute a defense to prosecution;

"(D) he was a principal (as defined in section 2(a) of title 18 of the United States Code) in the offense, which was committed by another, but his participation was relatively minor, although not so minor as to constitute a defense to prosecution; or

"(E) he could not reasonably have fore-

seen that his conduct in the course of the commission of the offense for which he was convicted would cause, or would create a grave risk of causing death to another person.

"(7) If no factor set forth in paragraph (6) is present, the court shall impose the sentence of death on the defendant if the jury or, if there is no jury, the court finds by a special verdict as provided in paragraph (4) that—

"(A) the death of another person resulted from the commission of the offense but after the defendant had seized or exercised control of the aircraft; or

"(B) the death of another person resulted from the commission or attempted commission of the offense, and—

"(i) the defendant has been convicted of another Federal or State offense (committed either before or at the time of the commission or attempted commission of the offense) for which a sentence of life imprisonment or death was imposable;

"(ii) the defendant has previously been convicted of two or more State or Federal offenses with a penalty of more than one year imprisonment (committed on different occasions before the time of the commission or attempted commission of the offense), involving the infliction of serious bodily injury upon another person;

"(iii) in the commission or attempted commission of the offense, the defendant knowingly created a grave risk of death to another person in addition to the victim of the offense or attempted offense; or

"(iv) the defendant committed or attempted to commit the offense in an especially heinous, cruel, or depraved manner.".

SEC. 106. Title XI of such Act (49 U.S.C. 1501–1513) is amended by adding at the end thereof the following new sections:

"SUSPENSION OF AIR SERVICES

"SEC. 1114. (a) Whenever the President determines that a foreign nation is acting in a manner inconsistent with the Convention for the Suppression of Unlawful Seizure of Aircraft, or if he determines that a foreign nation permits the use of territory under its jurisdiction as a base of operations or training or as a sanctuary for, or in any way arms, aids, or abets, any terrorist organization which knowingly uses the illegal seizure of aircraft or the threat thereof as an instrument of policy, he may, without notice or hearing and for as long as he determines necessary to assure the security of aircraft against unlawful seizure, suspend (1) the right of any air carrier or foreign air carrier to engage in foreign air transportation, and the right of any person to operate aircraft in foreign air commerce, to and from that foreign nation, and (2) the right of any foreign air carrier to engage in foreign air transportation, and the right of any foreign person to operate aircraft in foreign air commerce, between the United States and any foreign nation which maintains air service between itself and that foreign nation. Notwithstanding section 1102 of this Act, the President's authority to suspend rights under this section shall be deemed to be a condition to any certificate of public convenience and necessity or foreign air carrier or foreign aircraft permit issued by the Civil Aeronautics Board and any air carrier operating certificate or foreign air carrier operating specification issued by the Secretary of Transportation.

"(b) It shall be unlawful for any air carrier or foreign air carrier to engage in foreign air transportation, or for any person to operate aircraft in foreign air commerce, in violation of the suspension of rights by the President under this section.

"SECURITY STANDARDS IN FOREIGN AIR TRANSPORTATION

SEC. 1115. (a) Not later than 30 days after the date of enactment of this section, the Secretary of State shall notify each nation with which the United States has a bilateral air transport agreement or, in the absence of such agreement, each nation whose airline or airlines hold a foreign air carrier permit or permits issued pursuant to section 402 of this Act, of the provisions of subsection (b) of this section.

"(b) In any case where the Secretary of Transportation, after consultation with the competent aeronautical authorities of a foreign nation with which the United States has a bilateral air transport agreement and in accordance with the provisions of that agreement or, in the absence of such agreement, of a nation whose airline or airlines holds a foreign air carrier permit or permits issued pursuant to section 402 of this Act, finds that such nation does not effectively maintain and administer security measures relating to transportation of persons or property or mail in foreign air transportation that are equal to or above the minimum standards which are established pursuant to the Convention on International Civil Aviation or, prior to a date when such standards are adopted and enter into force pursuant to such convention, the specifications and practices set out in appendix A to Resolution A17–10 of the Seventeenth Assembly of the International Civil Aviation Organization, he shall notify that nation of such finding and the steps considered necessary to bring the security measures of that nation to standards at least equal to the minimum standards of such convention or such specifications and practices of such resolution. In the event of failure of that nation to take such steps, the Secretary of Transportation, with the approval of the Secretary of State, may withhold, revoke, or impose conditions on the operating authority of the airline or airlines of that nation.".

SEC. 107. The first sentence of section 901 (a)(1) of such Act (49 U.S.C. 1471(a)(1)), relating to civil penalties, is amended by inserting ", or of section 1114," immediately before "of this Act".

SEC. 108. Subsection (a) of section 1007 of such Act (49 U.S.C. 1487), relating to judicial enforcement, is amended by inserting "or, in the case of a violation of section 1114 of this Act, the Attorney General," immediately after "duly authorized agents,".

SEC. 109. (a) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 902. Criminal penalties."

is amended by striking out—

"(n) Investigations by Federal Bureau of Investigation.

"(o) Interference with aircraft accident investigation."

and inserting in lieu thereof—

"(n) Aircraft piracy outside special aircraft jurisdiction of the United States.

"(o) Investigations by Federal Bureau of Investigation.

"(p) Interference with aircraft accident investigation.".

(b) That portion of such table of contents which appears under the side heading "Sec. 903. Venue and prosecution of offenses." is amended by adding at the end thereof the following new item:

"(c) Procedure in respect of penalty for aircraft piracy.".

(c) That portion of such table of contents which appears under the center heading "TITLE XI—MISCELLANEOUS" is amended by adding at the end thereof the following new items:

"Sec. 1114. Suspension of air services.
"Sec. 1115. Security standards in foreign air transportation.".

TITLE II—AIR TRANSPORTATION SECURITY ACT OF 1974

SEC. 201. This title may be cited as the "Air Transportation Security Act of 1974".

SEC. 202. Title III of the Federal Aviation Act of 1958 (49 U.S.C. 1341–1355), relating to organization of the Federal Aviation Administration and the powers and duties of the Administrator, is amended by adding at the end thereof the following new sections:

"SCREENING OF PASSENGERS

"PROCEDURES AND FACILITIES

"SEC. 315. (a) The Administrator shall prescribe or continue in effect reasonable regulations requiring that all passengers and all property intended to be carried in the aircraft cabin in air transportation or intrastate air transportation be screened by weapon-detecting procedures or facilities employed or operated by employees of the air carrier, intrastate air carrier, or foreign air carrier prior to boarding the aircraft for such transportation. Such regulations shall include such provisions as the Administrator may deem necessary to assure that persons traveling in air transportation or intrastate air transpotration will receive courteous and efficient treatment in connection with the administration of any provision of this Act involving the screening of persons and property to assure safety in air transportation or intrastate air transportation. One year after the date of enactment of this section or after the effective date of such regulations, whichever is later, the Administrator may alter or amend such regulations, requiring a continuation of such screening only to the extent deemed necessary to assure security against acts of criminal violence and aircraft piracy in air transportation and intrastate air transportation. The Administrator shall submit semiannual reports to the Congress concerning the effectiveness of screening procedures under this subsection and shall advise the Congress of any regulations or amendments thereto to be prescribed pursuant to this subsection at least thirty days in advance of their effective date, unless he determines that an emergency exists which requires that such regulations or amendments take effect in less than thirty days and notifies the Congress of his determination. Notwithstanding any other provision of law, the memorandum of the Federal Aviation Administrator, dated March 29, 1973, regarding the use of X-ray systems in airport terminal areas, shall remain in full force and effect until modified, terminated, superseded, set aside, or repealed after the date of enactment of this section by the Administrator.

"EXEMPTION AUTHORITY

"(b) The Administrator may exempt, in whole or in part, air transportation operations, other than those scheduled passenger operations performed by air carriers engaging in interstate, overseas, or foreign air transportation under a certificate of public convenience and necessity issued by the Civil Aeronautics Board under section 401 of this Act, from the provisions of this section.

"AIR TRANSPORTATION SECURITY

"RULES AND REGULATIONS

"SEC. 316. (a)(1) The Administrator of the Federal Aviation Administration shall prescribe such reasonable rules and regulations requiring such practices, methods, and procedures, or governing the design, materials, and construction of aircraft, as he may deem necessary to protect persons and property aboard aircraft operating in air transportation or intrastate air transportation against acts of criminal violence and aircraft piracy.

"(2) In prescribing and amending rules and regulations under paragraph (1) of this subsection, the Administrator shall—

"(A) consult with the Secretary of Transportation, the Attorney General, and such other Federal, State, and local agencies as he may deem appropriate;

"(B) consider whether any proposed rule or regulation is consistent with protection of passengers in air transportation or intrastate

air transportation against acts of criminal violence and aircraft piracy and the public interest in the promotion of air transportation and intrastate air transportation;

"(C) to the maximum extent practicable, require uniform procedures for the inspection, detention, and search of persons and property in air transportation and intrastate air transportation to assure their safety and to assure that they will receive courteous and efficient treatment, by air carriers, their agents and employees, and by Federal, State, and local law enforcement personnel engaged in carrying out any air transportation security program established under this section; and

"(D) consider the extent to which any proposed rule or regulation will contribute to carrying out the purposes of this section.

"PERSONNEL

"(b) Regulations prescribed under subsection (a) of this section shall require operators of airports regularly serving air carriers certificated by the Civil Aeronautics Board to establish air transportation security programs providing a law enforcement presence and capability at such airports adequate to insure the safety of persons traveling in air transportation or intrastate air transportation from acts of criminal violence and aircraft piracy. Such regulations shall authorize such airport operators to utilize the services of qualified State, local, and private law enforcement personnel whose services are made available by their employers on a cost reimbursable basis. In any case in which the Administrator determines, after receipt of notification from an airport operator in such form as the Administrator may prescribe that qualified State, local, and private law enforcement personnel are not available in sufficient numbers to carry out the provisions of subsection (a) of this section, the Administrator may, by order, authorize such airport operator to utilize, on a reimbursable basis, the services of—

"(1) personnel employed by any other Federal department or agency, with the consent of the head of such department or agency; and

"(2) personnel employed directly by the Administrator;

at the airport concerned in such numbers and for such period of time as the Administrator may deem necessary to supplement such State, local, and private law enforcement personnel. In making the determination referred to in the preceding sentence the Administrator shall take into consideration—

"(A) the number of passengers enplaned at such airport;

"(B) the extent of anticipated risk of criminal violence and aircraft piracy at such airport or to the air carrier aircraft operations at such airport; and

"(C) the availability at such airport of qualified State or local law enforcement personnel.

"TRAINING

"(c) The Administrator shall provide training for personnel employed by him to carry out any air transportation security program established under this section and for other personnel, including State, local, and private law enforcement personnel, whose services may be utilized in carrying out any such air transportation security program. The Administrator shall prescribe uniform standards with respect to training required to be provided personnel whose services are utilized to enforce any such air transportation security program, including State, local, and private law enforcement personnel, and uniform standards with respect to minimum qualifications for personnel eligible to receive such training.

"RESEARCH AND DEVELOPMENT; CONFIDENTIAL INFORMATION

"(d)(1) The Administrator shall conduct such research (including behavioral research) and development as he may deem appropriate to develop, modify, test, and evaluate systems, procedures, facilities, and devices to protect persons and property aboard aircraft in air transportation or intrastate air transportation against acts of criminal violence and aircraft piracy. Contracts may be entered into under this subsection without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5) or any other provision of law requiring advertising, and without regard to section 3643 of the Revised Statutes of the United States (31 U.S.C. 529), relating to advances of public money.

"(2) Notwithstanding section 552 of title 5, United States Code, relating to freedom of information, the Administrator shall prescribe such regulations as he may deem necessary to prohibit disclosure of any information obtained or developed in the conduct of research and development activities under this subsection if, in the opinion of the Administrator, the disclosure of such information—

"(A) would constitute an unwarranted invasion of personal privacy (including, but not limited to, information contained in any personnel, medical, or similar file);

"(B) would reveal trade secrets or privileged or confidential commercial or financial information obtained from any person; or

"(C) would be detrimental to the safety of persons traveling in air transportation.

Nothing in this subsection shall be construed to authorize the withholding of information from the duly authorized committees of the Congress.

"OVERALL FEDERAL RESPONSIBILITY

"(e)(1) Except as otherwise specifically provided by law, no power, function, or duty of the Administrator of the Federal Aviation Administration under this section shall be assigned or transferred to any other Federal department or agency.

"(2) Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration shall have exclusive responsibility for the direction of any law enforcement activity affecting the safety of persons aboard aircraft involved in the commission of an offense under section 901(i) or 902(n) of this Act. Other Federal departments and agencies shall, upon request by the Administrator, provide such assistance as may be necessary to carry out the purposes of this paragraph.

"DEFINITION

"(f) For the purposes of this section, the term 'law enforcement personnel' means individuals—

"(1) authorized to carry and use firearms,

"(2) vested with such police power of arrest as the Administrator deems necessary to carry out this section, and

"(3) identifiable by appropriate indicia of authority.".

SEC. 203. Section 1111 of the Federal Aviation Act of 1958 (49 U.S.C. 1511), relating to authority to refuse transportation, is amended to read as follows:

"AUTHORITY TO REFUSE TRANSPORTATION

"SEC. 1111. (a) The Administrator shall, by regulation, require any air carrier, intrastate air carrier, or foreign air carrier to refuse to transport—

"(1) any person who does not consent to a search of his person, as prescribed in section 315(a) of this Act, to determine whether he is unlawfully carrying a dangerous weapon, explosive, or other destructive substance, or

"(2) any property of any person who does not consent to a search or inspection of such property to determine whether it unlawfully contains a dangerous weapon, explosive, or other destructive substance.

Subject to reasonable rules and regulations prescribed by the Administrator, any such carrier may also refuse transportation of a passenger or property when, in the opinion of the carrier, such transportation would or might be inimical to safety of flight.

"(b) Any agreement for the carriage of persons or property in air transportation or intrastate air transportation by an air carrier, intrastate air carrier, or foreign air carrier for compensation or hire shall be deemed to include an agreement that such carriage shall be refused when consent to search such persons or inspect such property for the purposes enumerated in subsection (a) of this section is not given.".

SEC. 204. Title XI of the Federal Aviation Act of 1958 (49 U.S.C. 1501–1513) is amended by adding at the end thereof the following new section:

"LIABILITY FOR CERTAIN PROPERTY

"SEC. 1116. The Civil Aeronautics Board shall issue such regulations or orders as may be necessary to require that any air carrier receiving for transportation as baggage any property of a person traveling in air transportation, which property cannot lawfully be carried by such person in the aircraft cabin by reason of section 902(1) of this Act, must make available to such person, at a reasonable charge, a policy of insurance conditioned to pay, within the amount of such insurance, amounts for which such air carrier may become liable for the full actual loss or damage to such property caused by such air carrier.".

SEC. 205. Section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301), relating to definitions, is amended by redesignating paragraphs (22) through (36) as paragraphs (24) through (38), respectively, and by inserting immediately after paragraph (21) the following new paragraphs:

"(22) 'Intrastate air carrier' means any citizen of the United States who undertakes, whether directly or indirectly or by a lease or any other arrangement, to engage solely in intrastate air transportation.

"(23) 'Intrastate air transportation' means the carriage of persons or property as a common carrier for compensation or hire, by turbojet-powered aircraft capable of carrying thirty or more persons, wholly within the same State of the United States.".

SEC. 206. (a) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the center heading: "TITLE III—ORGANIZATION OF AGENCY AND POWERS AND DUTIES OF ADMINISTRATOR" is amended by adding at the end thereof the following new items:

"Sec. 315. Screening of passengers in air transportation.
"(a) Procedures and facilities.
"(b) Exemption authority.
"Sec. 316. Air transportation security.
"(a) Rules and regulations.
"(b) Personnel.
"(c) Training.
"(d) Research and development; confidential information.
"(e) Overall Federal responsibility.
"(f) Definition.

(b) That portion of such table of contents which appears under the center heading "TITLE XI—MISCELLANEOUS" is amended by adding at the end thereof the following new item:

"Sec. 1116. Liability for certain property.".

Mr. STAGGERS. (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

AMENDMENTS OFFERED BY MR. METCALFE

Mr. METCALFE. Mr. Chairman, I have several amendments at the Clerk's desk, and I ask unanimous consent that they may be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. METCALFE: Page 10, beginning in line 14, strike out "shall be punished" and all that follows down through line 19, and insert in lieu thereof the following: "shall be punished by imprisonment for not less than twenty years or for more than life."

Page 11, beginning in line 23, strike out "shall be punished" and all that follows down through page 12, line 3, and insert in lieu thereof the following: "shall be punished by imprisonment for not less than twenty years or for more than life.".

Page 12, strike out line 12 and all that follows down through page 17, line 11.

And renumber the following sections accordingly.

Page 20, strike out line 20 and all that follows down through page 21, line 2 and the matter following line 2.

And redesignate the following subsection accordingly.

The CHAIRMAN. The gentleman from Illinois (Mr. METCALFE) is recognized in support of his amendments.

Mr. SNYDER. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Sixty-seven Members are present, not a quorum. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 83]

Blatnik	Hébert	Rosenthal
Bolling	Heckler, Mass.	Satterfield
Brasco	Horton	Smith, N.Y.
Breckinridge	Long, Md.	Steed
Carey, N.Y.	McEwen	Steiger, Ariz.
Carney, Ohio	Martin, Nebr.	Stuckey
Cederberg	Mathias, Calif.	Thompson, N.J.
Clark	Minshall, Ohio	Wilson,
Collier	Moorhead, Pa.	Charles H.,
Conyers	Murphy, N.Y.	Calif.
Davis, Ga.	Nichols	Wilson,
Dennis	Patman	Charles, Tex.
Diggs	Pepper	Wyatt
Dingell	Pike	Wydler
Erlenborn	Podell	Young, Alaska
Esch	Railsback	Young, Ill.
Gettys	Reid	Zion
Gray	Robison, N.Y.	
Hanna	Rooney, N.Y.	

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. ANNUNZIO, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill H.R. 3858, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 380 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. When the point of no quorum was made the Chair had recognized the gentleman from Illinois (Mr. METCALFE) for 5 minutes in support of his amendments.

Mr. METCALFE. Mr. Chairman, I have four amendments—basically, I am making one amendment to the committee print and the three additional amendments are conforming amendments.

The amendments, Mr. Chairman, eliminate the death penalty provisions of the bill and substitute in lieu thereof, a sentence of from 20 years to life. This is identical to the Senate bill, S. 39, which passed the Senate on February 21, 1973.

The death penalty provision contained in H.R. 3858 will have one of two purposes: it is either a deterrent or a punishment.

The death penalty as a valid deterrent is open to question. There is no proof that there is a direct cause effect relationship between the imposition of the death penalty and a decrease in the type of crime for which the death penalty is imposed.

To elaborate further on this point, as regards aircraft piracy: Dr. Hubbard, a psychiatrist from Dallas in testimony before our subcommittee stated that his studies showed that other factors were involved in the hijackers' decision to hijack a plane, a decision which, in all probability, would not have been altered by the threat of the death penalty.

Further, it is my opinion that if the death penalty were adopted a hijacker would have no incentive to surrender to the authorities without injuring or killing additional innocent passengers if he was going to face the possibility of the death penalty.

As to the recent tragedy in Baltimore, Special FBI Agent Farrow, is quoted in the Washington Post of Saturday, February 23, as saying that:

This was an act by one person, a man who must have had a tremendous weight on his mind, if he was not mentally disturbed.

If the death penalty is not a deterrent, and I submit that it is not, then it is punishment. However, I do not think that this body at this time in history, wants to put another human being to death only as a punishment. I shall pursue this point no further.

Historically, those who have been put to death have been the poor and members of minority groups who were not in a position to retain adequate counsel.

Mr. Chairman, I can find no logical reason for the retention of this section of the bill. It should be stricken and that the provision of the Senate be adopted. I urge the Members to adopt these amendments taht 20 year to life be placed in lieu of the stricken sections.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. METCALFE. I yield to the gentleman from California.

Mr. EDWARDS of California. I want to compliment the gentleman for yielding this amendment, and I most certainly urge the Members' support. I think it is regrettable that we would have a provision like this in our bill when the Senate would have a more enlightened provision.

Mr. Chairman, I encourage an "aye" vote on the amendment.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. METCALFE. I yield to the gentleman from Kentucky.

Mr. SNYDER. I thank the gentleman for yielding.

If the gentleman's contention is correct that the death penalty would be a deterrent to the hijacker's surrender to the authorities, is it also true that the death penalty would be a deterrent to hijacking in the first place?

Mr. METCALFE. No, I do not think it follows logically, because, first, we have to understand what type of people have been hijacking these planes. From the testimony before our subcommittee we have found them to be abnormal people, to be modest in my appraisal of them. Many of these people want to die at the hands of someone else and to die a heroic death.

Mr. SNYDER. Whatever type of person they are, based upon the gentleman's argument, if they are the type of person who might be deterred from surrendering, if they knew they were going to face death, they might also be deterred from hijacking the plane in the first place.

Mr. DENNIS. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, the matter now before us has to do with the infliction of the death penalty for air piracy or hijacking under certain circumstances as set forth under the rather complicated provisions of this particular legislation. The amendment offered by the gentleman from Illinois, as I understand it, would strike out the death sentence provision and provide for 20 years to life. I support that amendment.

I should like to preface my remarks by simply reading briefly from Mr. Justice Stewart's opinion in the case of Furman against Georgia, which is the case in which the Court held the infliction of the death penalty unconstitutional under certain circumstances, which circumstances there is an attempt to meet in the provisions of the current bill.

Mr. Justice Stewart said:

The penalty of death differs from all other forms of criminal punishment not in degree but in kind. It is unique in its irrevocability. It is unique in its rejection of rehabilitation as a basic purpose of criminal justice. And it is unique finally in its absolute renunciation of all that is embodied in our concept of humanity.

Although I am not personally a subscriber to the constitutional views of the Court in that particular opinion, I am personally a subscriber to the sentiments expressed by Mr. Justice Stewart in that passage.

Mr. KUYKENDALL. Mr. Chairman, will the gentleman yield?

Mr. DENNIS. I yield to the gentleman from Tennessee.

Mr. KUYKENDALL. Mr. Chairman, would the gentleman not agree that in the same opinion of the same judge he did confirm that there were circum-

stances under which society had the right to impose the death penalty?

Mr. DENNIS. I would say to the gentleman that what Mr. Justice Stewart actually said was that a couple of his colleagues had said it was always unconstitutional and that he did not think he needed to face that question in this case and therefore was not deciding it because he thought that it was unconstitutional under the statutes and the facts of the situation then under consideration. He would save the broader question for sometime when he had to decide that.

Now the question is why do we ever want to impose the death penalty? That is the first broad question, because I think all of us would agree with the things that Mr. Justice Stewart says about it. It is irrevocable. It is done when we do it. It does not have anything to do with rehabilitation, and it is not a very humane thing in and of itself. So why do we do it?

The main argument is deterrence. The trouble with that argument is that it is not so. I have done some reading and study on this thing, and the figures just do not support anything one way or the other. We have a State on one side of the line that has the death penalty and another State on the other side of the line that does not have the death penalty, and we cannot prove from the figures in any case whether the death penalty acts as a deterrence or does not. It seems to depend on other factors, such as the types of cities, whether the area is urban or rural, and on other things. The death penalty itself does not cut any ice one way or the other.

If we really think the death penalty deters anybody, we ought to have public executions such as we used to have. Maybe some Members agree, and that is logical, if we are deterring anybody. We used to do it in the courthouse square in my hometown, and probably in the hometown of some of the other Members, but the last time was in 1892, I think, in my hometown, and I will bet it was longer ago in the home towns of others, and the reason is we are ashamed to act that way any more. We know it debases society when we do it, and we will not do it publicly for deterrence. We do it back in the closet somewhere where nobody can see it and we hope everybody will forget about it. So the deterrence thing is out.

It has usually been inflicted on the poor and the helpless, not because the law wanted it that way. No. It is because the poor cannot get good enough lawyers, ordinarily, to beat the death penalty, and that is why the incidence falls there. That is another thing wrong with the deterrence argument.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

(By unanimous consent, Mr. DENNIS was allowed to proceed for 5 additional minutes.)

Mr. DENNIS. That is why we do not get any deterrence, because we do not get a death penalty once in 100 times, so it does not work that way, either.

Now let us look at this particular law. We had this decision in Furman against Georgia a couple of years ago in which the court held that the death penalty under the circumstances in that case was unconstitutional. It is pretty hard to tell exactly what the court meant because a couple of the judges said it always would be unconstitutional and the others said well, no, they would not necessarily say that, and they did not have to decide that.

It was unconstitutional in this case, because there were no standards given to the jury, in effect, to say when it should be imposed and when it should not; so in this legislation here they try to set standards and they list five of what they call mitigating standards and seven things which they call aggravating standards, which are by no means exclusive. Either way one could think of plenty of other things which might be aggravating or mitigating factors, and they say if none of the mitigating standards are present and if any one of the aggravating standards are present, then the death penalty is mandatory; no discretion. They think that gets around the constitutional point in the Furman case.

On the other hand, if any one of these mitigating standards are present, then the death penalty cannot be imposed. Now, obviously, that is a very complicated proposition. If one is 18 years old, that is a mitigating standard, for instance. If he is 18 years and 3 hours, it does not do him any good; he is out as far as mitigation is concerned. If he is in a hijacking and somebody else kills a fellow and he helps him commander the plane, he is just as guilty under the law. It does not leave the judge any discretion if the circumstances are such that no stautory mitigating factor is present and one aggravating factor is.

If there are to be any statutory standards at all, at least they ought to guide the court's discretion, not tell him that under certain legislatively prescribed standards he has got to impose the death penalty.

This legislation, which is Justice Department legislation in an effort to get around the Furman decision, is pending before the Committee on the Judiciary in general bills dealing with revision of the whole criminal code. This subject needs hearings and it needs testimony and it needs careful consideration to see whether, in fact, the Furman case has not been met, whether this complicated scheme makes any sense. It has not yet had any hearings and it should not be brought out here as a part of a bill on a single crime, which is a bill we would all like to support, if it was not marred by this particular section.

Mr. Chairman, I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Chairman, I thank the gentleman for yielding. I hesitate to interrupt the very excellent argument he is making. I do want to associate myself with him.

I agree with the substantive arguments he has raised against the effectiveness of the death penalty as a deterrent. I say that with some experience as a former prosecutor myself.

I also fundamentally agree that with no less than three bills pending on this very important question now before the House Committee on the Judiciary, the Subcommittee on Criminal Justice, we should not under the guise of enacting a general statute dealing, admittedly, with a very important subject, that of aircraft piracy, we should not plunge ourselves into the legal thicket of whether or not the definition of the standards and the procedures set forth in this bill do meet the objections in the Furman against Georgia case. That was a 5-to-4 decision. If I am not incorrect, there were at least seven concurring opinions in this case.

This is an enormously complicated issue, one that is fundamentally important as far as human rights are concerned.

I hope that this House will accept the amendment of the gentleman from Illinois (Mr. METCALFE) and not permit the error of going in and accepting this penalty under the circumstances that it was adopted.

Mr. DENNIS. Mr. Chairman, the gentleman is absolutely correct. We are going to have hearings on this matter. We need hearings on this matter.

I am a former prosecuting attorney, too. I think I know something about this subject myself. This is not the place or the time to bring this matter up.

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

Mr. KUYKENDALL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, after listening to the remarks of the gentlemen from Indiana, Illinois, and Texas concerning the matter of the placing of this very important provision in this act, may I first in good humor toward the gentleman from Indiana kid him just a little bit? I never knew lawyers to do anything but profit by complicated language.

Yes, this language is complicated because the court decision was complicated, but six of the Members of the Supreme Court—not four—six of the Members of the Supreme Court did say that there were certain heinous crimes under which society had the right to exact the death penalty. If this does not qualify, the crime of murder in the act of an aircraft hijacking, then there is no such thing and those six Justices are wrong. I would like to quote from the same Justice Stewart concerning society and its right to keep order. He says, and I quote:

> When people begin to believe that organized society is unwilling or unable to impose upon criminal offenders the punishment they deserve, then there are sown the seeds of anarchy, of self-help, vigilante justice and lynch law.

Mr. Chairman, we are not speaking of the type of crime that has in the past produced the injustices and unjust use of the death penalty so much against the poor and the minorities, because if the Members will examine the offenders in the many scores of hijackings, this is not the type of criminal that is involved.

As far as deterrence is concerned, this section is carefully couched by those of us who have studied this issue very, very thoroughly; in hour after hour of discussion with Dr. Hubbard and others; that if this were an absolutely blind, mandatory, no strings attached, death penalty, yes, the ability to bargain and bring that airplane to the ground would be de-

stroyed. Such is not the case in the committee position.

As I said earlier in general debate, and we did give this subject about 25 minutes in general debate, that we will have our choice of the position that has been carefully couched in the language by the Justice Department, with the concurrence of the subcommittee, to be constitutional.

The Members can vote for this amendment, which I am urging them to vote against, or they can vote for a much stronger amendment later on which I shall oppose because I do not think it is constitutional.

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

Mr. KUYKENDALL. Mr. Chairman, I am happy to yield to the gentleman from Iowa.

Mr. GROSS. Mr. Chairman, the gentleman from Illinois (Mr. METCALF) who introduced this amendment, said in effect in his remarks that only poor and oppressed people commit hijackings of aircraft. I wonder how much richer today are the widow and the children of the copilot of the plane who was killed in the recent attempted hijacking at Baltimore.

Mr. KUYKENDALL. Mr. Chairman, I agree with the gentleman from Iowa.

Mr. Chairman, the point I wanted to make here is that one of the reasons for testing the constitutionality with this particular vehicle is because we have here the type of crime, if the Members will study the records clearly, that the offenders in this crime have not been the poor and oppressed, generally speaking.

Mr. STAGGERS. Mr. Chairman, I rise in opposition to the amendment. I do so reluctantly, because I respect and admire the gentleman who offered the amendment. I think that he is a valuable Member of this body, a distinguished Member, and he is doing a great job.

In times and years gone by, he carried the colors of this Nation abroad high and in glory, and we respect him for that. Tomorrow, I understand, he is to be recognized and given an award in New York for what he has done for America.

Now, when we had the general debate on the bill, the gentleman from Tennessee (Mr. KUYKENDALL) yielded to the distinguished gentleman, and I believe they had 20 minutes debate on this issue at that time. I think it has been debated enough. I hope we can get a vote on the issue. Really, in fact, it is an issue that has been debated down through the history of man, since the beginning of historical time, as to whether it is right or whether it is wrong or whether it is a deterrent or not. So we are just carrying on a debate that mankind has engaged in eternally.

There are to be amendments offered in a few moments which will strike out even the mitigating circumstances that we have in the bill now, and those amendments would make the death penalty more mandatory.

We have tried to be reasonable and take an inbetween approach in order to provide every safeguard that this will not be done and that everybody involved will have protection.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman, the chairman of the committee, for yielding.

I would like to make the following inquiry:

Under the proposed bill, as the committee has recommended it, would the death penalty be limited to those cases where death occurs as a result of a hijacking?

Mr. STAGGERS. Mr. Chairman, the gentleman is correct.

Mr. BINGHAM. There is no question about that?

Mr. STAGGERS. That is in the law.

Mr. BINGHAM. Mr. Chairman, the reason I have asked the question is that we have listed several cases where the death penalty is mandatory. The gentleman has listed certain cases where the death penalty is mandatory, and those instances clearly are listed where death has occurred as a result of a hijacking.

But can the gentleman explain to me just what the relationship is?

The gentleman has said that under the proposal the death penalty can be imposed only if death has occurred as a result of the hijacking.

Mr. STAGGERS. The gentleman is correct.

Mr. BINGHAM. Mr. Chairman, does that not meet at least part of the argument presented by the gentleman from Illinois that there is no incentive for the hijacker, once he has committed the hijacking, not to proceed to blow up the plane or do whatever he intends to do?

If the death penalty is not imposed, if the hijacking does not result in death, it seems to me there is still an incentive.

Mr. STAGGERS. No, because we have other mitigating circumstances.

Mr. BINGHAM. Mr. Chairman, I believe the gentleman misunderstood my question.

It seems to me that the gentleman from Illinois was arguing that there was no incentive under the committee's bill for a hijacker, let us say, to give up.

Mr. STAGGERS. Mr. Chairman, the gentleman is correct.

Mr. BINGHAM. That would be true, because he has already committed the hijacking. But if the death penalty is imposed only if the hijacking has resulted in death, then it seems to me there is an incentive in that instance.

Mr. STAGGERS. Of course, Mr. Chairman, if there is a death which occurred and he did not cause it directly but is only a part of it, then the death penalty may not be imposed upon him.

We have several other deterrents in the bill. That would be one deterrent in my opinion.

Mr. ECKHARDT. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, the point before us here is a very difficult constitutional question. Of course, it involves the case of Furman against Georgia, and it purports to answer that question by satisfying the decisions of a majority of the judges in that case.

Let me point out first that Furman against Georgia, including the brief per curiam decision that appears at the commencement of it, is such a short case that it can be read almost faster than it can be explained:

It says as follows:

> The question was, does the imposition and carrying out of the death penalty in these cases constitute cruel and unusual punishment in violation of the 8th and 14th amendments?
>
> The court holds that the imposition of the death penalty in these cases constitutes cruel and unusual punishment, in violation of the 8th and 14th amendments.

That is virtually the whole of the per curiam decision. In other words, the case simply says that the death penalty is, under the facts of these cases, cruel and unusual punishment.

Mr. ICHORD. Will the gentleman yield?

Mr. ECKHARDT. Certainly. I yield to the gentleman.

Mr. ICHORD. I think the gentleman should point out that there were separate concurring and dissenting opinions delivered all over the lot in that case you are referring to.

Mr. ECKHARDT. That is precisely what I was commencing to do, and I will go forward with that, if the gentleman will permit me to.

The first opinion was that of Justice Douglas in which he pointed out that the application had been so wanton, with respect to the imposition of the death penalty, that it fell unfairly and discriminatorily as between persons. He pointed out, in fact, that there had been discrimination against the poor and the minorities.

On page 247 of that decision he referred to a previous case of the Supreme Court, the case of McGantha against California, in which it was said in the light of the history, experience, and the present limitations of human knowledge we find it quite impossible to say that committing the untrammeled discretion of the jury the power to pronounce life or death in capital cases is "offensive to anything in the Constitution."

Justice Douglas then said:

> The Court refused to find constitutional dimensions in the argument that those who exercise their discretion to send a person to death should be given standards by which that discretion should be exercised.

The Court then quoted from the testimony of Ernest van den Haag before the House Committee on the Judiciary during the 92d Congress as follows:

> Any penalty, a fine, imprisonment or the death penalty could be unfairly or unjustly applied. The vice in this case is not in the penalty but in the process by which it is inflicted. It is unfair to inflict unequal penalties on equally guilty parties, or on any innocent parties, *regardless of what the penalty is.*

The Court then remarked:

> We are now imprisoned in the *McGautha* holding. Indeed, the seeds of the present cases are in *McGautha*. Juries (or judges, as the case may be) have practically untrammeled discretion to let an accused live or insist that he die.

Thus, it is the "untrammeled discretion" of the judge or jury that is condemned.

It is true that Justice Douglas expressly stated that the question of whether a mandatory death penalty

would be constitutional if indiscriminately applied is a question he did not reach, but the Georgia statutes were stricken down because practically untrammeled discretion was granted to the trier of fact in determining whether, under widely varying circumstances, the death penalty should be applied and it was also shown that, in the actual application of the death penalty, minorities and the poor had been discriminated against.

Justice Brennan likewise said that the death penalty under the circumstances of the Georgia and Texas cases before the Court constituted cruel and unusual punishment.

On page 268, Justice Brennan said that this Court finally adopted the framers' view of the clause as a constitutional check to insure that "when we come to punishments, no latitude ought to have been left or dependence put on the virtue of representatives."

Mr. STAGGERS. Will the gentleman yield briefly?

Mr. ECKHARDT. I yield to the gentleman.

Mr. STAGGERS. I would like to say to the House that the chairman made a mistake a while ago in saying that this was the original act. It was put in in 1961, but I know of no one being executed or killed because of this act since it has been in effect, and we have had a lot of hijackings since then.

Mr. ECKHARDT. As I pointed out, the first concurring opinion supporting the per curiam decision takes the position that there is too much leeway and there is too much opportunity on the part of judge or the jury to apply the death penalty discriminatorily. The majority do not say, of course, that the death penalty would not be cruel and unusual in all cases. They do what careful judges usually do: refrain from deciding any more than they have to decide in this particular case. Of course, that does not mean that the court would not determine, in every case, that the death penalty is cruel and unusual, but the concurring judges state that the death penalty does afford too wide a leeway for discrimination as applied in Texas and Georgia.

Now let us examine this statute to see if it answers these questions. Let us look first at those who are relieved from the death penalty.

One ameliorating circumstance militating against the death penalty is that a person's appreciation of wrongfulness is "significantly impaired"——

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. ECKHARDT was allowed to proceed for 3 additional minutes.)

Mr. ECKHARDT. Now, what is "significant"? Does that not assume wide leeway to determination? One not represented by a competent attorney may not be able to show his understanding of the events was too dim to appropriately apply the death penalty to him. Another with a move skillful attorney, or more money to move diligently and extensively pursue his defense, might thereby be able to show this. So under the language of this bill we are right back where we were in Furman against Georgia.

The mitigating circumstance listed as "(C)" refers to "unusual and substantial duress". Does that not leave the same broad leeway in determining in favor of the death penalty in one case, and against it in another?

Another section "(D)" on page 16 provides that where a person was not a principal and his action was "relatively minor" that he shall be in the classification to which the death penalty shall not be applied. How does one measure how "relatively minor" the hijacker's offense must be in order to avoid the application of the death penalty? I simply submit that the language of this statute in no wise narrows the standards to the point which was described in the decisions of both Justice White and Justice Stewart.

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

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

Mr. DENNIS. Mr. Chairman, does not the gentleman in the well feel that this business about being relatively minor would necessarily excuse a man, as the Chairman indicated, simply because someone else pulled the trigger?

Mr. ECKHARDT. No. As a matter of fact, he may not have been the one who pulled the trigger, and, indeed, the death may not even have occurred as a result of the pulling of a trigger at all; it might have resulted because of a heart attack, or what-have-you. The point is we cannot anticipate all of the mitigating circumstances.

Mr. MATHIS of Georgia. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. Surely I will yield to the gentleman from Georgia.

Mr. MATHIS of Georgia. Mr. Chairman, if I might suggest, the gentleman in the well has made as good a presentation for the amendment as I have.

Mr. ECKHARDT. I have. I understand that if the gentleman would go all the way, if he says the death penalty is absolutely mandatory except in those cases where the person is 18 years of age or younger, perhaps the gentleman meets the constitutional standard. But as the gentleman from Indiana (Mr. DENNIS) has pointed out, do we want to take from the Court the power to make the decision as to whether one approaching his 18th birthday or one past his 18th birthday shall merely, for that reason, be removed from possible application or be subjected to mandatory application of the death penalty? I think not.

The point is simply this: One cannot anticipate every probability or possibility of the conditions under which an offense occurs. When we attempt to do that we write bad law.

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

Mr. ICHORD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman and members of the Committee, I rise in opposition to the amendment. I do not propose to discuss the Supreme Court decision. I think that the gentleman from Texas (Mr. ECKHARDT) and the gentleman from Indiana (Mr. DENNIS) and all of the other Members of the House could spend all day discussing the decision of Furman against Georgia, and we would still not know what it means. There is only one thing clear from the case of Furman against Georgia. The Court was neatly divided. Marshall and Brennan did make their views clear. They were opposed to the imposition of the death penalty under the eighth amendment on the ground that it was a cruel and unusual punishment. Burger, Rehnquist, Powell, and Blackmun were in the minority. Douglas, Stewart, and White were writing decisions all over the place, and on this particular case they were with Marshall and Brennan, but for different reasons.

We could dismiss the Supreme Court case all day long and we would still not know what the Court meant as a collective body.

But, Mr. Chairman, I do want to commend the gentleman from West Virginia, the Chairman of the full committee (Mr. STAGGERS) and his committee, for the job that they have done in approaching this very difficult problem.

We could argue all day long, and they have been arguing throughout the pages of history as to whether the death penalty is a deterrent or not. Personally, commonsense tells me that some place, somewhere, there is a potential criminal who will commit murder that will be deterred if there is a possibility of his life being taken in return.

This is the deterrence the committee has accomplished in this legislation. They have made it possible that the death penalty be imposed by the jury.

I want to discuss with my good friend, the gentleman from Illinois, the reference that he made to Dr. Hubbard, a member of the FAA study team, in his discussion. I appreciate the position of the gentleman from Illinois.

There are some who are opposed to the imposition of the death penalty on ethical grounds, but the study team which the gentleman referred to also appeared before my committee.

This is Dr. Harris' testimony specifically in regard to the problem we are discussing now. Let me read my question and the answers of Dr. Harris:

The CHAIRMAN. Dr. Harris, you state on page 7 that your group questioned the wisdom of a mandatory death penalty, and personally I think I would agree with your conclusion questioning the wisdom of a mandatory death penalty. I think we have to consider this conclusion in light of the Supreme Court decision. Let me ask you this question. Would you at the same time question the wisdom of prohibiting a discretionary death penalty?

Dr. HARRIS. In general, or as related to this specific problem?

The CHAIRMAN. I will restrict it to the specific problem of skyjacking. Do you question the wisdom of prohibiting a discretionary death penalty?

Dr. HARRIS. I would say offhand, yes. I would question the wisdom of prohibiting the death penalty.

Prohibition is what the gentleman from Illinois seeks to do by his amend-

ment. He is prohibiting the discretionary death penalty.

I commend the gentleman from West Virginia again. I think he has conceived a very wise approach to this very difficult problem.

Mr. METCALFE. Mr. Chairman, will the gentleman yield?

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

Mr. METCALFE. I thank the gentleman very much for yielding. I simply would like to ask him one question in light of the general discussion and also debate on my amendment. The question is whether or not the gentleman in his good wisdom and judgment thinks that we at this point in time ought to resolve the total question of the death penalty, when that matter is presently before the Committee on the Judiciary in which there have been factors and testimony indicating that in the application of the death penalty where skyjacking is concerned, it fits into an entirely different category, because there you have a chance to argue.

Mr. ICHORD. Unequivocally I would say yes, we should resolve it, because the gentleman is aiming his amendment at a mandatory death penalty. The Chairman of the Interstate and Foreign Commerce Committee has brought before this body the discretionary death penalty. I do not think that the argument of the gentleman is applicable.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. ECKHARDT, and by unanimous consent, Mr. ICHORD was allowed to proceed for 1 additional minute.)

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from Texas.

Mr. ECKHARDT. I thank the gentleman for yielding.

Perhaps the gentleman and I are not using language in exactly the same way. If I understand his statement to be correct, does he not understand—as I understand—that under the framework of this act, unless the mitigating factors set out with respect to the offense are shown——

Mr. ICHORD. Read the language of the bill. It says that the death penalty shall be imposed unless the jury finds mitigating circumstances. The court shall not impose the sentence of death on the defendant if it finds certain mitigating circumstances.

Mr. ECKHARDT. That is correct, but if the jury does not find those listed mitigating circumstances, the jury must impose the death penalty mandatorily. Is that the way the gentleman understands it?

Mr. ICHORD. I think there may be some ambiguity in the language. Read the language up above, and then read the language down below.

I think a discretionary finding remains in the province of the jury.

Mr. WIGGINS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is troublesome legislation. There is probably no more delicate nor more uncertain area in the law right now than the ability of any legislative body to impose under any circumstances the death penalty.

This proposal is in the nature of middle ground. It has received the endorsement of the Department of Justice, but nevertheless I am not persuaded that it is a very good job of draftsmanship if we are going to meet the test of Furman against Georgia, and, more importantly, if we are going to meet the test of commonsense.

I ask the indulgence of the chairman of the committee for a moment to discuss just two of many possible fact situations.

The first fact situation is this: Assume a hijacking occurs and a passenger is killed by a police officer in the course of apprehending the skyjacker. I invite the chairman to go over the mitigating circumstances carefully and advise me whether or not it could conceivably be a mitigating fact that the defendant did not himself commit the killing, but rather the killing was accomplished by a police officer.

If the chairman is not prepared to answer, just let me ask the general question. Does the gentleman intend this statute to put a defendant to death when the killing was performed by a police officer?

Mr. STAGGERS. If the gentleman will yield, I do not quite understand the gentleman's question, but I can say to the gentleman we have nothing in this law about the police officer killing anyone. That is under the general law of the land and will be taken care of there. We are talking about an air piracy where other individuals are concerned.

Mr. WIGGINS. Mr. Chairman, I cannot yield further.

I have not made my point to the gentleman. Let me just make this simple statement: If a defendant is on trial under this statute and he is subjected to the death penalty because a death occurred he risks being sentenced to death even though he, himself, did not kill the victim.

If the chairman does not understand that, I think the chairman does not fully perceive the reach of this statute. This body ought to make a judgment as to whether or not the Members want to impose the death penalty when the victim was not killed by the defendant directly.

It is true that the death must result from the crime but there is no question but that many consequential but unintended deaths result from the criminal action of the defendant.

It is to be noted that the situation which I have just described is probably not one of the mitigating factors. It arguably might be covered under 6(E) but it would be so easily argued by a prosecutor that a person who hijacked an aircraft could reasonably foresee the course of that criminal conduct might lead to the death of an individual.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield.?

Mr. WIGGINS. I yield to the gentleman from West Virginia to permit him to respond.

Mr. STAGGERS. I think if the gentleman reads that, it is self-explanatory, and I think everybody in the Chamber can read and can understand it.

Mr. WIGGINS. All right. The committee may take the view that the situation I described is covered on pages 16, lines 6 through 9. The logical import of that language is in my opinion to the contrary. It would not be covered by mitigating factor 6(E).

The second situation, Mr. Chairman, is this: What if the victim dies of a heart attack? Is it the intent of the chairman that a skyjacker who literally may have scared an old lady to death should be sentenced to death by reason of that act?

Mr. STAGGERS. The judge has discretion here in instructing this jury, and certainly he would not say that. We have all kinds of mitigating circumstances here.

Mr. KUYKENDALL. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I will yield to the gentleman if he will answer that question.

Mr. KUYKENDALL. Let me say what my intent is. If an accident causes a skyjacker to be executed I think society would be better off.

Mr. WIGGINS. I think the gentleman does not intend to say that.

This statute is drafted in such a way that the defendant could be put to death although the death was not intended by him although it may have been the result of, as that term is legally understood, his criminal act. Such a consequence is undesirable.

Mr. FLOWERS. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Alabama.

Mr. FLOWERS. I am concerned, as the gentleman from California is concerned, about the application in any circumstance—take another circumstance, and these kinds of things have happened, the gun that the hijacker is using goes off and kills one passenger during the hijacking. He would still be out of business as far as negotiating with him on the whole aircraft. We have a mandatory death penalty.

The CHAIRMAN. The time of the gentleman from California has again expired.

(By unanimous consent, Mr. WIGGINS was allowed to proceed for 1 additional minute.)

Mr. FLOWERS. Does the gentleman see that as a problem?

Mr. WIGGINS. Yes, I do. Let me clarify my own attitude on the death penalty. I am convinced there is a place in our law for a properly drafted death penalty. I am not against it on conceptual or moral grounds. I think this is a right society should have in a very narrow type of case under a very narrow type of procedure; but the thing that disturbs me is that the procedure embodied in this act is not carefully drafted to exclude very real circumstances which are apt to occur in the enforcement of the act.

The language of the statute if it becomes law is going to produce a result which was never intended.

I think prudence would dictate that

this entire section be stricken and let the Committee on the Judiciary deal with it in a more careful manner.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from West Virginia.

Mr. STAGGERS. The Department of Justice has spent thousands of man-hours in investigating this and they are competent to do it. Does the gentleman think they are not competent to do it?

Mr. WIGGINS. I understand that, but I do not agree with their conclusions.

Mr. HUNGATE. Mr. Chairman, I rise in support of the amendments.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. HUNGATE. I yield to the gentleman.

Mr. STAGGERS. I wonder if we could get a time limitation on these amendments? They have been discussed a long time and everybody here knows what they are going to do. Would the Members go along with the suggestion that all debate on these amendments and all amendments thereto close in 15 minutes?

Mr. HUNGATE. There are only one or two more customers waiting.

Mr. STAGGERS. Well, how about 12 more minutes?

Mr. Chairman, I ask unanimous consent that all debate on these amendments and all amendments thereto close in 12 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. DENNIS. Mr. Chairman, I object.

Mr. STAGGERS. Does the gentleman want further time?

Mr. DENNIS. No.

The CHAIRMAN. Objection is heard.

Mr. STAGGERS. Can we let the discussion go on for 4 or 5 minutes and see how it goes? I do think this has been discussed enough and everybody has had a chance on this.

Mr. HUNGATE. Mr. Chairman, I think we have a pretty high quality of debate here. The question, as someone has said, is, "What is justice?" That is what we seek. What is justice? Someone has said it is the greatest good to the greatest number.

Then someone else says, "What is the greatest number?"

The reply was, "No. 1."

We want to be careful that we do not just think of "No. 1." The No. 1 consideration here politically, if we have hijackers, and we can kill them, that is a good deal politically; but we will think more carefully into this, I hope.

I would like respectfully to ask the gentleman, what hearings were held on this?

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. HUNGATE. I yield to the gentleman.

Mr. STAGGERS. There were several days of hearings. I cannot tell the gentleman exactly. We can check in the report.

Mr. HUNGATE. On the question of the death penalty, I wonder how many witnesses were heard?

Mr. STAGGERS. Not specifically on that; but let me ask, how many people have ever been executed under this section? Not one.

Mr. HUNGATE. I am still seeking an answer to my first question.

Mr. STAGGERS. Seven days of hearings.

Mr. HUNGATE. On the death penalty question, how many witnesses were called?

Mr. STAGGERS. I do not know. There was overall discussion of the bill, including the death penalty.

Mr. HUNGATE. I appreciate the contribution of the gentleman.

Mr. Chairman, this is a matter of great seriousness, the Subcommittee on Criminal Justice of the Committee on the Judiciary, and we have heard from Members of all parts of the spectrum on the Committee on the Judiciary, and I am proud that they are concerned for human rights.

I would say a word of explanation is due from me as to why the Judiciary Subcommittee, which I chair, did not seek hearings on the question. As Members may know, we just completed work last month on the evidence code on which we worked for 1 year. There were before the Committee on the Judiciary the criminal law bill on the revision of the entire criminal code, including the death penalty, including pornography and many other things.

There is a provision before us, in addition to the administration bill, one prepared by Senator McCLELLAN dealing with criminal law revision. Some say it is the longest bill ever introduced in Congress, consisting of hundreds of pages. Also before us, introduced, I believe, by the gentleman from Wisconsin (Mr. KASTENMEIER) and the gentleman from California (Mr. EDWARDS) is what is known as the Brown Commission Report, a distinguished study by several outstanding scholars of a proposed criminal code. We have had about 3 to 4 days overview and briefing by the Justice Department on this matter, and we find at this time that, as it is explained to us, Senator McCLELLAN and the administration are in the process of reworking their bills to introduce a bill on which they may come to some agreement.

It is for this reason that we have not proceeded in the hearings, but the matter is before the committee. I have discussed this with minority Members present today and with the majority Members. I am convinced that the chairman would have no objection, and this specific question could be gone into in detail and hearings held so that all those in favor of and opposed to taking a human life under these conditions could be heard.

Mr. Chairman, I would suggest, with no criticism of the committee handling this bill, because we have to have penalties, and like the gentleman from California (Mr. WIGGINS) I am not sure I have moral scrupples enough or whatever else it is, I am not against the death penalty in all circumstances, but I think it is to be very carefully approached.

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. HUNGATE. Mr. Chairman, I yield to the gentleman from Indiana.

Mr. DENNIS. Mr. Chairman, I just want to say to the Members of the Committee that the gentleman in the well, the chairman of this subcommittee, moved this code of evidence out, which was a gargantuan task, in a very efficient manner. He, as the chairman of the subcommittee, moved the bill.

If he tells us he is going to have hearings on this matter, he will, and that is exactly what ought to be done with this subject.

Mr. KUYDENDALL. Mr. Chairman, will the gentleman yield?

Mr. HUNGATE. Mr. Chairman, I yield to the gentleman from Tennessee.

Mr. KUYKENDALL. Mr. Chairman, I would like to comment on the comments just made. I have great faith in the gentleman from Missouri's willingness to bring this bill up, but after listening to the debate of the members of that great, honored committee, I will let this House judge what they will bring up once they bring it up.

Mr. HUNGATE. Mr. Chairman, this House will be judging a lot of things, I expect and I hope it will do a good job.

Mr. FLOWERS. Mr. Chairman, will the gentleman yield?

Mr. HUNGATE. Mr. Chairman, I yield to the gentleman from Alabama.

Mr. FLOWERS. Mr. Chairman, there seems to be some division on the Committee on Interstate and Foreign Commerce here.

Mr. HUNGATE. Mr. Chairman, let me hasten to add that this is an even numbered year, and while I am a lawyer, I want the Members to know that I am not too much of a lawyer.

Mr. METCALFE. Mr. Chairman, will the gentleman yield?

Mr. HUNGATE. Mr. Chairman, I yield to the gentleman from Illinois.

Mr. METCALFE. Mr. Chairman, I am a member of the subcommittee, and my attendance has been very good. But I think we are not going to give the impression that we had any hearings on the death penalty. We did have extensive hearings on the bill itself.

(By unanimous consent, Mr. HUNGATE was allowed to proceed for 1 additional minute.)

Mr. HUNGATE. Mr. Chairman, there is an old saying that in a home where there has been a hanging, you do not talk about rope. That may be part of the problem around here. We are pretty far removed from the severity of some of this punishment. We can imagine ourselves in an airplane. The Chairman asked if we had ever flown.

Mr. Chairman, I agree with my colleague from Missouri that somewhere there is a would-be hijacker who would be deterred by this bill. I say to the Members also that my concern is that somewhere there is an innocent man that could be condemned to death by this bill.

Mr. PREYER. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I am not rising to talk about the merits or demerits of capital punishment, but I would like to mention just a few things about the effective-

ness of capital punishment, mandatory or discretionary, as it relates to deterring hijackers.

Chairman ICHORD spoke earlier about Dr. Harris in some hearings we had in our Internal Security Committee dealing with skyjacking, and the gentleman from Illinois (Mr. METCALFE) spoke of Dr. Hubbard's testimony in those hearings.

I do not recall Dr. Harris' testimony in any detail, but the gentleman from Missouri (Mr. ICHORD) pointed this out.

Apparently Dr. Harris felt that a discretionary death penalty would be a desirable solution. However, I looked up my notes to find out what Dr. Hubbard said, and I would like to bring out the arguments he made on the subject.

Dr. Hubbard certainly is the authority on this subject of hijacking. He has written the definitive book on it. The New York Times and Time Magazine have referred to him a number of times as the world's greatest authority on the subject.

I have forgotten the exact number, but he has interviewed in depth around 50 hijackers.

Here is what he has said to our committee about death sentences as they apply to skyjacking.

He said that the death penalty, whether mandatory or discretionary, was not wise in skyjacking cases because of several practical reasons: first, it blocked negotiations for the return of skyjackers from some other countries because these countries would not extradite someone back to this country where we have a death penalty involved. And we know that extraditing skyjackers back to this county is the single most important thing we can do to deter skyjacking. He cited Italy as a classic example. The romantic young hijacker, whose name I have forgotten, was the prime example. We could not get him back to this country because Italy objected to capital punishment or the possibility of it.

Another practical reason is that it is hard for the pilot to "talk a man down" to face a death penalty. As Dr. Hubbard said, the death penalty will not deter one from starting a crime, but it can complicate resolving a crime once one gets into it.

But, most importantly, what he insisted on most basically, was this point: This falls in the field of psychiatry and is, therefore, foreign to me, and, I think, to most of us—Dr. Hubbard said this, and I think he deserves listening to on this subject. He said that almost all of these offenders he has examined are people who wish to die, but they lack the guts to kill themselves.

He says that most of them "intend to be dead." Therefore, it is not a deterrent to impose capital punishment on them; it is even an encouragement, if anything.

He says that:

> They are people who manipulate society into the position of killing them, since they lack the courage to do it themselves.

He pointed out that the two skyjackers who were killed on the runway recently—I believe it was in Dallas, Tex.—set off other skyjackings, and he predicted that this would happen. Sure enough, it did happen as he said it would. It set off four similar skyjackings, one right after another, by men who wanted to be killed, and in the same fashion as those men who were killed on the runway in Texas.

When Dr. Hubbard interviewed them, it developed that that is what they wanted to happen.

So Dr. Hubbard says that our commonsense approach to this problem is just not effective. The commonsense approach says that death is a deterrent, and it will stop skyjackers. He is saying, referring to the kind of people who commit hijackings, that it does not stop them, no matter what commonsense says.

Dr. Hubbard says that the public, in matters of this sort, is always ready to go to one extreme or the other; we are either ready to ransom without limit, or we are ready to kill. We will give ransom or death, and the truth actually lies somewhere in between, and techniques can be worked out to handle these people better than either extreme.

Mr. Chairman, I believe we should pay attention to this expert in the field and vote to approve this amendment.

Mr. KUYKENDALL. Mr. Chairman, will the gentleman yield?

Mr. PREYER. I yield to the gentleman from Tennessee.

Mr. KUYKENDALL. Mr. Chairman, the gentleman has brought up the name of Dr. Hubbard. I suppose the gentleman from Michigan (Mr. DINGELL) and I have probably spent more time with Dr. Hubbard than any other Members of this body.

I spent 2 hours with him this very day, I had lunch with him today, and I discussed this bill with him today.

Actually when we get in great depth into Dr. Hubbard's points about hijacking, we find the matter of the death penalty is rather irrelevant one way or the other. He says in one instance that he feels that society has the right to exact the death penalty. He said that for the record.

I believe the gentleman repeated that. However, Dr. Hubbard also said that it is not a deterrent.

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. PREYER) has expired.

(On request to Mr. KUYKENDALL and by unanimous consent (Mr. PREYER was allowed to proceed for 1 additional minute.)

Mr. KUYKENDALL. Mr. Chairman, will the gentleman yield further?

Mr. PREYER. I yield to the gentleman from Tennessee.

Mr. KUYKENDALL. Mr. Chairman, Dr. Hubbard also said it is not a deterrent, because it is his determination that it relates to the hijacker himself and the psychiatric involvement.

So the matter of Dr. Hubbard's opinion, vis-a-vis the death penalty and its effect on skyjacking, goes deeper than the gentleman's study of Dr. Hubbard's belief on hijacking.

I guess I spent 15 hours with him in the last 2 years, including today, and his depth of study here is quite irrelevant to the whole matter of the death penalty either way.

Mr. PREYER. If I have any time left, I think that one might draw that conclusion from Dr. Hubbard's studies. I gather that is your conclusion. But is it not true that Dr. Hubbard has personally concluded that it is not wise as a policy matter to include a mandatory or a discretionary death penalty?

Mr. KUYKENDALL. As I said, I had lunch with him today, knowing we were taking this matter up, and he in no way criticized this provision of the bill to me at 12:30 today.

Mr. BINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this has been an extraordinarily high level debate.

I want to say, first that I am not opposed to the death penalty as a matter of principle. I think there are cases where it is needed and certainly there are cases involving skyjacking where the death penalty would be appropriate. However, after listening to the debate and the remarks made by a number of the gentlemen here, such as the gentleman from California (Mr. WIGGINS), the gentleman from Missouri (Mr. HUNGATE), and the gentleman from North Carolina (Mr. PREYER) who just spoke and others, I am persuaded that it would be a mistake to go ahead with the bill in its present form.

Since the alternative seems to be to support the amendment offered by the gentleman from Illinois, I am prepared to support his amendment. I believe the chairman wanted some time to respond, and I will be glad to yield to him.

Mr. STAGGERS. I thank the gentleman for yielding.

I certainly do respect the gentleman's opinion and all those who have spoken against the bill, because that is our right to do that. I would just like to give an example to this House of what happened back in 1960, as I recall it, when over 90 servicemen were killed because a nonscheduled plane went down in Richmond, and an accident occurred in Philadelphia which wiped out a whole planeload of people.

The reason I bring these things up is we had a bill passed here and we were in conference, and that conference lasted over 3 months. As far as I know, I believe I am practically the only Member of the House today still remaining from that group, although maybe not. But I insisted that those unsafe planes had to be eliminated from the sky, and we had to set standards to quit killing people in America. I said to that conference,

> If you let this go through, I will get up at the next conference and name the Member and say, "You contributed to the death of those people who went down," unless we get these unsafe planes out of the sky.

I will say to the Members of this House that if there is a skyjacking and a great number of people get killed, we will all have something on our own consciences if we do not do something about it here.

I think we have acted with discretion and taken the best course we could. I know there will be some amendments offered in a few moments to make this harsh and mandatory. We tried to take

the solid, middle ground between too much and not enough.

I thank the gentleman for yielding, because I believe we have endorsed in the committee the most acceptable route.

Mr. BINGHAM. I would like to say merely that in my judgment the way to stop hijackings is to provide the kind of precautionary procedures that have been followed in this country. The chairman and his committee have encouraged those procedures. We have had very few, if any, skyjackings since they started. Unfortunately, we still have international hijackings, which are a terribly serious problem.

Mr. ECKHARDT. Will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman.

Mr. ECKHARDT. I agree with the gentleman in the well.

I want to say I shall vote for this bill whether or not the amendment passes.

I agree something should be done, but I think this is the wrong time to write a complicated provision with respect to capital punishment.

I thank the gentleman for yielding.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Illinois (Mr. METCALFE).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ECKHARDT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 121, noes 286, answered "present" 1, not voting 24, as follows:

[Roll No. 84]

AYES—121

Abzug	Frenzel	Nedzi
Adams	Griffiths	Obey
Anderson, Ill.	Gubser	O'Hara
Ashley	Gude	O'Neill
Aspin	Hamilton	Owens
Badillo	Hansen, Idaho	Patten
Bergland	Hansen, Wash.	Preyer
Biester	Harrington	Quie
Bingham	Hawkins	Rees
Bolling	Hechler, W. Va.	Reid
Bowen	Heckler, Mass.	Reuss
Brademas	Hicks	Riegle
Brown, Calif.	Holt	Rodino
Buchanan	Holtzman	Roncalio, Wyo.
Burke, Calif.	Howard	Rosenthal
Burton	Hungate	Roush
Chisholm	Johnson, Colo.	Roybal
Clay	Jones, Okla.	Ruppe
Cochran	Jordan	Sarbanes
Cohen	Kastenmeier	Schroeder
Collins, Ill.	Leggett	Seiberling
Conte	Lehman	Smith, Iowa
Conyers	Litton	Stanton, James V.
Corman	Long, La.	Stark
Culver	Long, Md.	Steiger, Wis.
Danielson	Luken	Stokes
Davis, S.C.	McCloskey	Studds
Dellenback	McCollister	Talcott
Dellums	McFall	Thone
Dennis	Macdonald	Thornton
Diggs	Mallary	Tiernan
Drinan	Matsunaga	Van Deerlin
Eckhardt	Melcher	Vanik
Edwards, Calif.	Metcalfe	Waldie
Erlenborn	Mezvinsky	Whalen
Evans, Colo.	Mink	Wiggins
Findley	Minshall, Ohio	Yates
Foley	Mitchell, Md.	Young, Ga.
Ford	Moakley	Zwach
Forsythe	Mollohan	
Fraser	Mosher	

NOES—286

Abdnor	Giaimo	Peyser
Addabbo	Gibbons	Pickle
Alexander	Gilman	Pike
Anderson, Calif.	Ginn	Poage
Andrews, N.C.	Goldwater	Powell, Ohio
Andrews, N. Dak.	Gonzalez	Price, Ill.
Annunzio	Goodling	Price, Tex.
Archer	Grasso	Pritchard
Arends	Green, Oreg.	Quillen
Armstrong	Green, Pa.	Railsback
Ashbrook	Gross	Randall
Bafalis	Grover	Rarick
Baker	Gunter	Regula
Barrett	Guyer	Rhodes
Bauman	Haley	Rinaldo
Beard	Hammer-schmidt	Roberts
Bell	Hanley	Robinson, Va.
Bennett	Hanrahan	Roe
Bevill	Harsha	Rogers
Biaggi	Hastings	Roncallo, N.Y.
Blackburn	Hays	Rooney, Pa.
Blatnik	Hébert	Rose
Boland	Heinz	Rostenkowski
Bray	Helstoski	Rousselot
Breaux	Henderson	Roy
Brinkley	Hillis	Runnels
Broomfield	Hinshaw	Ruth
Brotzman	Hogan	Ryan
Brown, Mich.	Holifield	St Germain
Brown, Ohio	Horton	Sandman
Broyhill, N.C.	Hosmer	Sarasin
Broyhill, Va.	Huber	Satterfield
Burgener	Hudnut	Scherle
Burke, Fla.	Hunt	Schneebeli
Burke, Mass.	Hutchinson	Sebelius
Burleson, Tex.	Ichord	Shipley
Burlison, Mo.	Jarman	Shoup
Butler	Johnson, Calif.	Shriver
Byron	Johnson, Pa.	Shuster
Camp	Jones, Ala.	Sikes
Carney, Ohio	Jones, N.C.	Sisk
Carter	Jones, Tenn.	Skubitz
Casey, Tex.	Karth	Slack
Cederberg	Kazen	Smith, N.Y.
Chamberlain	Kemp	Snyder
Chappell	Ketchum	Spence
Clancy	King	Staggers
Clark	Kluczynski	Stanton, J. William
Clausen, Don H.	Koch	Steed
Clawson, Del	Kuykendall	Steele
Cleveland	Kyros	Steelman
Collins, Tex.	Lagomarsino	Steiger, Ariz.
Conable	Landgrebe	Stephens
Conlan	Landrum	Stratton
Cotter	Latta	Stubblefield
Crane	Lent	Stuckey
Cronin	Lott	Sullivan
Daniel, Dan	Lujan	Symington
Daniel, Robert W., Jr.	McClory	Symms
Daniels, Dominick V.	McCormack	Taylor, Mo.
Davis, Ga.	McDade	Taylor, N.C.
Davis, Wis.	McKinney	Teague
de la Garza	McSpadden	Thomson, Wis.
Delaney	Madden	Towell, Nev.
Denholm	Madigan	Treen
Dent	Mahon	Udall
Derwinski	Mann	Ullman
Devine	Maraziti	Vander Jagt
Dickinson	Martin, Nebr.	Vander Veen
Donohue	Martin, N.C.	Veysey
Dorn	Mathias, Calif.	Vigorito
Downing	Mathis, Ga.	Waggonner
Dulski	Mayne	Walsh
Duncan	Mazzoli	Wampler
du Pont	Meeds	Ware
Edwards, Ala.	Milford	White
Eilberg	Miller	Whitehurst
Esch	Mills	Whitten
Eshleman	Minish	Widnall
Evins, Tenn.	Mitchell, N.Y.	Williams
Fascell	Mizell	Wilson, Bob
Fish	Montgomery	Wilson, Charles H., Calif.
Fisher	Moorhead, Calif.	Winn
Flood	Moorhead, Pa.	Wright
Flowers	Morgan	Wyatt
Flynt	Murphy, Ill.	Wydler
Fountain	Murtha	Wylie
Frelinghuysen	Myers	Wyman
Frey	Natcher	Yatron
Froehlich	Nelsen	Young, Alaska
Fulton	Nichols	Young, Fla.
Fuqua	Nix	Young, S.C.
Gaydos	O'Brien	Young, Tex.
Gettys	Parris	Zablocki
	Passman	Zion
	Perkins	
	Pettis	

ANSWERED "PRESENT"—1

Thompson, N.J.

NOT VOTING—24

Boggs	Hanna	Rangel
Brasco	McEwen	Robison, N.Y.
Breckinridge	McKay	Rooney, N.Y.
Brooks	Michel	Wilson, Charles, Tex.
Carey, N.Y.	Moss	Wolff
Collier	Murphy, N.Y.	Young, Ill.
Coughlin	Patman	
Dingell	Pepper	
Gray	Podell	

So the amendments were rejected.

The result of the vote was announced as above recorded.

AMENDMENTS OFFERED BY MR. MATHIS OF GEORGIA

Mr. MATHIS of Georgia. Mr. Chairman, I offer a series of amendments and ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. MATHIS of Georgia: Page 10, strike out lines 15 through 19 and insert in lieu thereof the following:

"(A) by death, if the death penalty is required to be imposed under section 903(c) of this title; or

"(B) by imprisonment for not less than twenty years, if the death penalty is not imposed.".

Page 11, strike out line 24 and all that follows down through page 12, line 3, and insert in lieu thereof the following:

"(A) by death, if the death penalty is required to be imposed under section 903(c) of this title; or

"(B) by imprisonment for not less than twenty years, if the death penalty is not imposed.".

Page 13, line 7, strike out "one or more of the mitigating factors" and insert in lieu thereof the following: "the mitigating factor".

Page 14, beginning in line 6, strike out "Any information" and all that follows down through line 10, and insert in lieu thereof the following: "The admissibility".

Page 14, line 21, strike out "any of the factors" and insert in lieu thereof the following: "the factor".

Page 14, line 25, strike out "each of the factors" and insert in lieu thereof the following: "the factor".

Page 15, strike out line 17, and all that follows down through page 16, line 9, and insert in lieu thereof the following: "at the time of the offense he was under the age of eighteen".

Page 15, beginning in line 5, strike out "none of the factors set forth in paragraph (6) exists" and insert in lieu thereof the following: "the factor set forth in paragraph (6) does not exist".

Page 15, beginning in line 9, strike out "one or more of the mitigating factors" and insert in lieu thereof the following: "the mitigating factor".

Page 16, strike out line 10, and all that follows down through line 13, and insert in lieu thereof the following:

"(7) If the factor set forth in paragraph (6) is not present, the court shall impose the sentence of death on the defendant if the jury or, if there is no jury, the court finds by a special verdict as provided in paragraph (4) that—

Mr. MATHIS of Georgia (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. MATHIS of Georgia. Mr. Chairman, I do not think we are ever going to be able to obtain a successful conviction under the provisions of this law. Those Members who have not had an opportunity to look at the committee report, I call their attention to the mitigating factors listed on page 16 and ask them to consider them just for a moment with me. These are the mitigating factors I am trying to strike by my amendments:

2. His capacity to appreciate the wrongfulness of his conduct or to conform it to the requirements of law was significantly impaired, but not enough to constitute a defense.

3. He was under unusual and substantial duress, but not enough to constitute a defense.

4. He was a principal in an offense committed by another, but his participation was relatively minor, although not so minor as to constitute a defense. (Section 2(a) of title 18 of the U.S. Code defines a "principal" as anyone who commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission.)

5. He could not reasonably have foreseen that his conduct in the commission of the offense would cause death to another or create a grave risk of causing death.

Mr. Chairman, I would like for someone on the committee, the chairman or the distinguished ranking minority Member, to please give what would constitute, for example, unusual and substantial duress. If this hijacker was being chased by the FBI or by the police in Detroit, Mich., would he be under duress then? Is there anyone who can answer that question for me?

Mr. KUYKENDALL. Mr. Chairman, the gentleman yield?

Mr. MATHIS of Georgia. Mr. Chairman, I yield to the gentleman from Tennessee.

Mr. KUYKENDALL. Mr. Chairman, would the gentleman repeat the question?

Mr. MATHIS of Georgia. If the hijacker were being chased; he was a fugitive from the FBI or being chased by the police department of Memphis, Tenn., would he be considered to have been under duress at the time he hijacked the aircraft?

Mr. KUYKENDALL. Mr. Chairman, I want to make this clear, that if he was being chased by the police department of Memphis, Tenn., he would be caught. I am glad we get that correctly.

Mr. Chairman, I am of the definite opinion that it would continue to be an act taking place in the continuing part of the felony, and this would be an aggravated circumstance and not a mitigating circumstance. That is my opinion.

Mr. MATHIS of Georgia. Mr. Chairman, would the Chairman care to respond to my question?

Mr. STAGGERS. Mr. Chairman, is the gentleman referring to some police department out in West Virginia or not?

Mr. MATHIS of Georgia. Mr. Chairman, I would be glad to.

Mr. STAGGERS. No. Let me just say to the gentleman that I think we are going a little far afield when we get over to this supposition, because we are talking about an actual thing happening on the plane. I do not think anything happening afterward would have anything to do with it.

Mr. MATHIS of Georgia. Mr. Chairman, we are only talking about things that occurred before the hijacking took place, talking about mitigating factors which the committee has listed. I think a second year law student could come through with a successful defense.

My amendment is very simple, Mr. Chairman. I do not want to prolong this debate because the Members have heard the pros and cons on the other amendment. My amendments simply make it a little tighter, make it a little tougher, a little more likely that these hijackers who have been convicted of the crime will face the death penalty.

Mr. Chairman, I also call the attention of the Members to the eloquent argument given by the gentleman from Texas (Mr. ECKHARDT) who said that these amendments which I have offered come closer to meeting the test of constitutionality than either the committee bill or the amendments offered by the gentleman from Illinois (Mr. METCALFE). I agree with the gentleman from Texas, so I would simply urge the adoption of my amendments.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. MATHIS of Georgia. Mr. Chairman, I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I did not include the Metcalfe amendments, because it would not obviate the Constitution.

Mr. MATHIS of Georgia. Mr. Chairman, I beg the pardon of the gentleman from Texas, but the gentleman does feel that my amendments would come closer to meeting the test of constitutionality than does the committee bill, so I urge support of my amendments.

Mr. RANDALL. Mr. Chairman, will the gentleman yield?

Mr. MATHIS of Georgia. Mr. Chairman, I yield to the gentleman from Missouri.

Mr. RANDALL. Mr. Chairman, does the gentleman's amendments remove all of these mitigating circumstances?

Mr. MATHIS of Georgia. All except the one concerning being under 18 years of age.

Mr. RANDALL. Mr. Chairman, I appreciate the clarification. I support the gentleman's amendments.

Mr. KUYKENDALL. Mr. Chairman, I rise in opposition to the amendments. I reluctantly oppose the amendments of my good friend from Georgia. My opposition to the amendments is based entirely on the lengthy discussions we have had with the Justice Department and our subcommittee staff on the matter of constitutionality.

Mr. Chairman, I prefer that the subcommittee and the committee version of the death penalty provision be accepted, because I feel that it will pass the constitutional test and will, therefore, stand as part of this much-needed legislation.

Mr. CONLAN. Mr. Chairman, will the gentleman yield?

Mr. KUYKENDALL. I yield to the gentleman from Arizona.

Mr. CONLAN. Mr. Chairman, I thank the gentleman for yielding.

I appreciate the concern of having the normal mitigating circumstances be allowed as a defense, as they are under our present criminal law, but I respectfully feel that the gentleman from Georgia is quite correct, in that what has happened here is that we have a whole new area of mitigating circumstances which have been written into the code and which go far above and beyond what we have normally had and what the public has normally expected in this area.

This says that at the time of the offense "* * * he was under unusual and substantial duress, although not such duress as to constitute a defense to prosecution."

I think all of us would recognize unusual and substantial duress as a defense to prosecution, but not that duress which stems from some other type of nebulous thing.

Mr. Chairman, I believe the terminology here is not only grossly inappropriate and unreasonable, but I believe it is extremely vague. Due to those circumstances, I respectfully must disagree with my gracious friend, the gentleman from Tennessee (Mr. KUYKENDALL) and I support the amendments offered by the gentleman from Georgia (Mr. MATHIS).

Mr. FLYNT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I strongly urge support of the amendments offered by my colleague, the gentleman from Georgia (Mr. MATHIS).

I am always reluctant to oppose the position taken by the chairman of the great Committee on Interstate and Foreign Commerce. I remember a week or so ago we had a very important conference report which the gentleman from West Virginia (Mr. STAGGERS), the chairman of this great committee, urged us to adopt.

The gentleman will recall, as will the Members of this side of the aisle who are on that committee, that I strongly supported the conference report, and I did so with great pleasure. I served on the great Committee on Interstate and Foreign Commerce for the first 7 years of my service in this body. I count within my circle of friends not only the members of that committee who were there when I served on it, but the entire membership of it.

I know of no greater committee in the House of Representatives than the Committee on Interstate and Foreign Commerce.

This time, however, I think that I must support the amendments that strike out the language which the gentleman from Georgia seeks to strike. When this committee put that language in the bill, they effectively emasculated the death penalty provision. If this language stays in, we will have no death penalty provision in this bill, and I will tell the Members why.

The people who hijack aircraft of any kind, especially commercial aircraft, where they endanger the lives of everybody on board, the passengers and crew alike, are not rational people; they are irresponsible people, they are irrational people. And irrationality and irresponsibility are the key to the language which the committee wrote in this bill.

Mr. Chairman, I dare say that any person who hijacks an airplane of any kind, especially a commercial airliner, could successfully plead one of these provisions and avoid the handing down of the death penalty.

Mr. Chairman, I urge the adoption of the amendments offered by my colleague, the gentleman from Georgia (Mr. MATHIS).

Mr. KYROS. Mr. Chairman, will the gentleman yield for a question?

Mr. FLYNT. I yield to the gentleman from Maine.

Mr. KYROS. Mr. Chairman, I will ask the gentleman this:

If the people who hijack airplanes are really irrational or irresponsible, how would the death penalty ever be a deterrent?

Mr. FLYNT. It would still be a deterrent. They might not be responsible for their actions; they might be very irresponsible and irrational people, but even people who plead irrationality and irresponsibility would give a little more thought to their actions before they go out and commit a crime for which they thought the death penalty might be mandatory or reasonably mandatory.

Mr. Chairman, I think the gentleman has asked a good question. However, in asking the question, I think he has answered it. The answer is that it would be a deterrent, but not without the amendments offered by the gentleman from Georgia.

If you leave the committee language as it is, you would have no death penalty in the bill at all, because it could never be applied to anyone because anyone could successfully claim that they fall under these exempting provisions.

Mr. BRINKLEY. Will the gentleman yield?

Mr. FLYNT. I yield to the gentleman.

Mr. BRINKLEY. The answer to the question is that it is impractical as a deterrent insofar as their actions towards others are concerned but it is a deterrent or might be a deterrent to them if they know that those actions will result in injury to themselves, by way of the death penalty.

Mr. JOHNSON of Colorado. Will the gentleman yield?

Mr. FLYNT. I yield to my colleague.

Mr. JOHNSON of Colorado. Does the gentleman say that if the Mathis amendment is adopted, we are in effect removing the defense of mental illness?

Mr. FLYNT. No, not at all. It stays in because if it is a defense of mental incapacity, the Mathis amendment does not go to the defense or mental incapacity, because the language in the bill provides that a type of mental instability which would not constitute a defense to the crime would of itself be sufficient to eliminate the possibility of imposing the death penalty. I think the defense of insanity or mental incapacity would still be there, but if you expect to have a death penalty provision in this bill, you must adopt the amendment offered by the gentleman from Georgia.

Mr. KYROS. Will the gentleman yield?

Mr. FLYNT. I will be glad to yield to the gentleman.

Mr. KYROS. Is it not a fact that the Mathis amendment on page 15 would remove section 6(b) which says "his capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired," which would mean to any court a defense of mental incapacity would be definitively removed by this body and the death penalty would be absolutely mandatory.

Mr. FLYNT. I do not read that in the language of the bill.

I think mental incapacity amounting to a successful defense of insanity, of being not guilty by reason of insanity, would still remain available because we would not be changing any act.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. FLYNT was allowed to proceed for 3 additional minutes.)

Mr. KYROS. Will the gentleman yield further?

Mr. FLYNT. I yield to the gentleman.

Mr. KYROS. May I call the gentleman's attention respectfully to section 6(B), which says "his capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired." That would mean that if the man had a mental incapacity or he could not tell what was wrong——

Mr. FLYNT. If the gentleman will read the remainder of the sentence, it says "but not so impaired as to constitute a defense to prosecution."

Mr. KYROS. I would like to find a psychiatrist who can split that hair.

Mr. FLYNT. We are talking about two different interpretations of the same language.

Mr. YATES. Will the gentleman yield?

Mr. FLYNT. I yield to the gentleman.

Mr. YATES. In view of the fact that there is a misinterpretation of what the amendment says and the amendment has not been read, I ask unanimous consent that the Clerk may read the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. ECKHARDT. Mr. Chairman, I object.

Mr. STAGGERS. Mr. Chairman, I rise in opposition to the amendment, because as I said before, the committee tried to find a fair, but solid middle ground. This goes to the extreme, because under the amendment, a person who has been convicted of two aggravated assaults, Federal or State, who then commits a hijacking would find that it would be mandatory he be put to death. I do not believe the House wants to do this. If he had been convicted of a felony in which he could get 3 or 4 years of imprisonment, he still might be willing to negotiate, but this would make it mandatory that he receive the death penalty.

Mr. MATHIS of Georgia. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman.

Mr. MATHIS of Georgia. That is the language contained in the committee bill. I do not go into that language at all. It deals with aggravating factors. We are talking about removing mitigating factors here.

Mr. STAGGERS. I understand that.

Mr. Chairman, I am opposed to the amendment because I believe the committee worked hard and long in trying to come up with a bill that would find a middle ground.

Mr. KYROS. Will the gentleman yield further?

Mr. STAGGERS. I yield to the gentleman.

Mr. KYROS. Would it not mean that if you had someone with the mental age of 12 who had not gotten beyond that age, he could cause the hijacking and be killed under this bill, but someone under 18 years of age would not be killed under this bill?

The CHAIRMAN. The time of the gentleman has expired.

The question is on the amendments offered by the gentleman from Georgia (Mr. MATHIS).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MATHIS of Georgia. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 102, noes 302, not voting 28, as follows:

[Roll No. 85]

AYES—102

Archer	Ginn	Passman
Bafalis	Gross	Peyser
Baker	Grover	Pike
Bauman	Hanrahan	Poage
Beard	Hays	Powell, Ohio
Bevill	Henderson	Price, Tex.
Blackburn	Hogan	Randall
Bray	Huber	Rarick
Breaux	Hudnut	Rinaldo
Brinkley	Hunt	Roncallo, N.Y.
Burleson, Tex.	Johnson, Pa.	Rousselot
Burlison, Mo.	Jones, N.C.	Runnels
Chappell	Jones, Tenn.	Ruth
Clancy	Ketchum	Scherle
Clark	King	Shipley
Clawson, Del	Lagomarsino	Shuster
Collins, Tex.	Landgrebe	Sikes
Conlan	Landrum	Slack
Crane	Lent	Snyder
Cronin	Lott	Spence
Davis, Ga.	Lujan	Steiger, Ariz.
de la Garza	McSpadden	Stratton
Denholm	Maraziti	Symms
Devine	Martin, Nebr.	Taylor, Mo.
Duncan	Mathis, Ga.	Taylor, N.C.
Evins, Tenn.	Michel	Treen
Flowers	Milford	Vander Veen
Flynt	Mitchell, N.Y.	Veysey
Fountain	Mizell	Waggonner
Fulton	Montgomery	Wyatt
Gaydos	Murtha	Wyman
Gettys	Myers	Young, Alaska
Giaimo	Nedzi	Young, Fla.
Gilman	Nichols	Young, S.C.

NOES—302

Abdnor	Ford	Murphy, Ill.
Abzug	Forsythe	Natcher
Adams	Fraser	Nelsen
Addabbo	Frelinghuysen	Nix
Alexander	Frenzel	Obey
Anderson, Calif.	Frey	O'Brien
	Froehlich	O'Hara
Anderson, Ill.	Fuqua	O'Neill
Andrews, N.C.	Gibbons	Owens
Andrews, N. Dak.	Goldwater	Parris
	Gonzalez	Patten
Annunzio	Goodling	Perkins
Arends	Grasso	Pettis
Armstrong	Green, Oreg.	Pickle
Ashbrook	Green, Pa.	Preyer
Ashley	Griffiths	Price, Ill.
Aspin	Gubser	Pritchard
Badillo	Gude	Quie
Barrett	Gunter	Quillen
Bell	Guyer	Railsback
Bennett	Haley	Rees
Bergland	Hamilton	Regula
Biaggi	Hammer-schmidt	Reuss
Biester		Rhodes
Bingham	Hanley	Riegle
Boggs	Hanna	Roberts
Boland	Hansen, Idaho	Robinson, Va.
Bolling	Hansen, Wash.	Rodino
Bowen	Harrington	Roe
Brademas	Harsha	Rogers
Brooks	Hastings	Roncalio, Wyo.
Broomfield	Hawkins	Rooney, Pa.
Brotzman	Hechler, W. Va.	Rose
Brown, Calif.	Heckler, Mass.	Rosenthal
Brown, Mich.	Heinz	Rostenkowski
Brown, Ohio	Helstoski	Roush
Broyhill, N.C.	Hicks	Roy
Broyhill, Va.	Hillis	Roybal
Buchanan	Hinshaw	Ruppe
Burgener	Holifield	Ryan
Burke, Calif.	Holt	St Germain
Burke, Fla.	Holtzman	Sandman
Burke, Mass.	Horton	Sarasin
Burton	Hosmer	Sarbanes
Butler	Howard	Satterfield
Byron	Hungate	Schneebeli
Camp	Hutchinson	Schroeder
Carney, Ohio	Ichord	Sebelius
Carter	Jarman	Seiberling
Casey, Tex.	Johnson, Calif.	Shoup
Cederberg	Johnson, Colo.	Shriver
Chamberlain	Jones, Ala.	Sisk
Chisholm	Jones, Okla.	Skubitz
Clausen, Don H.	Jordan	Smith, Iowa
	Karth	Smith, N.Y.
Clay	Kastenmeier	Staggers
Cleveland	Kazen	Stanton, J. William
Cochran	Kemp	
Cohen	Kluczynski	Stanton, James V.
Collins, Ill.	Koch	
Conable	Kuykendall	Stark
Conte	Kyros	Steed
Conyers	Latta	Steele
Corman	Leggett	Steelman
Cotter	Lehman	Steiger, Wis.
Coughlin	Litton	Stephens
Culver	Long, La.	Stokes
Daniel, Dan	Long, Md.	Stubblefield
Daniel, Robert W., Jr.	Luken	Stuckey
	McClory	Studds
Daniels, Dominick V.	McCloskey	Sullivan
	McCollister	Symington
Danielson	McCormack	Talcott
Davis, S.C.	McDade	Teague
Davis, Wis.	McFall	Thomson, Wis.
Delaney	McKinney	Thone
Dellenback	Macdonald	Thornton
Dellums	Madden	Tiernan
Dennis	Mahon	Towell, Nev.
Dent	Mallary	Udall
Derwinski	Mann	Ullman
Dickinson	Martin, N.C.	Van Deerlin
Diggs	Mathias, Calif.	Vander Jagt
Donohue	Matsunaga	Vanik
Dorn	Mayne	Vigorito
Downing	Mazzoli	Waldie
Drinan	Meeds	Walsh
du Pont	Melcher	Wampler
Eckhardt	Mezvinsky	Ware
Edwards, Ala.	Miller	Whalen
Edwards, Calif.	Mills	White
Eilberg	Minish	Whitehurst
Erlenborn	Mink	Whitten
Esch	Mitchell, Md.	Widnall
Evans, Colo.	Moakley	Wiggins
Fascell	Mollohan	Williams
Findley	Moorhead, Calif.	Wilson, Bob
Fish		Wilson, Charles H., Calif.
Fisher	Moorhead, Pa.	
Flood	Morgan	
Foley	Mosher	Winn
Wright	Yatron	Zion
Wydler	Young, Ga.	Zwach
Wylie	Young, Tex.	
Yates	Zablocki	

NOT VOTING—28

Blatnik	McEwen	Rangel
Brasco	McKay	Reid
Breckinridge	Madigan	Robison, N.Y.
Carey, N.Y.	Metcalfe	Rooney, N.Y.
Collier	Minshall, Ohio	Thompson, N.J.
Dingell	Moss	Wilson, Charles, Tex.
Dulski	Murphy, N.Y.	
Eshleman	Patman	Wolff
Gray	Pepper	Young, Ill.
Hébert	Podell	

So the amendments were rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. ECKHARDT

Mr. ECKHARDT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ECKHARDT: On page 15, line 7, strike the word "shall" and substitute the word "may" and on page 16, line 11, strike the word "shall" and substitute the word "may."

Mr. ECKHARDT. Mr. Chairman, because I have a certain juridical audacity above and beyond the more restrained and judicious Members of this body, I have been thought by some to have constitutional knowledge beyond my real abilities. I do not believe anyone here can say that my amendment is any more or any less constitutional than the bill which it seeks to amend.

I will say, though, that my amendment makes a good deal more sense than this bill without amendment. I do not think we ought to engage in a pretended prescience about what the Supreme Court will do. I do not know what they will do. They have done a lot of things I have thought were wrong. They have done more things that I thought were right. But we should not do something we think is wrong, and I want to explain why I think my amendment is better than the provision in the bill.

The gentleman from California (Mr. WIGGINS) got right to the point a minute ago. When we look at the exceptions with respect to what will never permit a death penalty, we can have cases in which the conduct of a person accused is a far more reprehensible, but does not carry the death penalty, than that of another in which the death penalty is mandatory.

Suppose that in the course of unloading the airplane after a hijacking an elderly woman falls, hits her head and dies.

In a circumstance like that, if the hijacker is over 18 and none of the listed ameliorating circumstances exist, the court or jury simply have to give him the death penalty. In another case where the facts are exactly parallel the mere fact that the hijacker is 17½ years old, perhaps a bright young student disgusted with the American system who wants to go to Cuba, and as a result of this someone is killed—or perhaps a whole airplane load of persons are killed—he cannot get the death penalty because he comes in one of the mandatory exemptions.

Had he been just over 18 he would have to get the death penalty.

All I suggest to the Members is, leave the bill as it is with respect to the mitigating offenses. If the mitigating offenses are found by the jury to exist, then do not permit the death penalty. There is still a 20-year penalty connected with the offense, and that could be multiplied if several offenses occur. On the other hand, with respect to the death penalty, let us put in the death penalty section the word "may" instead of the word "shall."

Mr. Chairman, I suggest that we cannot play God in Congress. We cannot anticipate the facts which may occur. Suppose, for instance, under the section that mitigates against the death penalty, a man approaches the pilot. The pilot draws a gun from his pocket and the hijacker at that point kills the pilot. I ask the Members, is that the kind of extreme duress that relieves him from the death penalty under the first section? Is he any less reprehensible than another hijacker in a situation in which the pilot did not draw the gun and a policeman kills the pilot, as the example given by the gentleman from California (Mr. WIGGINS)?

Mr. Chairman, I urge an aye vote on the amendment.

Mr. STAGGERS. Mr. Chairman, I rise in opposition to the amendment. I will not take the 5 minutes, I promise the House.

Mr. Chairman, as to the procedures which must be met by imposition of the death penalty, changing "shall" to "may" would give the judge an arbitrary discretion. This is what the committee decided not to do when it said the death penalty would not be discretionary or arbitrary.

I would say this is probably just the thing which is unconstitutional.

Mr. KYROS. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. Mr. Chairman, I yield to the gentleman from Maine.

Mr. KYROS. Mr. Chairman, although I would certainly want to agree with my distinguished chairman, for whom I have the highest respect, on page 14 of the committee report it states specifically:

The committee does agree with the proposition that the Furman case holds unconstitutional the imposition of the death penalty when it is available as a nonmandatory penalty which may be imposed at the complete discretion of the Judge or jury.

In this case, it cannot be imposed at the complete discretion of the judge or jury because of the qualifications that are already put into the bill. By permitting discretion to the judge, we have then written a bill, it seems to me, that will provide for all the thousands of kinds of cases that may arise in skyjacking and still take care of the qualms of the committee.

Mr. JOHNSON of Colorado. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I wish the gentleman from West Virginia, the chairman of the committee, could give me an example—and I am asking this because I do not

know, although I do not think it is true—where the death penalty is mandated for any offense.

I do not think there is another example in the history of American law where we have mandated the death penalty for any offense. Can the gentleman give me an example of a mandatory death sentence, thereby removing the deliberations on the death sentence from the jury?

Mr. STAGGERS. Mr. Chairman, I do not know specifically, but I believe there might be something along that line in kidnapping cases where certain events have happened, and perhaps in conspiracy trails.

Mr. JOHNSON of California. Does the gentleman mean it is mandatory?

I would like to point out that the whole thrust of our system of jurisprudence has been to leave the discretion with the jury, and I understand it is the Supreme Court's decision that we should go into a mandatory death penalty, relative to this bill from the Committee on Interstate and Foreign Commerce of the U.S. Congress, and it seems to me this is totally injudicious in history, and we would be making a radical departure to insist on a mandatory death penalty.

Mr. STAGGERS. Mr. Chairman, let me say to the gentleman that it is in the law now, and it has been in the law since 1961.

Mr. JOHNSON of Colorado. A mandatory death penalty?

Mr. STAGGERS. It is far stricter than this would be.

Mr. JOHNSON of Colorado. Without leaving any discretion with the jury or with the judge?

Mr. STAGGERS. Well, there would be discretion, but it is far more mandatory and far stronger than this is, because we give them here all kinds of mitigating circumstances that can prevent them from receiving the death penalty. Even after that, after getting a conviction, the jury has to come back and vote the death penalty.

Mr. JOHNSON of Colorado. Yes, but the language says, "shall." That is mandatory; it leaves no discretion.

Mr. Chairman, I wish to state I am against the amendment. I will say that I do not believe it belongs in this legislation.

Mr. DENNIS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, if I understand the amendment which has been offered by the gentleman from Texas, he is accepting these aggravating circumstances under which a death penalty can be imposed, but he is saying that if those aggravating circumstances are present and no mitigating circumstances are present, then the court, if it sees fit, can or may impose a death penalty—then, and only then, instead of saying, "If that situation exists," then the court must impose a death penalty.

What the court argued about in the Furman case was the lack of standards. But in this amendment we still keep the standards, and while no one can be sure what would satisfy the Furman rule, I think it makes just about as good sense to argue that this amendment will satisfy it as that the committee bill will satisfy it.

Furthermore, it is a lot sounder in general, because it makes some sense, maybe, to say that if certain aggravating circumstances are present, the court can consider them, and the court can impose a death penalty if it then sees fit. But it takes away the whole judicial process when we tell the court that if there are certain circumstances which we consider aggravating ahead of time, then the court must do it.

Mr. Chairman, that is not sound, and I support the gentleman's amendment.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. DENNIS. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, the gentleman has construed the amendment exactly correctly.

One must consider this against the decision in McGautha against California, a U.S. Supreme Court case cited by Judge Douglas, in which he said as follows:

> In light of history, experience, and the present limitations of human knowledge, we find it quite impossible to say that committing to the untrammeled discretion of the jury the power to pronounce life or death in capital cases is offensive to anything in the Constitution.

Thus, the Court found untrammeled discretion not enough to result in unconstitutionality. In Furman against Georgia untrammeled discretion was the crux of the decision holding the Georgia and Texas statutes unconstitutional. But the wide scope of jury or court discretion was central in this case.

This is not the untrammeled power; this is the controlled power, and it is exactly the way the gentleman has described it. If the bill itself is constitutional, the amendment is constitutional.

Mr. DENNIS. Mr. Chairman, I think the gentleman is correct in that statement.

Mr. KUYKENDALL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this goes to the constitutionality of this provision. In the opinion of the majority of the committee and in the opinion of the Department of Justice, this is a matter where there can be no capricious action by the judge and we eliminate the possibility that he could be discriminatory in the matter of the death penalty. This provision of the act is justified; however, one of the features that would make it constitutional is eliminated by the Eckhardt amendment.

So, Mr. Chairman, this is legislation as written by the committee and as upheld by two previous votes. It clearly states what the position of the Department of Justice and the majority of our committee is. In two previous votes by this House it has been upheld.

I hope we can vote on this amendment immediately and that the amendment will be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT).

The question was taken; and the chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ECKHARDT. Mr. Chairman, on that I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 162, noes 239, answered "present" 2, not voting 29, as follows:

[Roll No. 86]

AYES—162

Abzug	Forsythe	Owens
Adams	Fraser	Parris
Addabbo	Frenzel	Preyer
Anderson, Calif.	Giaimo	Price, Ill.
	Gibbons	Pritchard
Anderson, Ill.	Gonzalez	Quie
Andrews, N.C.	Grasso	Railsback
Armstrong	Green, Pa.	Rees
Ashley	Griffiths	Reid
Aspin	Gude	Reuss
Badillo	Hamilton	Riegle
Bell	Hansen, Idaho	Rodino
Bennett	Harrington	Roncalio, Wyo.
Bergland	Hawkins	Rosenthal
Biester	Hechler, W. Va.	Rostenkowski
Bingham	Heckler, Mass.	Roush
Blatnik	Helstoski	Roy
Boggs	Hicks	Roybal
Boland	Hinshaw	Ruppe
Bolling	Holifield	St Germain
Bowen	Holtzman	Sarasin
Brademas	Howard	Sarbanes
Brotzman	Hungate	Schroeder
Brown, Calif.	Johnson, Colo.	Seiberling
Brown, Mich.	Jones, Okla.	Smith, Iowa
Buchanan	Kastenmeier	Smith, N.Y.
Burke, Calif.	Kluczynski	Stanton, J. William
Burke, Mass.	Koch	
Burton	Kyros	Stanton, James V.
Chisholm	Lehman	
Clay	Litton	Stark
Cochran	Long, La.	Steelman
Cohen	Long, Md.	Steiger, Wis.
Collins, Ill.	Luken	Stokes
Conte	McClory	Studds
Conyers	McCloskey	Symington
Corman	McFall	Thone
Cotter	McKinney	Thornton
Culver	Madigan	Tiernan
Danielson	Mallary	Udall
Davis, S.C.	Mann	Ullman
de la Garza	Matsunaga	Van Deerlin
Dellenback	Meeds	Vander Veen
Dellums	Melcher	Vanik
Denholm	Mezvinsky	Waldie
Dennis	Mink	Whalen
Diggs	Moakley	Whitten
Donohue	Mollohan	Wiggins
Drinan	Moorhead, Pa.	Wilson, Charles H., Calif.
Eckhardt	Mosher	
Edwards, Calif.	Moss	Wright
Erlenborn	Murphy, Ill.	Yates
Evans, Colo.	Obey	Young, Ga.
Findley	O'Brien	Zwach
Foley	O'Hara	
Ford	O'Neill	

NOES—239

Abdnor	Casey, Tex.	Eilberg
Alexander	Cederberg	Esch
Andrews, N. Dak.	Chamberlain	Evins, Tenn.
	Chappell	Fascell
Annunzio	Clancy	Fish
Archer	Clark	Fisher
Arends	Clausen, Don H.	Flood
Ashbrook		Flowers
Bafalis	Clawson, Del	Flynt
Baker	Cleveland	Fountain
Barrett	Collins, Tex.	Frelinghuysen
Bauman	Conable	Frey
Beard	Conlan	Froehlich
Bevill	Coughlin	Fuqua
Biaggi	Crane	Gaydos
Blackburn	Cronin	Gettys
Bray	Daniel, Dan	Gilman
Breaux	Daniel, Robert W., Jr.	Ginn
Brinkley		Goldwater
Brooks	Daniels, Dominick V.	Goodling
Broomfield		Green, Oreg.
Brown, Ohio	Davis, Ga.	Gross
Broyhill, N.C.	Davis, Wis.	Grover
Broyhill, Va.	Delaney	Gunter
Burgener	Dent	Guyer
Burke, Fla.	Derwinski	Haley
Burleson, Tex.	Devine	Hammer-schmidt
Burlison, Mo.	Dorn	
Butler	Downing	Hanley
Byron	Dulski	Hanna
Camp	Duncan	Hanrahan
Carney, Ohio	du Pont	Hansen, Wash.
Carter	Edwards, Ala.	Harsha

Hastings	Milford	Shipley
Hays	Miller	Shoup
Hébert	Mills	Shriver
Heinz	Minish	Shuster
Henderson	Mitchell, Md.	Sikes
Hillis	Mitchell, N.Y.	Sisk
Hogan	Mizell	Skubitz
Holt	Montgomery	Slack
Horton	Moorhead, Calif.	Snyder
Hosmer	Morgan	Spence
Huber	Murtha	Staggers
Hudnut	Myers	Steed
Hunt	Natcher	Steele
Hutchinson	Nedzi	Steiger, Ariz.
Jarman	Nelsen	Stephens
Johnson, Calif.	Nichols	Stratton
Johnson, Pa.	Nix	Stubblefield
Jones, Ala.	Passman	Stuckey
Jones, N.C.	Patten	Sullivan
Jones, Tenn.	Perkins	Symms
Jordan	Pettis	Talcott
Karth	Peyser	Taylor, Mo.
Kazen	Pickle	Taylor, N.C.
Kemp	Pike	Teague
Ketchum	Poage	Thomson, Wis.
King	Powell, Ohio	Towell, Nev.
Kuykendall	Quillen	Treen
Lagomarsino	Randall	Veysey
Landgrebe	Rarick	Vigorito
Landrum	Regula	Waggonner
Latta	Rhodes	Walsh
Lent	Rinaldo	Wampler
Lott	Roberts	Ware
Lujan	Robinson, Va.	White
McCollister	Roe	Whitehurst
McCormack	Rogers	Widnall
McDade	Roncallo, N.Y.	Wilson, Bob
McSpadden	Rooney, Pa.	Winn
Macdonald	Rose	Wyatt
Madden	Rousselot	Wydler
Mahon	Runnels	Wylie
Maraziti	Ruth	Wyman
Martin, Nebr.	Ryan	Yatron
Martin, N.C.	Sandman	Young, Fla.
Mathias, Calif.	Satterfield	Young, S.C.
Mathis, Ga.	Scherle	Young, Tex.
Mayne	Schneebeli	Zablocki
Mazzoli	Sebelius	Zion
Michel		

ANSWERED "PRESENT"—2

Leggett	Vander Jagt

NOT VOTING—29

Brasco	Ichord	Rangel
Breckinridge	McEwen	Robison, N.Y.
Carey, N.Y.	McKay	Rooney, N.Y.
Collier	Metcalfe	Thompson, N.J.
Dickinson	Minshall, Ohio	Williams
Dingell	Murphy, N.Y.	Wilson, Charles, Tex.
Eshleman	Patman	Wolff
Fulton	Pepper	Young, Alaska
Gray	Podell	Young, Ill.
Gubser	Price, Tex.	

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. KUYKENDALL

Mr. KUYKENDALL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KUYKENDALL: Pages 19, 20, Amend subsection (b) of proposed section 1115 of the Federal Aviation Act of 1958 by placing a comma after the word "Aviation" on line 17 on page 19, striking the remainder of that line and all of lines 18–21, and inserting in lieu thereof "He" placing a period following the word "convention" on line 25, and striking the remainder of that line and the words "such resolution." on page 20.

Mr. KUYKENDALL (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

Mr. PICKLE. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. KUYKENDALL. Mr. Chairman, if I may have a colloquy with the chairman of the committee, this is a housekeeping amendment based on the fact that the Senate bill was passed early in 1973, at which time there had been some recommendations in interim standards that had been made by the International Civil Aviation Organization. Since that time these interim standards has become totally superfluous, and final standards will soon be in effect and will be statutorily dealt with by other provisions in this section.

I think the chairman of the committee will agree.

Mr. STAGGERS. Mr. Chairman, if the gentleman will yield, I certainly do agree with the ranking minority member of the committee, and we accept the amendment on this side of the aisle.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee (Mr. KUYKENDALL).

The amendment was agreed to.

Mr. STAGGERS. Mr. Chairman, I move to strike the requisite number of words, and I do so to see if we can reach some agreement on time.

I think the House is becoming restless, and perhaps we ought to set a time limit here.

Most of the important amendments have been discussed. I hope we can set a time limit. I understand there are several amendments at the desk and I do not want to reduce the time of the Members too much. Some are suggesting 20 minutes; but I would suggest that we close at 5:45.

Therefore, Mr. Chairman, I ask unanimous consent, that all debate on this bill and all amendments thereto close at 5:45.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. WIGGINS).

AMENDMENTS OFFERED BY MR. WIGGINS

Mr. WIGGINS. Mr. Chairman, I offer two amendments and ask unanimous consent that they be considered en bloc.

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

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. WIGGINS: Page 16, line 14, after the word "person", strike out "resulted" and insert "was intended by the defendant and did result".

Page 16, line 17, after the word "person", strike out "resulted" and insert "was intended by the defendant and did result.".

Mr. WIGGINS. Mr. Chairman, my two amendments deal with the problem of unintended deaths for which a defendant may be put to death himself. Several fact situations have been discussed with Members of the House previously. This legislation is overboard in that it requires the imposition of the death penalty, even though the death of the victim was not caused by any direct act of the defendant himself, and even though that consequence was unintended by him.

Now, let me set the stage for this amendment. For the death penalty to be imposed, the defendant first must be guilty of the substantive act of hijacking.

Second, a death most occur as a result of hijacking. There must be an absence of mitigating circumstances and there must be finding of aggravating circumstances. If the above are found to occur, the death penalty is mandatory.

These fact situations are called into order by my amendments:

First, let us suppose that a police officer in the course of apprehending the defendant shoots and accidentally kills a passenger in the plane. Under this legislation, I represent to the gentlemen present that a defendant could be put to death. I suggest that such a consequence is not probably the intent of this body, nor should it be our intent.

Another fact situation has been described. During emergency evacuation procedures following a skyjacking, a woman may fall and may die as a result of her emergency evacuation attempt of the airplane. The defendant may be subject to the death penalty under those circumstances. I represent to the Members that such a consequence is not what is intended.

Another fact situation is that of a skyjacker who may induce a heart attack in a passenger.

The defendant is subject to being put to death on a mandatory basis by reason of such an unintended result. My amendment only adds a few words. It says that the death must be intended by the defendant as well as result of the commission of the criminal act. The defendant must intend the consequences for which he is put to death. That clearly is what we are talking about in this legislation, and a bill which puts a man to death by reason of an unintentional and consequential death of another is not, I hope, what this House is willing to accept.

Mr. KUYKENDALL. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. Mr. Chairman, I yield to the gentleman from Tennessee.

Mr. KUYKENDALL. Mr. Chairman, if I could have the committee's attention, is it the intention of the gentleman in the well to wipe out in this case the felony murder as a first degree murder?

Mr. WIGGINS. Mr. Chairman, by analogy only that would be correct.

Mr. KUYKENDALL. In other words, normally a felony murder is a first degree murder, correct?

Mr. WIGGINS. Yes.

Mr. KUYKENDALL. And in this case, declaration that the felony murder is not in the same category as the premeditated murder?

Mr. WIGGINS. That is true, by analogy.

Mr. Chairman, I ask support of my worthwhile amendments.

Mr. STAGGERS. Mr. Chairman, I rise to oppose the amendment. Under section (E), as the Members will read in the bill, it says:

He could not reasonably have foreseen that his conduct in the course of the commission of the offense for which he was convicted would cause, or would create a grave risk of causing death to another person.

Mr. DENNIS. Mr. Chairman, I rise in support of the amendments.

Mr. Chairman, I just want to point out to the committee that in this amendment we are dealing, to begin with, with a situation where the death penalty is mandatory—no discretion. All the gentleman from California is saying is that it should not be mandatory unless the man intended to kill somebody. That is the whole proposition, and I just suggest that a Member cannot be against this kind of an amendment if he has good sense, or humanity, or any of the things most Members have got.

The CHAIRMAN. The question is on the amendments offered by the gentleman from California (Mr. WIGGINS).

The amendments were rejected.

Mr. PICKLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to address my remarks to the chairman of the committee. A section that has been added to this bill which is very important has not been commented upon, and that is title II which creates the Air Transportation Security Act of 1974. I would refer the Members to page 20 of the report. The committee report says:

No funds are provided for the screening requirements imposed by this section because the Committee feels that the current procedure, whereby a $.34 surcharge is added to each passenger ticket (Civil Aeronautics Board, Docket 25315) to cover the carrier's screening costs is working effectively.

Similarly, when we get to that portion of the bill which refers to the personnel being employed for security purposes, the report points out on page 21 that there is a 25-cent security surcharge.

The Members will remember that we had before us a couple of years ago, a bill where the administration was going to impose a $25 million or a $30 million bill, which funds were to come out of the airway and airport trust fund. It was contended that some of those funds ought to come out of the general Treasury, as well. That bill was finally laid aside.

Now, inasmuch as the CAB has actually levied a 34-cent surcharge for screening and a 25-cent surcharge for security purposes, I want to be certain that the committee is not saying to the CAB that "You may automatically raise these sums to any level you wish, without full hearings," because that is not the intent of the committee.

Mr. Chairman, I understand they have this matter under review now, according to the report. I do not want to give the CAB the license to obtain from the passengers the entire amount of money that is being used for both screening and for security purposes. That was not our intent when this bill came before the committee.

I will ask the chairman of the committee, is that correct? Is that the message the committee has given to the membership?

Mr. STAGGERS. Mr. Chairman, the point is that they could raise these prices without showing this. They have had these rates in effect, and they are doing the job quite well under these rates.

Mr. PICKLE. Mr. Chairman, it is to be expected some of this money might come from the surcharge, a small amount perhaps, and some from the general Treasury. Actually the FAA and/or the CAB contended they were spending some $3 million on this now, and I suppose that the money comes from the general Treasury. This money ought not to come solely from the user, those members of the public who use airports and who use planes, any more than it would come from those who use buses or trains or any other means of transportation.

Mr. Chairman, I want to be certain that the CAB understands that this is not an open invitation to the carriers or the operators that they can raise this surcharge to any figure they wish.

Mr. STAGGERS. That is correct, and we spell out how much shall go to the airports and also how much shall go to the airlines for training personnel.

AMENDMENT OFFERED BY MR. WHITE

Mr. WHITE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WHITE: Page 16, subsection (D), line 3, strike the balance of the sentence after the comma, and substitute in lieu thereof the words: "but took no active part in holding any weapon or explosive device or facsimilies thereof, nor placed any passenger or member of a crew under duress or confinement; or".

Mr. WHITE. Mr. Chairman, if I may have the attention of the House, I will point out that this amendment goes to the section concerning mitigating circumstances, under which the jury would not impose the death sentence.

The bill, on page 16, says that the court shall not impose the death sentence if "he was a principal—but his participation was relatively minor, although not so minor as to constitute a defense to prosecution." This means that then he would not then get the death sentence.

Mr. Chairman, this language "relatively minor" is very vague. We have just had a situation where the Supreme Court struck down a State statute because they said the sentence was imposed capriciously, in that it was not mandatory, but was discretionary with the jury.

My amendment spells out the ultimate of what is meant by "relatively minor." I will read my amendment to the Members again. It says as follows:

but took no active part in holding any weapon or explosive device or facsimiles thereof, nor placed any passenger or member of a crew under duress or confinement.

Now, are these not the elements of hijacking, and is this not spelling it out so that we do not have a problem of having this specific statute struck down because it allows too much discretion to the jury?

It may be said that a bunch of jurists have devised the language that is in the bill, but what I say to the Members is that what we want to do is to develop and include specific language that will stand up under review, and convict persons who deserve to be convicted. If a person is not holding a weapon or is not holding an explosive device, has not tied up a passenger or put him under duress in any way, then perhaps mitigation of sentence should be applied to him. But if he has held a weapon or an explosive device or tied up someone or confined them in some way, then I say that the mitigating relief should not apply. This amendment clarifies the language, "relatively minor."

Mr. STAGGERS. Mr. Chairman, I will use just 1 minute of my time in opposition to the amendment.

This makes it very restrictive in its language. It would not give the court or the jury any leeway at all. I have great faith in the courts of our land and in our jury system. I believe we have to have some leeway, and this would restrict them completely.

I oppose the amendment for that reason.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. WHITE).

The amendment was rejected.

AMENDMENT OFFERED BY MR. O'HARA

Mr. O'HARA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. O'HARA: Page 10, line 19 and on page 12, line 3, strike out "by death or by imprisonment for life," and insert "by imprisonment for life or by imprisonment for life without possibility of parole". And strike out all of section 105.

Mr. STAGGERS. I would like to ask the gentleman if he has a copy of his amendment? We have not seen it.

Mr. O'HARA. I am sorry. I do not. I just scribbled it out on an amendment form.

Mr. Chairman, it will just take a minute or two to explain the amendment.

What I do is substitute for the death penalty the penalty of "imprisonment for life without possibility of parole." The State can be justified in taking a human life only if there is no other feasible way of protecting the State or its citizens from a grave harm.

The question here is whether there is some penalty other than the death sentence, that will adequately protect society. I suggest that society would be adequately protected by the imposition of a sentence of life imprisonment without the possibility of parole. It would assure that the heinous offender could not repeat his offense and I believe it would be just as effective as a deterrent as is the death penalty.

Mr. HUTCHINSON. Will the gentleman yield?

Mr. O'HARA. I yield to the gentleman from Michigan.

Mr. HUTCHINSON. I thank the gentleman for yielding.

I would like to ask the gentleman this question: If the question of the power of pardon does not also encompass the whole system of parole and whether, if the statute says a man must be put in prison without a possibility of parole, whether that could actually be effective in view of the fact that the President of the United States has the constitutional power of pardon.

Mr. O'HARA. Under my amendment the only way in which a person sentenced to life imprisonment without the possibility of parole could be released from prison would be by Presidential pardon.

Mr. HUTCHINSON. I thank the gentleman.

Mr. STAGGERS. Mr. Chairman, I will just take a minute of my time in order to oppose the amendment.

Mr. Chairman, we voted on this matter before, and it was firmly rejected. I say this ought to be rejected, too, because we have considered about everything we can with regard to making a harsh death penalty or repealing it entirely. Again I say that the committee had the help of the Department of Justice who helped to write the legislation, and I believe the committee should be upheld and the amendment voted down.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. O'HARA).

The amendment was rejected.

The CHAIRMAN. If there are no further amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the committee rose; and the Speaker having resumed the chair (Mr. ANNUNZIO) Chairman of the Committee of the Whole House on the State of the Union, reported that that committee, having had under consideration the bill (H.R. 3858) to amend sections 101 and 902 of the Federal Aviation Act of 1958 to implement the Convention for the Suppression of Unlawful Seizure of Aircraft; to amend title XI of such act to authorize the President to suspend air service to any foreign nation which he determines is encouraging aircraft hijacking by acting in a manner inconsistent with the Convention for the Suppression of Unlawful Seizure of Aircraft; and to authorize the Secretary of Transportation to suspend the operating authority of foreign air carriers under certain circumstances pursuant to House Resolution 978, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted in the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

Mr. SCHERLE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 361, nays 47, not voting 24, as follows:

[Roll No. 87]

YEAS—361

Abdnor	Anderson, Ill.	Arends
Adams	Andrews, N.C.	Armstrong
Addabbo	Andrews, N. Dak.	Ashbrook
Alexander	Annunzio	Ashley
Anderson, Calif.	Archer	Aspin
Badillo	Fuqua	Mitchell, N.Y.
Bafalis	Gaydos	Mizell
Baker	Gettys	Mollohan
Barrett	Giaimo	Montgomery
Bauman	Gibbons	Moorhead, Calif.
Beard	Gilman	Moorhead, Pa.
Bell	Ginn	Morgan
Bennett	Goldwater	Mosher
Bergland	Gonzalez	Murphy, Ill.
Bevill	Goodling	Murtha
Biaggi	Grasso	Myers
Biester	Green, Oreg.	Natcher
Bingham	Green, Pa.	Nedzi
Blackburn	Gross	Nelsen
Blatnik	Grover	Nichols
Boggs	Gubser	Nix
Boland	Gunter	O'Brien
Bolling	Guyer	O'Hara
Bowen	Haley	O'Neill
Brademas	Hamilton	Parris
Bray	Hammer-schmidt	Passman
Breaux	Hanley	Patten
Brinkley	Hanna	Perkins
Brooks	Hanrahan	Pettis
Broomfield	Hansen, Idaho	Peyser
Brotzman	Hansen, Wash.	Pickle
Brown, Calif.	Harsha	Pike
Brown, Ohio	Hastings	Poage
Broyhill, N.C.	Hays	Powell, Ohio
Broyhill, Va.	Hébert	Preyer
Buchanan	Heckler, Mass.	Price, Ill.
Burgener	Heinz	Pritchard
Burke, Fla.	Helstoski	Quie
Burke, Mass.	Henderson	Quillen
Burleson, Tex.	Hicks	Railsback
Burlison, Mo.	Hillis	Randall
Butler	Hinshaw	Rarick
Byron	Hogan	Regula
Camp	Holifield	Reid
Carney, Ohio	Holt	Rhodes
Carter	Horton	Riegle
Casey, Tex.	Hosmer	Rinaldo
Cederberg	Howard	Roberts
Chamberlain	Huber	Robinson, Va.
Chappell	Hudnut	Rodino
Chisholm	Hungate	Roe
Clancy	Hunt	Rogers
Clark	Hutchinson	Roncalio, Wyo.
Clausen, Don H.	Ichord	Roncallo, N.Y.
Clawson, Del	Jarman	Rooney, Pa.
Cleveland	Johnson, Calif.	Rose
Cohen	Johnson, Pa.	Rosenthal
Collins, Ill.	Jones, Ala.	Rostenkowski
Collins, Tex.	Jones, N.C.	Roush
Conable	Jones, Okla.	Rousselot
Conlan	Jones, Tenn.	Roy
Conte	Jordan	Runnels
Cotter	Karth	Ruppe
Coughlin	Kazen	Ruth
Crane	Kemp	Ryan
Cronin	Ketchum	St Germain
Daniel, Dan	King	Sandman
Daniel, Robert W., Jr.	Kluczynski	Sarasin
Daniels, Dominick V.	Koch	Sarbanes
Danielson	Kuykendall	Satterfield
Davis, Ga.	Kyros	Scherle
Davis, S.C.	Lagomarsino	Schneebeli
Davis, Wis.	Landgrebe	Schroeder
de la Garza	Landrum	Sebelius
Delaney	Latta	Shipley
Denholm	Leggett	Shoup
Dent	Lehman	Shriver
Derwinski	Lent	Shuster
Devine	Litton	Sikes
Dickinson	Long, La.	Sisk
Diggs	Long, Md.	Skubitz
Dingell	Lott	Slack
Donohue	Lujan	Smith, N.Y.
Dorn	Luken	Snyder
Downing	McClory	Spence
Dulski	McCloskey	Staggers
Duncan	McCollister	Stanton, J. William
du Pont	McCormack	Stanton, James V.
Eckhardt	McDade	Steed
Edwards, Ala.	McFall	Steele
Eilberg	McKinney	Steelman
Erlenborn	McSpadden	Steiger, Ariz.
Esch	Macdonald	Stephens
Evans, Colo.	Madden	Stratton
Evins, Tenn.	Madigan	Stubblefield
Fascell	Mahon	Stuckey
Fish	Mallary	Sullivan
Fisher	Mann	Symington
Flood	Maraziti	Symms
Flowers	Martin, N.C.	Talcott
Flynt	Mathias, Calif.	Taylor, Mo.
Foley	Mathis, Ga.	Taylor, N.C.
Ford	Mayne	Teague
Forsythe	Mazzoli	Thomson, Wis.
Fountain	Meeds	Thone
Frelinghuysen	Melcher	Tiernan
Frenzel	Michel	Towell, Nev.
Frey	Milford	Treen
Froehlich	Miller	Udall
Fulton	Mills	Ullman
	Minish	Van Deerlin
		Vander Jagt
		Vander Veen
		Vanik
		Veysey
		Vigorito
		Waggonner
		Walsh
		Wampler
		Ware
		Whalen
		White
		Whitehurst
		Whitten
		Widnall
		Wilson, Bob
		Wilson, Charles H., Calif.
		Winn
		Wright
		Wyatt
		Wydler
		Wylie
		Wyman
		Yatron
		Young, Alaska
		Young, Fla.
		Young, S.C.
		Young, Tex.
		Zablocki
		Zion

NAYS—47

Abzug	Griffiths	Rees
Brown, Mich.	Gude	Reuss
Burke, Calif.	Harrington	Roybal
Burton	Hawkins	Seiberling
Clay	Hechler, W. Va.	Smith, Iowa
Cochran	Holtzman	Stark
Conyers	Johnson, Colo.	Steiger, Wis.
Corman	Kastenmeier	Stokes
Culver	Matsunaga	Studds
Dellenback	Mezvinsky	Thornton
Dellums	Mink	Waldie
Dennis	Mitchell, Md.	Wiggins
Drinan	Moakley	Yates
Edwards, Calif.	Moss	Young, Ga.
Findley	Obey	Zwach
Fraser	Owens	

NOT VOTING—24

Brasco	Metcalfe	Rooney, N.Y.
Breckinridge	Minshall, Ohio	Thompson, N.J.
Carey, N.Y.	Murphy, N.Y.	Williams
Collier	Patman	Wilson, Charles, Tex.
Eshleman	Pepper	Wolff
Gray	Podell	Young, Ill.
McEwen	Price, Tex.	
McKay	Rangel	
Martin, Nebr.	Robison, N.Y.	

So the bill was passed.

The Clerk announced the following pairs:

Mr. Rooney of New York with Mr. Patman.
Mr. Breckinridge with Mr. Metcalfe.
Mr. Rangel with Mr. Charles Wilson of Texas.
Mr. Carey of New York with Mr. Minshall of Ohio.
Mr. McKay with Mr. Martin of Nebraska.
Mr. Murphy of New York with Mr. Williams.
Mr. Thompson of New Jersey with Mr. Eshleman.
Mr. Wolff with Mr. Price of Texas.
Mr. Podell with Mr. Collier.
Mr. Gray with Mr. McEwen.
Mr. Brasco with Mr. Young of Illinois.
Mr. Pepper with Mr. Robison of New York.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to amend the Federal Aviation Act of 1958 to implement the Convention for the Suppression of Unlawful Seizure of Aircraft; to provide a more effective program to prevent aircraft piracy; and for other purposes.".

A motion to reconsider was laid on the table.

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 39) to amend the Federal Aviation Act of 1958 to provide a more effective program to prevent aircraft piracy, and for other purposes, a bill similar to H.R. 3858, just passed by the House.

The Clerk read the title of the Senate bill.

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

There was no objection?

The Clerk read the Senate bill as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—ANTIHIJACKING ACT OF 1973

SECTION 1. This title may be cited as the "Antihijacking Act of 1973".

SEC. 2. Section 101(32) of the Federal Avia-

tion Act of 1958, as amended (49 U.S.C. 1301 (32)), is amended to read as follows:

"(32) The term 'special aircraft jurisdiction of the United States' includes—

"(a) civil aircraft of the United States;

"(b) aircraft of the national defense forces of the United States;

"(c) any other aircraft within the United States;

"(d) any other aircraft outside the United States—

"(i) that has its next scheduled destination or last point of departure in the United States, if that aircraft next actually lands in the United States; or

"(ii) having 'an offense', as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft, committed aboard, if that aircraft lands in the United States with the alleged offender still aboard; and

"(e) other aircraft leased without crew to a lessee who has his principal place of business in the United States, or if none, who has his permanent residence in the United States;

while that aircraft is in flight, which is from the moment when all the external doors are closed following embarkation until the moment when one such door is opened for disembarkation, or, in the case of a forced landing, until the competent authorities take over the responsibility for the aircraft and for the persons and property aboard."

SEC. 3. Section 902 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472), is amended as follows:

(a) By striking out the words "violence and" in subsection (1)(2) thereof, and by inserting the words "violence, or by any other form of intimidation, and" in place thereof.

(b) By redesignating subsections (n) and (o) thereof as "(o)" and "(p)", respectively, and by adding the following new subsection:

"AIRCRAFT PIRACY OUTSIDE SPECIAL AIRCRAFT JURISDICTION OF THE UNITED STATES

"(n)(1) Whoever aboard an aircraft in flight outside the special aircraft jurisdiction of the United States commits 'an offense', as defined in the Convention of the Suppression of Unlawful Seizure of Aircraft, and is afterward found in the United States shall be punished by imprisonment for not less than twenty years or for more than life.

"(2) A person commits 'an offense', as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft, when, while aboard an aircraft in flight, he—

"(A) unlawfully, by force or threat thereof, or by any other form of intimidation, seizes, or exercises control of, that aircraft, or attempts to perform any such act; or

"(B) is an accomplice of a person who performs or attempts to perform any such act.

"(3) This subsection shall only be applicable if the place of takeoff or the place of actual landing of the aircraft on board which the offense as defined in paragraph 2 of this subsection is committed is situated outside the territory of the State of registration of that aircraft.

"(4) For purposes of this subsection an aircraft is considered to be in flight from the moment when all the external doors are closed following embarkation until the moment when one such door is opened for disembarkation, or in the case of a forced landing, until the competent authorities take over responsibility for the aircraft and for the persons and property aboard."

(c) By amending redesignated subsection (o) thereof by striking out the reference "(m)", and by inserting the reference "(n)" in place thereof.

SEC. 4. (a) Title XI of the Federal Aviation Act of 1958 is amended by adding a new section 1114 as follows:

"SUSPENSION OF AIR SERVICES

"SEC. 1114. (a) Whenever the President determines that a foreign nation is acting in a manner inconsistent with the Convention for the Suppression of Unlawful Seizure of Aircraft, or if he determines that a foreign nation is used as a base of operations or training or as a sanctuary or which arms, aids or abets in any way terrorist organizations which knowingly use the illegal seizure of aircraft or the threat thereof as an instrument of policy, he may, without notice or hearing and for as long as he determines necessary to assure the security of aircraft against unlawful seizure, suspend (1) the right of any air carrier and foreign air carrier to engage in foreign air transportation, and any persons to operate aircraft in foreign air commerce, to and from that foreign nation, and (2) the right of any foreign air carrier to engage in foreign air transportation, and any foreign person to operate aircraft in foreign air commerce, between the United States and any foreign nation which maintains air service between itself and that foreign nation. Notwithstanding section 1102 of this Act, the President's authority to suspend rights in this manner shall be deemed to be a condition to any certificate of public convenience and necessity or foreign air carrier or foreign aircraft permit issued by the Civil Aeronautics Board and any air carrier operating certificate or foreign air carrier operating specification issued by the Secretary of Transportation.

"(b) It shall be unlawful for any air carrier or foreign air carrier to engage in foreign air transportation, or any person to operate aircraft in foreign air commerce, in violation of the suspension of rights by the President under this section.".

(b) Title XI of the Federal Aviation Act of 1958 is amended by adding a new section 1115 as follows:

"SECURITY STANDARDS IN FOREIGN AIR TRANSPORTATION

"SEC. 1115. (a) Not later than thirty days after the date of enactment of this Act the Secretary of State shall notify each nation with which the United States has a bilateral air transport agreement or, in the absence of such agreement, each nation whose airline or airlines hold a foreign air carrier permit or permits issued pursuant to section 402 of the Federal Aviation Act of 1958, of the provisions of subsection (b) of this section.

"(b) In any case where the Secretary of Transportation, after consultation with the competent aeronautical authorities of a foreign nation with which the United States has a bilateral air transport agreement and in accordance with the provisions of that agreement or, in the absence of such agreement, of a nation whose airline or airlines hold a foreign air carrier permit or permits issued pursuant to such section 402, finds that such nation does not effectively maintain and administer security measures relating to transportation of persons or property or mail in foreign air transportation that are equal to or above the minimum standards which are established pursuant to the Convention on International Civil Aviation or, prior to a date when such standards are adopted and enter into force pursuant to such convention, the specifications and practices set out in appendix A to Resolution A17–10 of the 17th Assembly of the International Civil Aviation Organization, he shall notify that nation of such finding and the steps considered necessary to bring the security measures of that nation to standards at least equal to the minimum standards of such convention or such specifications and practices of such resolution. In the event of failure of that nation to take such steps, the Secretary of Transportation, with the approval of the Secretary of State, may withhold, revoke, or impose conditions on the operating authority of the airline or airlines of that nation."

SEC. 5. Section 901(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1471(a)) is amended by inserting the words "or section 1114" before the words "of this Act" when those words first appear in this section.

SEC. 6. Section 1007(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1487(a)) is amended by inserting the words "or, in the case of a violation of section 1114 of this Act, the Attorney General," after the words "duly authorized agents,".

SEC. 7. That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the heading

"Sec. 902. Criminal penalties.",

is amended by striking out the following items:

"(n) Investigations by Federal Bureau of Investigation.

"(o) Interference with aircraft accident investigation.";

and by inserting the following items in place thereof:

"(n) Aircraft piracy outside special aircraft jurisdiction of the United States.

"(o) Investigations by Federal Bureau of Investigation.

"(p) Interference with aircraft accident investigation.";

and that portion which appears under the heading

"TITLE XI—MISCELLANEOUS"

is amended by adding at the end thereof the following:

"Sec. 1114. Suspension of air services.

"Sec. 1115. Security standards in foreign air transportation.".

TITLE II—AIR TRANSPORTATION SECURITY ACT OF 1973

SEC. 21. This title may be cited as the "Air Transportation Security Act of 1973".

SEC. 22. The Congress hereby finds and declares that—

(1) the United States air transportation system which is vital to the citizens of the United States is threatened by acts of criminal violence and air piracy;

(2) the United States air transportation system continues to be vulnerable to violence and air piracy because of inadequate security and a continuing failure to properly identify and arrest persons attempting to violate Federal law relating to crimes against air transportation;

(3) the United States Government has the primary responsibility to guarantee and insure safety to the millions of passengers who use air transportation and intrastate air transportation and to enforce the laws of the United States relating to air transportation security; and

(4) the United States Government must establish and maintain an air transportation security program and an air transportation security-law enforcement force under the direction of the Administrator of the Federal Aviation Administration in order to adequately assure the safety of passengers in air transportation.

SEC. 23. (a) Title III of the Federal Aviation Act of 1958 is amended by adding at the end thereof the following new section:

"SCREENING OF PASSENGERS IN AIR TRANSPORTATION

"SEC. 315. (a) The Administrator shall as soon as practicable prescribe reasonable regulations requiring that all passengers and all property intended to be carried in the aircraft cabin in air transportation or intrastate air transportation be screened by weapon-detecting devices operated by employees of the air carrier, intrastate air carrier, or foreign air carrier prior to boarding the aircraft for such transportation. One year after the effective date of such regulation the Administrator may alter or amend such regulations, requiring a continuation of such screening by weapon-detecting devices only to the extent deemed necessary to assure security against acts of criminal violence and air piracy in air transportation and intrastate air transportation. The Administrator shall submit semiannual reports to

the Congress concerning the effectiveness of this screening program and shall advise the Congress of any regulations or amendments thereto to be prescribed pursuant to this subsection at least thirty days in advance of their effective date.

"(b) The Administrator shall acquire and furnish for the use by air carriers and intrastate air carriers, at domestic and foreign airports, and for foreign air carriers for use at airports within the United States, sufficient devices necessary for the purpose of subsection (a) of this section, which devices shall remain the property of the United States.

"(c) The Administrator may exempt, from provisions of this section, air transportation operations performed by air carriers operating pursuant to part 135, title 14 of the Code of Federal Regulations."

(b) Notwithstanding any other provision of law, there are authorized to be appropriated from the Airport and Airway Trust Fund established by the Airport and Airway Revenue Act of 1970 such amounts, not to exceed $5,500,000, to acquire the devices required by the amendment made by this section.

SEC. 24. Title III of the Federal Aviation Act of 1958 is further amended by adding at the end thereof the following additional new section:

"AIR TRANSPORTATION SECURITY FORCE

"POWERS AND RESPONSIBILITIES

"SEC. 316. (a) The Administrator of the Federal Aviation Administration in administering the air transportation security program shall establish and maintain an air transportation security force of sufficient size to provide a law enforcement presence and capability at airports in the United States adequate to insure the safety from criminal violence and air piracy of persons traveling in air transportation or intrastate air transportation: *Provided, however,* That notwithstanding any other provision of law to the contrary, the Administrator may not require, by regulation or otherwise, the presence at airports in the United States of State or local law enforcement personnel to assist in or support the screening of passengers and property prior to boarding, or to enforce, or to act as a deterrent against acts which are prohibited by, United States statutes other than as authorized by this subsection. He shall be empowered, and designate each employee of the force who shall be empowered, pursuant to this title, to—

"(1) detain and search any person aboard, or any person attempting to board, any aircraft in, or intended for operation in, air transportation or intrastate air transportation to determine whether such person is unlawfully carrying a dangerous weapon, explosive, or other destructive substance: *Provided, however,* That no person shall be frisked or searched unless he has been identified by a weapons detection device as a person who is reasonably likely to be carrying, unlawfully, a concealed weapon and before he has been given an opportunity to remove from his person or clothing, objects which could have evoked a positive response from the weapons detection device, and unless he consents to such search. If consent for such search is denied, such person shall be denied boarding and shall forfeit his opportunity to be transported in air transportation, intrastate air transportation, and foreign air transportation;

"(2) search or inspect any property, at any airport, which is aboard, or which is intended to be placed aboard, any aircraft in, or intended for operation in, air transportation or intrastate air transportation to determine whether such property unlawfully contains any dangerous weapon, explosive, or other destructive substance;

(3) arrest any person whom he has reasonable cause to believe has (A) violated or has attempted to violate section 902 (i), (j), (k), (l), or (m) of the Federal Aviation Act of 1958, as amended, or (B) violated, or has attempted to violate, section 32, title 18, United States Code, relating to crimes against aircraft or aircraft facilities; and

"(4) carry firearms when deemed by the Administrator to be necessary to carry out the provisions of this section,

and, at his discretion, he may deputize State and local law enforcement personnel whose services may be made available by their employers, on a cost-reimbursable basis, to exercise the authority conveyed in this subsection.

"TRAINING AND ASSISTANCE

"(b) In administering the air transportation security program, the Administrator may—

"(1) provide training for State and local law enforcement personnel whose services may be made available by their employers to assist in carrying out the air transportation security program, and

"(2) utilize the air transportation security force to furnish assistance to an airport operator, or any air carrier, intrastate air carrier, or foreign air carrier engaged in air transportation or intrastate air transportation to carry out the purposes of the air transportation security progam.

"OVERALL RESPONSIBILITY

"(c) Except as otherwise expressly provided by law, the responsibility for the administration of the air transportation security program, and security force functions specifically set forth in this section, shall be vested exclusively in the Administrator of the Federal Aviation Administration and shall not be assigned or transferred to any other department or agency."

SEC. 25. Section 1111 of the Federal Aviation Act of 1958 is amended to read as follows:

"AUTHORITY TO REFUSE TRANSPORTATION

"(a) The Administrator shall, by regulation, require any air carrier, intrastate air carrier, or foreign air carrier to refuse to transport—

"(1) any person who does not consent to a search of his person to determine whether he is unlawfully carrying a dangerous weapon, explosive, or other destructive substance as prescribed in section 316(a) of this Act, or

"(2) any property of any person who does not consent to a search or inspection of such property to determine whether it unlawfully contains a dangerous weapon, explosive, or other destructive substance.

Subject to reasonable rules and regulations prescribed by the Administrator, any such carrier may also refuse transportation of a passenger or property when, in the opinion of the carrier, such transportation would or might be inimical to safety of flight.

"(b) Any agreement for the carriage of persons or property in air transportation or intrastate air transportation by an air carrier, intrastate air carrier, or foreign air carrier for compensation or hire shall be deemed to include an agreement that such carriage shall be refused when consent to search persons or inspect such property for the purposes enumerated in subsection (a) of this section is not given."

SEC. 26. Section 902(l) of the Federal Aviation Act of 1958 is amended to read as follows:

"CARRYING WEAPONS ABOARD AIRCRAFT

"(l) (1) Whoever, while aboard, or while attempting to board, any aircraft in or intended for operation in air transportation or intrastate air transportation, has on or about his person or his property a concealed deadly or dangerous weapon, explosive, or other destructive substance, or has placed, attempted to place, or attempted to have placed aboard such aircraft any property containing a concealed deadly or dangerous weapon, explosive, or other destructive substance, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"(2) Whoever willfully and without regard for the safety of human life or with reckless disregard for the safety of human life, while aboard, or while attempting to board, any aircraft in or intended for operation in air transportation or intrastate air transportation, has on or about his person or his property a concealed deadly or dangerous weapon, explosive, or other destructive substance, or has placed, attempted to place, or attempted to have placed abroad such aircraft any property containing a concealed deadly or dangerous weapon, explosive, or other destructive substance shall be fined not more than $5,000 or imprisoned not more than five years, or both.

"(3) This subsection shall not apply to law enforcement officers of any municipal or State government, or the Federal Government, while acting within their official capacities and who are authorized or required within their official capacities, to carry arms, or to persons who may be authorized, under regulations issued by the Administrator, to carry concealed deadly or dangerous weapons in air transportation or intrastate air transportation; nor shall it apply to persons transporting weapons for hunting or other sporting activities if the presence of such weapons is publicly declared prior to the time of boarding, checked as baggage which may not be opened within the airport confines, and not transported with such person in the passenger compartment of the aircraft."

SEC. 27. To establish, administer, and maintain the air transportation security force provided in section 316 of the Federal Aviation Act of 1958, there is hereby authorized to be appropriated for fiscal years 1973 and 1974 the sum of $35,000,000.

SEC. 28. Section 101 of the Federal Aviation Act of 1958, as amended, is amended by adding after paragraph (21) the following:

"(22) 'Intrastate air carrier' means any citizen of the United States who undertakes, whether directly or indirectly or by a lease or any other arrangement, solely to engage in intrastate air transportation.

"(23) 'Intrastate air transportation' means the carriage of persons or property as a common carrier for compensation or hire, by turbojet-powered aircraft capable of carrying thirty or more persons, wholly within the same State of the United States."

and is further amended by redesignating paragraph (22) as paragraph (24) and redesignating the remaining paragraphs accordingly.

SEC. 29. That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the heading: "TITLE III—ORGANIZATION OF AGENCY AND POWERS AND DUTIES OF ADMINISTRATOR", is amended by adding at the end thereof the following:

"Sec. 315. Screening of passengers in air transportation.

"Sec. 316. Air transportation security force.
"(a) Powers and responsibilities.
"(b) Training and assistance.
"(c) Overall responsibility.".

MOTION OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. STAGGERS moves to strike out all after the enacting clause of the bill, S. 39, and insert in lieu thereof the provisions of H.R. 3858, as passed, as follows:

Strike out all after the enacting clause, and insert:

TITLE I—ANTIHIJACKING ACT OF 1974

SEC. 101. This title may be cited as the "Antihijacking Act of 1974".

SEC. 102. Section 101(32) of the Federal Act of 1958 (49 U.S.C. 1301(32)), relating to the definition of the term "special aircraft jurisdiction of the United States, is amended to read as follows:

"(32) The term 'special aircraft jurisdiction of the United States' includes—

"(a) civil aircraft of the United States;

"(b) aircraft of the national defense forces of the United States;

"(c) any other aircraft within the United States;

"(d) any other aircraft outside the United States—

"(i) that has its next scheduled destination or last point of departure in the United States, if that aircraft next actually lands in the United States; or

"(ii) having 'an offense', as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft, committed aboard, if that aircraft lands in the United States with the alleged offender still aboard; and

"(e) other aircraft leased without crew to a lessee who has his principal place of business in the United States, or if none, who has his permanent residence in the United States;

while that aircraft is in flight, which is from the moment when all external doors are closed following embarkation until the moment when one such door is opened for disembarkation or in the case of a forced landing, until the competent authorities take over the responsibility for the aircraft and for the persons and property aboard.".

SEC. 103. (a) Paragraph (2) of subsection (i) of section 902 of such Act (49 U.S.C. 1472), relating to the definition of the term "aircraft piracy", is amended by striking out "threat of force or violence and" inserting in lieu thereof "threat of force or violence or by any other form of intimidation, and".

(b) Section 902 of such Act is further amended by redesignating subsections (n) and (o) as subsections (o) and (p), respectively, and by inserting immediately after subsection (m) the following new subsection:

"AIRCRAFT PIRACY OUTSIDE SPECIAL AIRCRAFT JURISDICTION OF THE UNITED STATES

"(n)(1) Whoever aboard an aircraft in flight outside the special aircraft jurisdiction of the United States commits 'an offense', as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft, and is afterward found in the United States shall be punished—

"(A) by imprisonment for not less than twenty years; or

"(B) if the death of another person results from the commission or attempted commission of the offense, by death or by imprisonment for life.

"(2) A person commits 'an offense', as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft when, while aboard an aircraft in flight, he—

"(A) unlawfully, by force or threat thereof, or by any other form of intimidation, seizures, or exercises control of, that aircraft, or attempts to perform any such act; or

"(B) is an accomplice of a person who performs or attempts to perform any such act.

"(3) This subsection shall only be applicable if the place of takeoff or the place of actual landing of the aircraft on board which the offense, as defined in paragraph (2) of this subsection, is committed is situated outside the territory of the State of registration of that aircraft.

"(4) For purposes of this subsection an aircraft is considered to be in flight from the moment when all the external doors are closed following embarkation until the moment when one such door is opened for disembarkation, or in the case of a forced landing, until the competent authorities take over responsibility for the aircraft and for the persons and property aboard.".

(c) Subsection (o) of such section 902, as so redesignated by subsection (b) of this section, is amended by striking out "subsections (i) through (m)" and inserting in lieu thereof "subsections (i) through (n)".

SEC. 104. (a) Section 902(i)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1472 (i)(1)) is amended to read as follows:

"(1) Whoever commits or attempts to commit aircraft piracy, as herein defined, shall be punished—

"(A) by imprisonment for not less than twenty years; or

"(B) if the death of another person results from the commission or attempted commission of the offense, by death or by imprisonment for life.".

(b) Section 902(i) of such Act is further amended by adding at the end thereof the following new paragraph:

"(3) An attempt to commit aircraft piracy shall be within the special aircraft jurisdiction of the United States even though the aircraft is not in flight at the time of such attempt if the aircraft would have been within the special aircraft jurisdiction of the United States had the offense of aircraft piracy been completed.".

SEC. 105. Section 903 of the Federal Aviation Act of 1958 (49 U.S.C. 1473), relating to venue and prosecution of offenses, is amended by adding at the end thereof the following new subsection:

"PROCEDURE IN RESPECT OF PENALTY FOR AIRCRAFT PIRACY

"(c)(1)(I) A person shall be subjected to the penalty of death for any offense prohibited by section 902(i) or 902(n) of this Act only if a hearing is held in accordance with this subsection.

"(2) When a defendant is found guilty of or pleads guilty to an offense under section 902(i) or 902(n) of this Act for which one of the sentences provided is death, the judge who presided at the trial or before whom the guilty plea was entered shall conduct a separate sentencing hearing to determine the existence or nonexistence of the factors set forth in paragraphs (6) and (7), for the purpose of determining the sentence to be imposed. The hearing shall not be held if the Government stipulates that none of the aggravating factors set forth in paragraph (7) exists or that one or more of the mitigating factors set forth in paragraph (6) exists. The hearings shall be conducted—

"(A) before the jury which determined the defendant's guilt;

"(B) before a jury impaneled for the purpose of the hearing if—

"(i) the defendant was convicted upon a plea of guilty;

"(ii) the defendant was convicted after a trial before the court sitting without a jury; or

"(iii) the jury which determined the defendant's guilt has been discharged by the court for good cause; or

"(C) before the court alone, upon the motion of the defendant and with the approval of the court and of the Government.

"(3) In the sentencing hearing the court shall disclose to the defendant or his counsel all material contained in any presentence report, if one has been prepared, except such material as the court determines is required to be withheld for the protection of human life or for the protection of the national security. Any presentence information withheld from the defendant shall not be considered in determining the existence or the nonexistence of the factors set forth in paragraph (6) or (7). Any information relevant to any of the mitigating factors set forth in paragraph (6) may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials; but the admissibility of information relevant to any of the aggravating factors set forth in paragraph (7) shall be governed by the rules governing the admission of evidence at criminal trials. The Government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any of the factors set forth in paragraph (6) or (7). The burden of establishing the existence of any of the factors set forth in paragraph (7) is on the Government. The burden of establishing the existence of any of the factors set forth in paragraph (6) is on the defendant.

"(4) The jury, or if there is no jury, the court shall return a special verdict setting forth its findings as to the existence or nonexistence of each of the factors set forth in paragraph (6) and as to the existence or nonexistence of each of the factors set forth in paragraph (7).

"(5) If the jury or, if there is no jury, the court finds by a preponderance of the information that one or more of the factors set forth in paragraph (7) exists and that none of the factors set forth in paragraph (6) exists, the court shall sentence the defendant to death. If the jury or, if there is no jury, the court finds that none of the aggravating factors set forth in paragraph (7) exists, or finds that one or more of the mitigating factors set forth in paragraph (6) exists, the court shall not sentence the defendant to death but shall impose any other sentence provided for the offense for which the defendant was convicted.

"(6) The court shall not impose the sentence of death on the defendant if the jury or, if there is no jury, the court finds by a special verdict as provided in paragraph (4) that at the time of the offense—

"(A) he was under the age of eighteen;

"(B) his capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to prosecution;

"(C) he was under unusual and substantial duress, although not such duress as to constitute a defense to prosecution;

"(D) he was a principal (as defined in section 2(a) of title 18 of the United States Code) in the offense, which was committed by another, but his participation was relatively minor, although not so minor as to constitute a defense to prosecution; or

"(E) he could not reasonably have foreseen that his conduct in the course of the commission of the offense for which he was convicted would cause, or would create a grave risk of causing death to another person.

"(7) If no factor set forth in paragraph (6) is present, the court shall impose the sentence of death on the defendant if the jury or, if there is no jury, the court finds by a special verdict as provided in paragraph (4) that—

"(A) the death of another person resulted from the commission of the offense but after the defendant had seized or exercised control of the aircraft; or

"(B) the death of another person resulted from the commission or attempted commission of the offense, and—

"(i) the defendant has been convicted of another Federal or State offense (committed either before or at the time of the commission or attempted commission of the offense) for which a sentence of life imprisonment or death was imposable;

"(ii) the defendant has previously been convicted of two or more State or Federal offenses with a penalty of more than one year imprisonment (committed on different occasions before the time of the commission or attempted commission of the offense), involving the infliction of serious bodily injury upon another person;

"(iii) in the commission or attempted commission of the offense, the defendant knowingly created a grave risk of death to another person in addition to the victim of the offense or attempted offense; or

"(iv) the defendant committed or attempted to commit the offense in an especially heinous, cruel, or depraved manner.".

SEC. 106. Title XI of such Act (49 U.S.C. 1501–1513) is amended by adding at the end thereof the following new sections:

"SUSPENSION OF AIR SERVICES

"SEC. 1114. (a) Whenever the President determines that a foreign nation is acting in a manner inconsistent with the Convention for the Suppression of Unlawful Seizure of Aircraft, or if he determines that a foreign nation permits the use of territory under its jurisdiction as a base of operations or training or as a sanctuary for, or in any way arms, aids, or abets, any terrorist organization which knowingly uses the illegal seizure of aircraft or the threat thereof as an instrument of policy, he may, without notice or hearing and for as long as he determines necessary to assure the security of aircraft against unlawful seizure, suspend (1) the right of any air carrier or foreign air carrier to engage in foreign air transportation, and the right of any person to operate aircraft in foreign air commerce, to and from that foreign nation, and (2) the right of any foreign air carrier to engage in foreign air transportation, and the right of any foreign person to operate aircraft in foreign air commerce, between the United States and any foreign nation which maintains air service between itself and that foreign nation. Notwithstanding section 1102 of this Act, the President's authority to suspend rights under this section shall be deemed to be a condition to any certificate of public convenience and necessity or foreign air carrier or foreign aircraft permit issued by the Civil Aeronautics Board and any air carrier operating certificate or foreign air carrier operating specification issued by the Secretary of Transportation.

"(b) It shall be unlawful for any air carrier or foreign air carrier to engage in foreign air transportation, or for any person to operate aircraft in foreign air commerce, in violation of the suspension of rights by the President under this section.

"SECURITY STANDARDS IN FOREIGN AIR TRANSPORTATION

"SEC. 1115. (a) Not later than 30 days after the date of enactment of this section, the Secretary of State shall notify each nation with which the United States has a bilateral air transport agreement or, in the absence of such agreement, each nation whose airline or airlines hold a foreign air carrier permit or permits issued pursuant to section 402 of this Act, of the provisions of subsection (b) of this section.

"(b) In any case where the Secretary of Transportation, after consultation with the competent aeronautical authorities of a foreign nation with which the United States has a bilateral air transport agreement and in accordance with the provisions of that agreement or, in the absence of such agreement, of a nation whose airline or airlines hold a foreign air carrier permit or permits issued pursuant to section 402 of this Act, finds that such nation does not effectively maintain and administer security measures relating to transportation of persons or property or mail in foreign air transportation that are equal to or above the minimum standards which are established pursuant to the Convention on International Civil Aviation, he shall notify that nation of such finding and the steps considered necessary to bring the security measures of that nation to standards at least equal to the minimum standards of such convention. In the event of failure of that nation to take such steps, the Secretary of Transportation, with the approval of the Secretary of State, may withhold, revoke, or impose conditions on the operating authority of the airline or airlines of that nation.".

SEC. 107. The first sentence of section 901 (a)(1) of such Act (49 U.S.C. 1471(a)(1)), relating to civil penalties, is amended by inserting ", or of section 1114," immediately before "of this Act".

SEC. 108. Subsection (a) of section 1007 of such Act (49 U.S.C. 1487), relating to judicial enforcement, is amended by inserting "or, in the case of a violation of section 1114 of this Act, the Attorney General," immediately after "duly authorized agents,".

SEC. 109. (a) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 902. Criminal penalties."

is amended by striking out—

"(n) Investigations by Federal Bureau of Investigation.

"(o) Interference with aircraft accident investigation."

and inserting in lieu thereof—

"(n) Aircraft piracy outside special aircraft jurisdiction of the United States.

"(o) Investigations by Federal Bureau of Investigation.

"(p) Interference with aircraft accident investigation.".

(b) That portion of such table of contents which appears under the side heading

"Sec. 903. Venue and prosecution of offenses."

is amended by adding at the end thereof the following new item:

"(c) Procedure in respect of penalty for aircraft piracy.".

(c) That portion of such table of contents which appears under the center heading "TITLE XI—MISCELLANEOUS" is amended by adding at the end thereof the following new items:

"Sec. 1114. Suspension of air services.

"Sec. 1115. Security standards in foreign air transportation.".

TITLE II—AIR TRANSPORTATION SECURITY ACT OF 1974

SEC. 201. This title may be cited as the "Air Transportation Security Act of 1974".

SEC. 202. Title III of the Federal Aviation Act of 1958 (49 U.S.C. 1341–1355), relating to organization of the Federal Aviation Administration and the powers and duties of the Administrator, is amended by adding at the end thereof the following new sections:

"SCREENING OF PASSENGERS

"PROCEDURES AND FACILITIES

"SEC. 315. (a) The Administrator shall prescribe or continue in effect reasonable regulations requiring that all passengers and all property intended to be carried in the aircraft cabin in air transportation or intrastate air transportation be screened by weapon-detecting procedures of facilities employed or operated by employees of the air carrier, intrastate air carrier, or foreign air carrier prior to boarding the aircraft for such transportation. Such regulations shall include such provisions as the Administrator may deem necessary to assure that persons traveling in air transportation or intrastate air transportation will receive courteous and efficient treatment in connection with the administration of any provision of this Act involving the screening of presons and property to assure safety in air transportation or intrastate air transportation. One year after the date of enactment of this section or after the effective date of such regulations, whichever is later, the Administrator may alter or amend such regulations, requiring a continuation of such screening only to the extent deemed necessary to assure security against acts of criminal violence and aircraft piracy in air transportation and intrastate air transportation. The Administrator shall submit semiannual reports to the Congress concerning the effectiveness of screening procedures under this subsection and shall advise the Congress of any regulations or amendments thereto to be prescribed pursuant to this subsection at least thirty days in advance of their effective date, unless he determines that an emergency exists which requires that such regulations or amendments take effect in less than thirty days and notifies the Congress of his determination. Notwithstanding any other provision of law, the memorandum of the Federal Aviation Administrator, dated March 29, 1973, regarding the use of X-ray systems in airport terminal areas, shall remain in full force and effect until modified, terminated, superseded, set aside, or repealed after the date of enactment of this section by the Administrator.

"EXEMPTION AUTHORITY

"(b) The Administrator may exempt, in whole or in part, air transportation operations, other than those scheduled passenger operations performed by air carriers engaging in interstate, overseas, or foreign air transportation under a certificate of public convenience and necessity issued by the Civil Aeronautics Board under section 401 of this Act, from the provisions of this section.

"AIR TRANSPORTATION SECURITY

"RULES AND REGULATIONS

"SEC. 316. (a)(1) The Administrator of the Federal Aviation Administration shall prescribe such reasonable rules and regulations requiring such practices, methods, and procedures, or governing the design, materials, and construction of aircraft, as he may deem necessary to protect persons and property aboard aircraft operating in air transportation or intrastate air transportation against acts of criminal violence and aircraft piracy.

"(2) In prescribing and amending rules and regulations under paragraph (1) of this subsection, the Administrator shall—

"(A) consult with the Secretary of Transportation, the Attorney General, and such other Federal, State, and local agencies as he may deem appropriate;

"(B) consider whether any proposed rule or regulation is consistent with protection of passengers in air transportation or intrastate air transportation against acts of criminal violence and aircraft piracy and the public interest in the promotion of air transportation and intrastate air transportation;

"(C) to the maximum extent practicable, require uniform procedures for the inspection, detention, and search of persons and property in air transportation and intrastate air transportation to assure their safety and to assure that they will receive courteous and efficient treatment, by air carriers, their agents and employees, and by Federal, State, and local law enforcement personnel engaged in carrying out any air transportation security program established under this section; and

"(D) consider the extent to which any proposed rule or regulation will contribute to carrying out the purposes of this section.

"PERSONNEL

"(b) Regulations prescribed under section (a) of this section shall require operators of airports regularly serving air carriers certificated by the Civil Aeronautics Board to establish air transportation security programs providing a law enforcement presence and capability at such airports adequate to insure the safety of persons traveling in air transportation of intrastate air transportation from acts of criminal violence and aircraft piracy. Such regulations shall authorize such airport operators to utilize the services of qualified State, local, and private law enforcement personnel whose services are made available by their employers on a cost reimbursable basis. In any case in which the Administrator determines, after receipt of notification from an airport operator in such form as the Administrator may prescribe, that qualified State, local, and private law enforcement personnel are not available in sufficient numbers to carry out the provisions of subsection (a) of this section, the Administrator may, by order, authorize such airport operator to utilize, on a reimbursable basis, the services of—

"(1) personnel employed by any other Federal department or agency, with the consent of the head of such department or agency; and

"(2) personnel employed directly by the Administrator;

at the airport concerned in such numbers and for such period of time as the Administrator may deem necessary to supplement such State, local, and private law enforcement personnel. In making the determination referred to in the preceding sentence the Administrator shall take into consideration—

"(A) the number of passengers enplaned at such airport;

"(B) the extent of anticipated risk of criminal violence and aircraft piracy at such airport or to the air carrier aircraft operations at such airport; and

"(C) the availability at such airport of qualified State or local law enforcement personnel.

"TRAINING

"(c) The Administrator shall provide training for personnel employed by him to carry out any air transportation security program established under this section and for other personnel, including State, local, and private law enforcement personnel, whose services may be utilized in carrying out any such air transportation security program. The Administrator shall prescribe uniform standards with respect to training required to be provided personnel whose services are utilized to enforce any such air transportation security program, including State, local, and private law enforcement personnel, and uniform standards will respect to minimum qualifications for personnel eligible to receive such training.

"RESEARCH AND DEVELOPMENT; CONFIDENTIAL INFORMATION

"(d)(1) The Administrator shall conduct such research (including behavioral research) and development as he may deem appropriate to develop, modify, test, and evaluate systems, procedures, facilities, and devices to protect persons and property aboard aircraft in air transportation or intrastate air transportation against acts of criminal violence and aircraft piracy. Contracts may be entered into under this subsection without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5) or any other provision of law requiring advertising, and without regard to section 3643 of the Revised Statutes of the United States (31 U.S.C. 529), relating to advances of public money.

"(2) Notwithstanding section 552 of title 5, United States Code, relating to freedom of information, the Administrator shall prescribe such regulations as he may deem necessary to prohibit disclosure of any information obtained or developed in the conduct of research and development activities under this subsection if, in the opinion of the Administrator, the disclosure of such information—

"(A) would constitute an unwarranted invasion of personal privacy (including, but not limited to, information contained in any personnel, medical, or similar file);

"(B) would reveal trade secrets or privileged or confidential commercial or financial information obtained from any person; or

"(C) would be detrimental to the safety of persons traveling in air transportation. Nothing in this subsection shall be construed to authorize the withholding of information from the duly authorized committees of the Congress.

"OVERALL FEDERAL RESPONSIBILITY

"(e)(1) Except as otherwise specifically provided by law, no power, function, or duty of the Administrator of the Federal Aviation Administration under this section shall be assigned or transferred to any other Federal department or agency.

"(2) Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration shall have exclusive responsibility for the direction of any law enforcement activity affecting the safety of persons aboard aircraft involved in the commission of an offense under section 901(i) and 902(n) of this Act. Other Federal departments and agencies shall, upon request by the Administrator, provide such assistance as may be necessary to carry out the purposes of this paragraph.

"DEFINITION

"(f) For the purposes of this section, the term 'law enforcement personnel' means individuals—

"(1) authorized to carry and use firearms,

"(2) vested with such police power of arrest as the Administrator deems necessary to carry out this section, and

"(3) identifiable by appropriate indicia of authority.".

SEC. 203. Section 1111 of the Federal Aviation Act of 1958 (49 U.S.C. 1511), relating to authority to refuse transportation, is amended to read as follows:

"AUTHORITY TO REFUSE TRANSPORTATION

"SEC. 1111. (a) The Administrator shall, by regulation, require any air carrier, intrastate air carrier, or foreign air carrier to refuse to transport—

"(1) any person who does not consent to a search of his person, as prescribed in section 315(a) of this Act, to determine whether he is unlawfully carrying a dangerous weapon, explosive, or other destructive substance, or

"(2) any property of any person who does not consent to a search or inspection of such property to determine whether it unlawfully contains a dangerous weapon, explosive, or other destructive substance.

Subject to reasonable rules and regulations prescribed by the Administrator, any such carrier may also refuse transportation of a passenger or property when, in the opinion of the carrier, such transportation would or might be inimical to safety of flight.

"(b) Any agreement for the carriage of persons or property in air transportation or intrastate air transportation by an air carrier, intrastate air carrier, or foreign air carrier for compensation or hire shall be deemed to include an agreement that such carriage shall be refused when consent to search such persons or inspect such property for the purposes enumerated in subsection (a) of this section is not given.".

SEC. 204. Title XI of the Federal Aviation Act of 1958 (49 U.S.C. 1501–1513) is amended by adding at the end thereof the following new section:

"LIABILITY FOR CERTAIN PROPERTY

"SEC. 1116. The Civil Aeronautics Board shall issue such regulations or orders as may be necessary to require that any air carrier receiving for transportation as baggage any property of a person traveling in air transportation, which property cannot lawfully be carried by such person in the aircraft cabin by reason of section 902(1) of this Act, must make available to such person, at a reasonable charge, a policy of insurance conditioned to pay, within the amount of such insurance, amounts for which such air carrier may become liable for the full actual loss or damage to such property caused by such air carrier.".

SEC. 205. Section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301), relating to definitions, is amended by redesignating paragraphs (22) through (36) as paragraphs (24) through (38), respectively, and by inserting immediately after paragraph (21) the following new paragraphs:

"(22) 'Intrastate air carrier' means any citizen of the United States who undertakes, whether directly or indirectly or by a lease or any other arrangement, to engage solely in intrastate air transportation.

"(23) 'Intrastate air transportation' means the carriage of persons or property as a common carrier for compensation or hire, by turbojet-powered aircraft capable of carrying thirty or more persons, wholly within the same State of the United States.".

SEC. 206. (a) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the center heading: "TITLE III—ORGANIZATION OF AGENCY AND POWERS AND DUTIES OF ADMINISTRATOR" is amended by adding at the end thereof the following new items:

"Sec. 315. Screening of passengers in air transportation.
"(a) Procedures and facilities.
"(b) Exemption authority.
"Sec. 316. Air transportation security.
"(a) Rules and regulations.
"(b) Personnel.
"(c) Training.
"(d) Research and development; confidential information.
"(e) Overall Federal responsibility.
"(f) Definition.

(b) That portion of such table of contents which appears under the center heading "TITLE XI—MISCELLANEOUS" is amended by adding at the end thereof the following new item:

"Sec. 1116. Liability for certain property.".

Amend the title so as to read: "An Act to amend the Federal Aviation Act of 1958 to implement the Convention for the Suppression of Unlawful Seizure of Aircraft; to provide a more effective program to prevent aircraft piracy; and for other purposes."

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to amend the Federal Aviation Act of 1958 to implement the Convention for the Suppression of Unlawful Seizure of Aircraft; to provide a more effective program to prevent aircraft piracy; and for other purposes.".

A motion to reconsider the bill was laid on the table.

A similar House bill (H.R. 3858) was laid on the table.

GENERAL LEAVE

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

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

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested.

S. Con. Res. 75. Concurrent resolution providing for an adjournment of the Senate from March 13, 1974, until March 19, 1974.

ELECTION OF MEMBERS TO STANDING COMMITTEES OF THE HOUSE

Mr. O'NEILL. Mr. Speaker, on behalf of the gentleman from Arkansas (Mr. MILLS) I offer a privileged resolution (H. Res. 980) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 980

Resolved, That the following-named Members be, and they are hereby, elected to the following standing committees of the House of Representatives:

Committee on Armed Services: John P. Murtha, of Pennsylvania;

Committee on Interstate and Foreign Commerce: Thomas A. Luken, of Ohio;

Committee on Public Works: Richard F. Vander Veen, of Michigan.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ADJOURNMENT OF THE SENATE FROM MARCH 13 THROUGH MARCH 19, 1974

The SPEAKER laid before the House the Senate concurrent resolution (S. Con. Res. 75) providing for an adjournment of the Senate from Wednesday, March 13, 1974, to Tuesday, March 19, 1974.

The Clerk read the Senate concurrent resolution as follows:

S. CON. RES. 75

Resolved by the Senate (the House of Representatives concurring), That when the Senate completes its busines today, Wednesday, March 13, 1974, it stand adjourned until noon, Tuesday, March 19, 1974.

PARLIAMENTARY INQUIRY

Mr. GROSS. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. GROSS. Mr. Speaker, does this require unanimous consent for consideration of this resolution?

The SPEAKER. It is a privileged resolution.

Mr. GROSS. Mr. Speaker, what is the import of the resolution?

The SPEAKER. It is an adjournment resolution enacted by the Senate, for the Senate only, until Tuesday next. The Senate is asking the consent of the House.

Mr. GROSS. This is a recess resolution?

The SPEAKER. For the Senate.

Mr. GROSS. Is it subject to amendment, Mr. Speaker?

The SPEAKER. It is a privileged resolution.

Mr. GROSS. Mr. Speaker, I would be constrained to make it a sine die adjournment for the other body.

The SPEAKER. The Chair feels that that is not germane.

Mr. GROSS. It would be germane?

The SPEAKER. The Chair is not sure if that would be ruled germane.

Mr. GROSS. I thank the Speaker.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

WHAT DECLINE IN AFDC?

(Mrs. GRIFFITHS asked and was given permission to address the House for 1 minute to revise and extend her remarks and include extraneous matter.)

Mrs. GRIFFITHS. Mr. Speaker, last week, HEW Secretary Weinberger announced in a press release that the number of persons receiving aid for families with dependent children (AFDC) decreased by 335,000 since March 1973. He predicted that December 1973 data, when available, would show the first annual decline in the rolls in at least 15 years; and he attributed the reduction largely to Federal and State efforts begun in early 1973 to close loopholes and reduce errors in eligibility and payment.

I am not disparaging efforts to improve the administration of the AFDC program. Certainly there is much room for improvement. But I question whether improved management efficiency is a primary cause of this year's reduction. I question this because the Secretary gave the press only those figures that suited his explanation. He did not mention, for instance, that the number of families receiving AFDC increased somewhat—1.1 percent—from November 1972 to November 1973. This is a big change from the dramatic increases in previous years, but it cannot yet be called a decrease. Since the number of persons receiving AFDC declined by 2 percent during this time, it is evident that the decline reflects a decrease in average family size. There has been no decrease in the number of parents or other relatives receiving assistance for children in their care.

Neither did Secretary Weinberger mention the decline since March 1973 in the number of families with unemployed fathers receiving AFDC. And he did not provide the press with data that would give them a clue that a large part of the overall decrease is explained simply by a decline in this relatively small but distinct segment of the AFDC program. The facts are that the number of persons in families with unemployed fathers decreased by 191,000 between March and November 1973, accounting for more than half of the total decrease in AFDC numbers since March. To some extent the smaller proportion of welfare families with an unemployed father also accounts for the drop in average family size. Such families usually have both parents in the home, and they have more children, on the average, than the broken families which dominate AFDC enrollment.

When the unemployed father segment is subtracted from the overall AFDC program, it is seen that the number of families in the regular caseload increased by 2.2 percent in the past year, and the number of persons decreased by less than 1 percent. This relatively low rate of increase continues a trend of declining rates of increase that commenced in 1971, long befoe HEW's new program to reduce errors and fraud. In 1970, the AFDC caseload increased by 36 percent, but in 1971 by only 14 percent, and by 7 percent in 1972. How does HEW explain this sharp reduction in program growth which preceded their tightened rules on deciding eligibility? There is a good explanation, provided by analysts outside of HEW. The fact is that by 1970 the rate of participation of potentially eligible families had increased so that few families remained to be added to welfare.

In a sophisticated analysis in which census data was compared to State eligibility income levels, Barbara Boland of the Urban Institute found that in 1967 only 63 percent of eligible families headed by a woman actually received AFDC assistance. By 1970, this participation rate had increased to 91 percent nationally, and in some areas, such as the west coast, was close to 100 percent. In this period the AFDC rolls doubled. If eligible male-headed families are included, the participation rate increased from 56 to 78 percent during this time. Mrs. Boland found that the population of eligible families also increased during this period, partly because of some increase in the number of female-headed families in the population, but largely because most States raised their eligibility income levels during this time. States have not raised their eligibility income levels so much since 1970, so the pool of eligible families would not have continued to increase as much as before for this reason. Thus, since most eligible families already were in the program, the rate of increase had to decline, and this has occurred each year since the peak increase of 1970.

There is an additional explanation for the decrease in the number of families with unemployed fathers between March and November 1973. This segment of AFDC is much more subject to seasonal fluctuations than the rest of the program. HEW's published data shows that in both 1971 and 1972, this segment reached its highest point in March and its low point in October or November. The decline was 27 percent in 1971, 20 percent in 1972, and 32 percent in 1973. The number of recipients in these families in November 1973 was the lowest since 1970. The unemployment rate in October 1973 was also the lowest since 1970. It seems reasonable to expect that the rising unemployment rates since October 1973 could result in a more than normal increase of recipients in the unemployed father segment in 1974. If that happens, you can be sure that HEW will not explain it by saying they are again doing a poor job of eligibility determination.

Another factor which may have reduced the number of AFDC recipients last fall was the effort in some States, particularly New York, to transfer incapacitated people on AFDC to the disability assistance program. These transfers were made in anticipation of a new Federal program for the aged, blind, and disabled that went into effect in January 1974.

It is no wonder that this administration has credibility problems. What we need from HEW is not limited data used for propaganda. Congress—and the public—cannot make informed decisions if we do not have more complete information and an honest evaluation of this complex program.

"VOICE OF DEMOCRACY" CONTEST WINNER

(Mr. WHITTEN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. WHITTEN. Mr. Speaker, each year the Veterans of Foreign Wars and its Ladies Auxiliary sponsors a "Voice of Democracy" contest in the secondary schools across the Nation.

I take much pride in the fact that the winner of the statewide competition in Mississippi is a young lady from my con-

gressional district, Miss Chrysanthia A. Mathis, and was our entry in the National Contest, where she made a fine showing. Christy is the daughter of Mr. and Mrs. John T. Mathis of Tupelo, Miss., and a senior at Tupelo High School.

At this time when our Nation, its government, and entire political process is under criticism from within and abroad, I feel it is particularly fitting to call to the attention of my colleagues Christy's expressions, which we all need to take to heart.

Mr. Speaker, I am highly honored indeed to present Christy's speech entitled, "I Am Proud To Be an American," for the RECORD, for to such fine youngsters we can trust the future direction of our Nation.

Christy has my congratulations and best wishes during the years ahead.

I AM PROUD TO BE AN AMERICAN

(By Miss Chrysanthia A. Mathis)

In 1776, in a land called America, a new nation was painfully being born. The people of that baby nation gave a lot of things that could never be returned to them. They gave their time; they gave their blood; they gave the most priceless possession men can offer: their lives. And they gave them willingly. Like Nathan Hale, who was executed by the British in the Revolutionary War, they gave their all. They wouldn't be there to share in the glory of a war well-fought and won. They would never know the sheer joy of the freedoms and privileges for which they had died. So why did they do it? These patriots didn't give their lives just because they felt it was their responsibility; they gave their lives out of love for their United States of America. And they were proud to be called Americans.

As a young citizen of the United States today, my life has not been required of me. I can feel safe, without the fear of being executed for treason against a mother country. Precious human rights have been handed to me on a silver platter. And I am also proud to be an American.

But, you know, there isn't any reason why I shouldn't love my country just as much as these people did. I feel that this is my greatest responsibility as an American citizen: to love my country. And out of this love springs a desire to fulfill my many responsibilities as a citizen.

I choose to obey my country's laws, because I value my freedom highly. For without laws, there can be no government.

And where there is no government, there is no freedom. And if a change is needed, I have the responsibility to help that change come about. There are many things I can do without making a career of politics. For example: writing letters to my Congressmen, or just by word-of-mouth.

In less than a year, I will be qualified to vote, and I fully intend to do so. It is also my responsibility to learn just as much as I possibly can about my government and its leaders.

If I were called to serve my country full-time for a few years, I would consider it my duty to do so. And whatever I have to give, it can be no more than what certain other Americans have had to give.

A seldom-talked-about responsibility of United States citizens is one that is essential. I must believe in America and Americans. I believe in my fellow countrymen, and I know that no matter how great the crisis, Americans will overcome, as long as God is with us.

"One nation under God." The patriots knew what they were doing when they dedicated this nation to Him. For without God, this nation would never have risen. Without Him, it can only fall. But if we put our trust in Him, and our country in His able hands, we will be the great nation He intended for us to be.

There are many more responsibilities I have not mentioned. To think of fulfilling them all, we might become discouraged, thinking it's just too much. But if we fulfill that one greatest responsibility to our country, to love it, then all these other things will be—not from a sense of responsibility, but from a sense of pride, and joy, and love.

I love my country; and I love God. And I am proud to be an American.

INTRODUCTION OF LEGISLATION TO EQUALIZE GASOLINE ALLOCATIONS

(Mr. BADILLO asked and was given permission to address the House for 1 minute, to revise, and extend his remarks and include extraneous matter.)

Mr. BADILLO. Mr. Speaker, I am today introducing legislation designed to put the nationwide distribution of gasoline supplies to the States on a more equitable basis.

For the past few months the Federal Energy Office has been allocating gas among the States on what amounts to an ad hoc basis, shifting supplies around the country in response to hardships called to its attention. Under this system, if it can be called that, there has been considerable imbalance in the supplies received. In February, for example, one State received only 61 percent of what its base period consumption entitled it to while others received more gas than they used in the corresponding month of 1972.

FEO has announced the allocations for March, and though there is improvement, some States will still receive only 85 percent of their entitlement while eight States will get 100 percent or more of their allotment. New York, New Jersey, Pennsylvania, Massachusetts, Florida, Louisiana, Delaware, and Rhode Island are actually slated to get less gasoline on a daily basis than they did in February despite the fact that national gasoline inventories are higher than they were a year ago.

I am not accusing FEO of deliberate discrimination. Energy Chief Simon acknowledged the problem on February 19 when he said that:

Some States have gotten more than the national average, and others less, and we're going to continue to work with these figures to make sure that all States are bearing the brunt of this thing equitably.

I believe that we should put that equity into the law. My bill amends the Emergency Petroleum Allocation Act of 1973 to require that no State in any month receives more than 4 percent of its entitlement above what any other State receives. I realize that it would be virtually impossible to equalize apportionments to each State precisely. But legislation like this should spur FEO to greater efforts to achieve fairness, and it seems to me that the target range is a realistic one.

To insure continued public support for any conservation program, it is critical that people know that they are being treated fairly and not being required to sacrifice more than people in other parts of the country. My bill is an attempt to reduce the inequities in the present informal system of shifting gasoline supplies between the various States. It is intended to provide a guarantee that the Government does not intend to tolerate long lines for limited purchases in one State while rivers in another experience no inconvenience in obtaining gas. Simple justice requires that we move as rapidly as possible to narrow the gap in shortfalls from one State to another.

The bill is as follows:

A bill to amend the Emergency Petroleum Allocation Act of 1973 to assure more equitable distribution of gasoline supplies on a State-by-State basis.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by inserting at the end thereof the following new subsection:

"(h) To the greatest extent practicable, the President shall exercise his authority under the Emergency Petroleum Allocation Act of 1973 and any other law which authorizes him to allocate gasoline within the United States, so as to assure that the percentage of base period supply for any State for any calendar month does not exceed the percentage of base period supply for any other State for such month by more than 4 percentage points. For purposes of this subsection, the term "percentage of base period supply" with respect to a State for a calendar month means the aggregate amount allocated of gasoline for use in such State for a calendar month as a percentage of the aggregate amounts of gasoline supplied for use in such State during the corresponding month of 1972."

MILITARY REDUCTIONS IN FORCE AND ITS EFFECT ON CAREER ENLISTED

(Mr. DOWNING asked and was given permission to address the House for 1 minute to revise and extend his remarks and include extraneous matter.)

Mr. DOWNING. Mr. Speaker, I am privileged to introduce legislation that will, if enacted, correct an injustice that exists in the Federal laws. This measure will at long last provide severance pay for Regular enlisted members of the U.S. Armed Forces.

A review of statutes pursuant to Federal employment indicates that Congress has seen fit, and rightfully so, to enact legislation that offers varied payments, severance and readjustment, to Government employees, railroad workers, and to most of the active duty military, including reservists and guardsmen.

Unfortunately, we have overlooked the men and women of the Regular enlisted components in the Army, Marine Corps, Navy, Air Force, and Coast Guard.

Under title 10, United States Code, all Regular commissioned and warrant officers past their third year of active service are entitled to severance pay equal to an amount not to exceed 1 year of their basic pay if they are dismissed from the service honorably. Reserve officers and even Reserve enlisted members having a minimum of 5 years of active service are entitled to readjustment pay not to exceed $15,000 if they are returned to an inactive status. Temporary commissioned officers and Army and Air Force members without component are entitled to readjustment pay, and the former group may reenlist as a Regular enlisted mem-

ber and receive a reenlistment bonus on top of the readjustment pay.

I might add that a commissioned or warrant officer may be removed from active duty for cause; that is, substandard performance of duty, moral turpitude, and other. But if he or she is entitled to an honorable discharge, severance or readjustment payments may be made under the law.

It is not the intent of this remark to demean the officer corps because they have this advantage over the enlisted corps. We are all aware that these men and women have served their country in war and peace. They deserve the support of a grateful Nation. Should we hand them their walking papers, our system of government provides them with some financial aid for readjustment in the civilian communities.

On the other hand, the Armed Forces, because of a congressional edict to reduce forces, release thousands of noncommissioned and petty officers and offer them not 1 cent for their service to the United States. We have done this following World War II, the Korean conflict, and now the Vietnam conflict—without sympathy, without concern and without offering them anymore than their normal pay up to the date of their discharge.

There is one group, however, that is concerned, the Non-Commissioned Officers Association of the United States of America—NCOA. They brought this inequity to my attention, and I in turn to my colleagues in the Congress. It is time to act now, and I have urged my colleagues in the House to properly and gratefully acknowledge the contributions of our noncommissioned officers and petty officers by passing this legislation at the earliest.

NATIONAL HEALTH AND ENVIRONMENTAL LAW PROGRAM

(Mr. CRANE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. CRANE. Mr. Speaker, there is no substitute for prudence and common sense. That sounds trite, but applied to the situation of legal services-funded activities, it is a novel idea.

There is an information clearinghouse known as the National Health and Environmental Law Program. The sole function of this project is to involve itself in legal matters concerning health law and the environment. That is a very generally worded statement, and one would naturally expect the areas of involvement to be limited: Say, to medicare and medicaid matters, perhaps to concern with something as obvious a health threat as rodent infestation or improper garbage removal, maybe even health programs in the schools or communities. I remind you that OEO legal services funds are antipoverty funds. They are not Health, Education, and Welfare funds.

Health, Education, and Welfare spends millions, if not more, on health and its related areas, just as there are numbers of Federal, State, local, and private organizations concerning themselves with the environment. Such duplication of effort makes the existence of a supposedly antipoverty effort on health and the environment almost supernumerary, unless specifically applied to the needs of the poor.

What does the health and environmental law project involve itself with? Prison health, abortions, sterilizations—as if those were the greatest concerns of the poor. And until recently, the position of this administration was to discourage agitation for and performance of abortions. Yet OEO's grantees blithely continued such activities.

An interoffice memo from the Office of Economic Opportunity details some of the uses which the National Health and Environmental Law Program was using its funds for. This memo is dated September 29, 1972. I think it is still important, because the health law program, and others like it, will be guaranteed funding under the legal services corporation bill as passed by the Senate.

Any legal services bill passed by this Chamber must make sure that automatic refunding of problem grantees will be eliminated, and judgmental, case-by-case procedures of refunding set up instead.

OFFICE OF ECONOMIC OPPORTUNITY,
Washington, D.C., September 29, 1972.

Memorandum for Ted Tetzlaff, Acting Associate Director, Office of Legal Services.
From: J. Alan Mackay, Director, Program Analysis and Policy, Development Division, OPR.
Subject: National Health & Environmental Law Program Grant.

My staff has reviewed the above captioned grant. We recommend that the work program embodied in the NHELP Proposal for Refunding be modified (i) to delete activities relating to prison health (ii) to delete activities relating to the environment, and further (iii) to delete authorized activities relating to abortion and sterilizaton. We also have concern over the composition of the policy advisory board.

Prison Health. The improvement of health care and services for the benefit of any individuals or group thereof is commendable. In making determinations, however, with respect to where a small amount of available dollars ought to be expended, it is questionable to provide services for the benefit of those who (by definition of the act which they committed having been a voluntary one) are voluntarily incarcerated, before those who are involuntarily poor.

Environment. The improvement of our nation's environment is a worthwhile goal. Numerous Federal, state, and local agencies, and a plethora of private organizations, are deeply involved in this issue, including the preparation of remedial legislation and regulations. There can also be little doubt but that the environment relates directly to matters of health.

Nonetheless, we question the use of OEO anti-poverty dollars for involvement in environmental activities. Because of heavy involvement by other governmental and private agencies, it should be regarded as a peripheral activity of the legal services program, one not to be engaged in when other activities should have higher priority.

We recommend that the funds being used presently for the environmental component of this grant be diverted fully to other health matters.

Abortion and Sterilization. It is clear policy that Federal funds are not to be expended for therapeutic abortions and sterilizations, even if voluntarily agreed to by the patient. This policy, expressed by the President, has found expression in OEO regulations which proscribe the use of program dollars for therapeutic abortions. As an outgrowth of this same basic policy, and as a clarification of OEO's posture, no legal services program dollars (from the same Treasury as health affairs dollars) should be used to provide assistance, counsel, and other forms of legal services to facilitate abortion and sterilization.

We note the intent to use program dollars to lobby, an activity authorized by Item R-Legislation. We feel, as we have expressed with respect to grant after grant, that the use of Federal dollars to promote legislative activity is improper.

We are also deeply concerned about the presence of Michael Tiger on the policy advisory board of the grantee, who as he has long been associated with extreme-left wing activities, inasmuch as this may reflect the make-up of this board. We recommend that steps be taken at once to insure that the board is comprised of responsible individuals who are more accountable to the present Administration and leadership of this agency.

AMENDMENTS TO H.R. 69

(Mr. LANDGREBE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. LANDGREBE. Mr. Speaker, the following amendments to H.R. 69, as reported, may be offered by myself or other Members when that bill is read for amendments:

Amendment in the nature of a substitute to H.R. 69, as reported:

Page 25, strike out line 22 and all that follows through page 141, line 24, and insert in lieu thereof the following:

That this Act may be cited as the "Freer Schools Act of 1974".

SEC. 2. Section 102 of title I of the Elementary and Secondary Education Act of 1965 is amended by striking out "1973" and inserting in lieu thereof "1977".

(b) Section 143(a)(1) of title I of such Act is amended by adding at the end thereof the following new sentence: "There is authorized to be appropriated to carry out this title, not to exceed $1,810,000,000 for the fiscal year ending June 30, 1974, $1,357,500,000 for the fiscal year ending June 30, 1975, $905,000,000 for the fiscal year ending June 30, 1976, and $452,500,000 for the fiscal year ending June 30, 1977."

SEC. 3. Section 141(a)(1)(A) of title I of the Elementary and Secondary Education Act of 1965 is amended to read as follows: "(A) which are designed to improve the basic cognitive skills (particularly in reading and mathematics or reading readiness and mathematics readiness) of students who have a marked deficiency in such skills and".

SEC. 4. Section 303(b) of the Elementary and Secondary Education Act of 1965 is amended by inserting after "section 301 shall" the following: ", subject to subsection (d),".

(b) Section 303 of such Act is further amended by adding at the end thereof the following:

"(d) Funds appropriated pursuant to section 301 shall be available only for the support of programs or projects designed to assist in the cognitive development of students, as opposed to their social development or behavioral modification."

SEC. 5. Title VIII of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new sections:

"PROTECTION OF PUPIL RIGHTS

"SEC. 812. (a) Nothing in this Act, or in title I of the Elementary and Secondary Education Act of 1965, shall be construed or applied in such a manner as to infringe upon or usurp the moral or legal rights or responsibilities of parents or guardians with

respect to the moral, emotional, or physical development of their children.

"(b) Nothing in this Act, or in title I of the Elementary and Secondary Education Act of 1965, shall be construed or applied in such a way as to authorize the participation or use of any child in any research or experimentation program or project, or in any pilot project, without the prior, informed, written consent of the parents or legal guardians of such child. All instructional material, including teachers' manuals, films, tapes, or other supplementary instructional materials which will be used in connection with any such program or project shall be available for review by the parents or guardians upon verified request prior to a child's being enrolled or participating in such program or project. As used in this subsection, 'research or experimentation program or project, or pilot project' means any program or project designed to explore or develop new or unproven teaching methods or techniques.

"(c) No program shall be assisted under this Act, or under title I of the Elementary and Secondary Education Act of 1965, under which teachers or other school employees, or other persons brought into the school, use psychotherapy techniques such as group therapy or sensitivity training. As used in this subsection, group therapy and sensitivity training mean group processes where the student's intimate and personal feelings, emotions, values, or beliefs are openly exposed to the group or where emotions, feelings, or attitudes are directed by one or more members of the group toward another member of the group or where roles are assigned to pupils for the purpose of classifying, controlling, or predicting behavior.

"FREEDOM OF CHOICE

"SEC. 813. No local education agency shall be eligible to receive assistance under this Act if employment, or continued employment, of any teacher or administrator in its schools is conditioned upon membership in, or upon payment of fees to any organization including, but not limited to, labor organizations and professional associations."

SEC. 6. The first sentence of section 301(b) of the Elementary and Secondary Education Act of 1965 is amended by inserting before the period at the end thereof the following: ", $171,393,000 for the fiscal year ending June 30, 1974, and $86,696,500 for the fiscal year ending June 30, 1975".

Page 54, strike out line 3 and all that follows through page 57, line 7.

Page 57, line 10, strike out "113" and insert in lieu thereof "112".

Page 28, line 9, strike out "1977" and insert in lieu thereof "1976".

Page 50, line 25, insert "(1)" immediately after "(d)".

Page 51, immediately after line 2, insert the following new paragraph:

(2) Section 144(a)(1) (as redesignated by section 109 of this Act) of title I of the Act is amended by adding at the end thereof the following new sentence: "There is authorized to be appropriated to carry out this title, not to exceed $1,810,000,000 for the fiscal year ending June 30, 1974, $1,357,500,000 for the fiscal year ending June 30, 1975, $905,000,000 for the fiscal year ending June 30, 1976, and $452,500,000 for the fiscal year ending June 30, 1977.".

Page 48, strike out line 19 and all that follows through page 50, line 7.

Page 45, line 8, strike out "meet the special educational" and all that follows through "families and" and insert in lieu thereof the following: "improve the basic cognitive skills (particularly in reading and mathematics or reading readiness and mathematics readiness) of students who have a marked deficiency in such skills and".

Page 28, line 9, strike out "1977" and insert in lieu thereof "1975".

SOME REFLECTIONS ON THE SPIRIT OF THE AMERICAN PEOPLE: IT'S 1776 ALL OVER AGAIN

The SPEAKER pro tempore (Mr. MCFALL). Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 15 minutes.

Mr. KEMP. Mr. Speaker, I have asked for this time this afternoon, because I want to share with my colleagues some of my reflections on a subject of much widespread concern—the disorder of our time and how that disorder is disspiriting the American people. And, this disspiritment is, in my opinion, beginning to render us less capable of overcoming the very problems which gave rise to our disorder in the first place.

THE DISORDER OF OUR TIMES

Before anyone begins to call attention to the disorder which exists in our society, I think he owes it to his audience to set forth a conclusion which is too often overlooked: The 'times" are always in a state of disorder; it is merely the degree of that disorder which is transient. If we do not believe this, we need look simply to the recorded history of all other times.

How, then, is the disorder of our day and age any distinct from that of any other period of our Nation's history?

The very meaning of disorder presupposes a value or set of values—a hypothetical order—from which standpoint we assess our state of affairs.

Until recently, there seemed to be a rough consensus on these values and ideals in American life, even when we differed on the program, political parties, and means to achieve them. That consensus was expressed principally as a commitment to the democratic process and its procedural mechanisms of registering freely given consent—a consent freely given because it included the right to dissent. It was a commitment to the rights of individuals, and where rights conflicted—as they always do—to their resolution in the light of the common good—collectively, through the legislative process, and, individually, through the judicial process.

The disorder of our time is largely the consequence of the gradual erosion of our basic values and ideals, and the inescapable and resulting consequence of abandoning the rational processes of debate and reform, the resort to means that subvert the moral and legal ends of a free society, and the emergency not only of violence but of attitudes that encourage resort to violence and to threats of same.

Relativism is borne from a search for relevance itself, and in a quest to be relevant, too many in our age have succumbed to the greatest irrelevancy of all—being irrelevant in the name of relevance. What more appropriate example could be cited than our age's constant struggle to aright those easily perceived imbalances which are no more than fleeting results of our problems, totally failing in the process to address themselves to the real causes of our long-term problems. People who suffer from this malady are so busy fighting the problems of the moment—from their desire to be relevant—that they fail to solve the basic, long-term problems giving rise to the daily ones.

In no small measure, one of the principal causes for the misdirection and misemphasis of these souls is their failure to comprehend adequately by the realities of human existence.

At any given time, there is always a disparity between worthy moral and social ideals and the status quo, between our goals and our achievements—particularly if we have raised our sights in the course of our struggle toward those goals and ideals.

If an unhistorical approach is taken—the focusing of attention solely on the ideal—one becomes fixated with how far society has fallen short, disregarding in the process the great progress already made and being made. The mind set then focuses on the negative, not the positive, and from this fixation comes despair, discouragement, and disspiritment. And, when that collective depression is given voice to a wide audience, such depression is spread.

There is nothing wrong with being idealistic—without it, we would be in even more severe trouble—but there is something wrong with an inability to have a balanced focus and second, to spread carelessly a discouraging word to all from one's own inabilities to cope with reality.

Those without historical perspective too often think in terms of either-or, not more-or-less. Thus, the all important direction of the progress of change, and its mechanics, can be lost, for impatience with attainment of the ideal can easily lead to an abandoning of the processes for such attainment. The processes of a free society become short circuited; that is when the sparks fly. And, unfortunately, history's lessons tell us that progress is lost, not gained, by such short circuiting.

The eminent professor, Sidney Hook, has written that "with respect to every major area and institution in American life, an historical approach will show that incremental reforms have carried us closer to the ideals to which this Nation was originally dedicated than has been the case in the vaunted revolutionary regimes" of any other nation, or, for that matter, the revolutionary intellectual radicalism of American society. Such a recognition can be no cause for complacency, argues Dr. Hook, but it does help the young idealist from crossing the line into irrational and unproductive radicalism. I agree with Dr. Hook's observations.

Why does this problem concern me so much?

To the degree that we permit the demoralization of our spirit, we tend to acquiesce in the continuation of those wrongs which ought to be addressed, because that demoralization diminishes our resolve to insure that good does ultimately triumph. The results should be obvious: We weaken further the fibre of our society. We weaken the resolve of those placed in positions to have significant impact upon our problems. We weaken the resolve of the people to buttress those committed to such courses of action.

It becomes a downward spiral of despair and wrong, feeding upon each other as they descend.

WHAT ARE WE TO DO?

I believe strongly that the American people have both the patience and the fortitude to face up to any problem, once they understand the nature of the problem.

That is one of the wonders of a free society: Given the facts and based upon accurate premises, a free society has an innate capability to come to the right conclusions. Where this characteristic can be thrown asunder is where that society is not given all the facts, or acts from improper premises. For this reason alone, a press which reports information fully, accurately, and in a balanced manner is essential to a free society. If a large number within the press has a bias, they can distort the perceptions of truth and cause the formulation of an erroneous conclusion.

The choice before us in our time is between further powers of the State on the one hand or a growing of the self-discipline of a responsible people on the other. It is a dichotomy central to the questions facing not only our Nation but our sister Western democracies as well. And freedom is not the easier of the two disciplines. Quite to the contrary, history shows that periods of true freedom are rare. Why? Probably because men put security ahead of freedom; letting "Uncle Sam" or whomever make the decision is a lot easier than having to make it for ones' self History shows that freedom is lost when too many—or too few, strategically placed—opt for security and are unwilling to bear the self-discipline requisite to freedom's preservation.

We need also to look at the strengths of our political system. In these days of disclosure of wrongdoing by men in Government or in political parties, it is easy to conclude that our system is not working.

Nothing could be further from the truth, for the very fact that disclosures of wrongdoing are being publicly made shows that our system is working. When such wrongdoing goes undetected or when detected, it goes undisclosed, then, at that point, not now, such a conclusion that our system is not working would be valid.

Justice, in practice, is not an end product of the 100-percent triumph of good over evil. Rather, justice is the process through which a society determines the relative weight it wants to give between good and evil, truth and untruth. Thus, when there is evil, it is because that society is not sufficiently committed to the eradication of evil. Our task, therefore, is to insure the movement of society toward the placing of greater resolve upon that side of the scale known as good or truth.

As a foundation for this resolve, we must shore up our ethical convictions. From an ethical standpoint, one must never remain silent when permissiveness, hypocrisy, or corruption threaten to weaken or destroy our system. And, one of the most prevalent and frightening attitudes today is the absence of deep convictions on anything among many, or an increasing lack of conviction among others, giving glory to compromise and approval to passivity. Yet, it is a fact that whenever people become noncommital, they open the door to manipulation of their lives and their destinies by the few who seek power and dominion over others.

It seems that at other times and in other places, other civilizations that advanced far failed to make it to the next step of human achievement because they were unwilling to discipline themselves and to dedicate themselves to purposes of the spirit. When ethics, honesty, integrity, and self-discipline perish, the inevitable result is imposed discipline—we know that as totalitarianism. This we must never permit to happen.

Mr. Speaker, I am optimistic about the future. I am concerned about our present crisis, but I am not dismayed by it. I see the future as a challenge to our Nation, a challenge to restore the optimism that pervaded the original Spirit of 1776. As we approach our 200th anniversary, let each of us pledge to himself and to his fellow citizens that the spirit of our next 100 years will be borne with the same dedication to tomorrow that prevailed at Independence Hall, because I believe it's 1776 all over again.

JUDGE PHILIP NEVILLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRENZEL) is recognized for 15 minutes.

Mr. FRENZEL. Mr. Speaker, Judge Philip Neville of the Minnesota Federal District Court died on February 15 after a courageous battle with leukemia.

Judge Neville was born in Minneapolis in 1909 and was graduated from the University of Minnesota Law School and admitted to the bar in 1933.

He was married to Maureen Morton in 1934. The Nevilles enjoyed a family-centered life with their three children, Laura, James, and Philip, Jr., and with their grandchildren.

Judge Neville clerked for the Chief Justice of the Minnesota Supreme Court. He taught at the Minneapolis School of Law and at the University of Minnesota School of Business Administration.

He was a past president of the Hennepin County and State of Minnesota Bar Associations and served as secretary of the State Board of Law Examiners. He was also a U.S. district attorney for Minnesota. Prior to his appointment as judge. he was the senior partner in the firm of Neville, Johnson, and Thompson.

Judge Neville was a long-time resident of Edina, a village in my district and served for 3 years as its municipal judge. He often joked that he might not have been the only Democrat in the village, but he certainly was the only one in his neighborhood.

A member of St. Steven's Church in Edina, he was active for many years in the Episcopal Diocese of Minnesota. He also served on the board of St. Mary's Hall in Faribault.

Judge Phil Neville's life was filled with high achievement from the strong scholarship of academic life through his multiple careers of teaching, law practice and the bench, and in his family life.

I had the good fortune to be present when he was sworn in as Federal judge. The American Bar Association had rated him as "exceptionally well qualified" for the position. At the swearing-in ceremony such praise was heaped upon him as would turn an ordinary man's head, but Phil Neville responded simply by living up to, or overreaching, the success predicted for his judicial career. Surely no L.B.J. appointment was ever so warmly received in Republican circles in Minnesota.

Typical of his thoughtful decisions was a well-known one which required a highly skilled surgeon convicted of tax evasion to practice his profession without pay. Not all of his decisions were so well publicized, but all were made with the same thoughtfulness, imagination, sensitivity and care. Not all of the people he sentenced sent him holiday greetings, but some did, including one of the "Minnesota 8" draft resisters. Phil was that kind of man. He inspired admiration, respect, and affection.

Phil Neville was an out-going, gregarious person who showed the same jest in his social relationships as he did in his vocation. He was friendly, full of fun, a sometime piano player, a fine singer, a good golfer and the life of every party he attended. He played and sang with the best and the worst endowed, with equal enjoyment. The Neville rendition of "Mauvorneen" was always a special treat.

The whole State of Minnesota shares, with the Neville family, the deep sense of loss in the passing of an extraordinary human being. Minnesota will sorely miss Phil Neville. We can find other capable judges, but we will never find another Phil Neville. But our grief will be lessened by the knowledge of our good fortunes in having known him, enjoyed him, and benefited from his service and inspiration.

THE PANAMA CANAL—MAINTAIN U.S. SOVEREIGNTY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. MILLER) is recognized for 5 minutes.

Mr. MILLER. Mr. Speaker, although Secretary of State Kissinger has been hailed for his work in achieving world peace, he has been involved in some unfortunate negotiations in the past few weeks that can bring no gain to the United States. Mr. Speaker, I am referring to the projected giveaway of the Panama Canal.

Under the treaty of 1903, the United States acquired the rights to the Canal Zone in perpetuity. In return, we were to operate and maintain the canal. In fact, at the time of the signing of the treaty, the canal was not even completed. The United States took over construction

from the French, who had all but failed in overcoming the many obstacles. It was good old American ingenuity and sweat that finally accomplished this great engineering feat. Now the Panamanians want it back.

Since the day the canal opened in 1914 it has been accessible to all nations of the world. It has not been operated as an exclusive passage way for American ships. The brief 7-hour trip through the canal's locks saves world shipping millions of hours of travel around South America each year. Subjecting the operation of the canal to Panamanian domination would end this guarantee of stability to world shipping that has endured for 60 years.

It is not enough that we are considering giving the Panama Canal away. It seems we must pay for this privilege as well. The United States paid Panama $10 million initially for the canal rights in 1903. In addition, we have paid Panama an annual fee now totaling almost $2 million each year. Now it is proposed that as we withdraw we add insult to our self-inflicted injury by continuing to pay for operation and maintenance. Added to this is the inevitable chaos that results when a complicated operation such as the canal is turned over to inexperienced hands. The world has seen this time and again, whether it be mines, industry, railroads—or the Panama Canal. We cannot afford to let such a vital passageway as the canal be run incompetently.

If the Canal Zone was given away to Panama, the effect on our defensive posture in the world would be felt immediately. Panama would no doubt guarantee our access to use of the canal, but hopefully this country has learned that today's guarantees are often tomorrow's empty promises. In the past few months we have seen the devastating effect that boycott and blackmail can have on this country. Allowing Panama to take control of the Canal Zone would only open us up to a squeeze of the most critical kind in the years ahead—crippling our seagoing commerce and undercutting our defensive posture. The Soviet Union, now the premier seapower in the world, would be overjoyed at this further blow to our naval strength and strategic power.

America must not surrender its right to the Panama Canal. We have been fair and efficient in our administration. The canal is vital to our national interests. To turn over sovereignty to another nation would defeat all that we have worked for and achieved since the turn of the century. The House of Representatives must guard its constitutional prerogative to have a say in the disposition of U.S. territory. To achieve that goal I have cosponsored House Resolutions 211 and 975 to maintain the sovereign rights of the United States over the Canal Zone and the Panama Canal.

EMERGENCY URBAN MASS TRANSPORTATION ASSISTANCE ACT CONFERENCE REPORT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. MINISH) is recognized for 10 minutes.

Mr. MINISH. Mr. Speaker, in Monday's RECORD the distinguished chairman of the House Rules Committee gave his reasons why he and the House Rules Committee decided to defer further consideration of the conference report on S. 386, the Emergency Urban Mass Transportation Assistance Act.

I would like this opportunity, Mr. Speaker, to address myself to some of the issues raised by the distinguished chairman of the Rules Committee's statement in Monday's RECORD. First, with regard to the table that Mr. MADDEN included in the RECORD as part of his statement comparing the dollar amounts going to cities in S. 386 with those contained in the administration's so-called unified transportation assistance program, the figures of the administration's unified transportation assistance program are, to put it mildly, nothing but a mixing of apples and oranges. These dollar figures do not represent direct urban mass transportation assistance. They are a combination of Federal highway funds and urban mass transportation funds already authorized by the Congress. With regard to this table that the administration circulated to the members of the House Rules Committee, they did not have the courtesy to submit a copy to me at the same time. To this date, I, myself, have not received a copy. The dollar amounts of S. 386 are solely urban mass transportation funds, new funds, not the use of existing funds that the Congress has already provided for. So, Mr. Speaker, I would urge the Members of the House not to be deluded by this table. If cities feel that building urban highway extensions is urban mass transportation, then let them support the administration's proposal.

The second matter, Mr. Speaker, that I wish to address, is the reason that we requested a rule waiving points of order. Prior to the filing of the conference report, I consulted the House Parliamentarian regarding the problems raised by this conference report. I was advised that in one instance the conference report contained a matter that went beyond the scope of the conference in violation of clause 3, rule XXVIII of the Rules of the House of Representatives. I would certainly rely, Mr. Speaker, on the House Parliamentarian in this matter rather than some so-called parliamentary expert on matters that involve the Rules of the House.

Finally, Mr. Speaker, I wish to address myself to the claim made by some of the members of the Committee on Public Works that the administration's Unified Transportation Assistance Act, title II of which falls within the jurisdiction of the Banking and Currency Committee, will be shortly acted upon. The members of the Committee on Public Works are aware, even more than I am, of the complexity and controversial nature of the administration's proposal. What has been proposed in that package by the administration is a complete reworking of the Federal-aid highway program. We all remember the fight on the Federal highway bill in previous years and how long it took the Congress to enact even minor changes in those previous bills. I doubt whether the Committee on Public Works will have anything to present to either the Rules Committee or the full House in the immediate future. Mr. Speaker, I include following my remarks a letter sent to Chairman MADDEN by my distinguished Senator from New Jersey, HARRISON A. WILLIAMS, regarding prospects for early Senate action on the *so-called* Unified Transportation Assistance Act. As the Members can see in Senator WILLIAMS' letter, the Senate Committee on Public Works will not be getting around to marking up their bill much before the middle of summer.

Mr. Speaker, the conference report on S. 386 is an emergency matter, and I feel that the Committee on Rules should permit the House to work its will on this vitally needed legislation. I also include at this point in the RECORD three editorials relating to this vital legislation:

U.S. SENATE, COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS,
Washington, D.C., March 11, 1974.

Hon. RAY J. MADDEN,
Chairman, Committee on Rules, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing to urge you to reconsider the decision of the House Committee on Rules taken on Tuesday, March 6, to defer further action on S. 386, "The Emergency Energy Mass Transportation Assistance Act," until the House Committee on Public Works reports the "Unified Transportation Assistance Act."

In my opinion, the "Unified Transportation Assistance Act" is a complicated piece of legislation requiring extensive hearings. In fact, I have been informed by Senator Bentsen, Chairman of the Subcommittee on Transportation of the Senate Public Works Committee, that the Subcommittee has begun hearings on this proposal and intends to continue these hearings through July. After these hearings are completed, Subcommittee Executive Sessions along with Full Committee Executive Sessions will be required before the Senate Public Works Committee will be able to recommend a legislative proposal to the full Senate. In addition, the Senate Committee on Banking, Housing and Urban Affairs, which has jurisdiction over Title II of this legislation, does not plan to begin hearings until May of this year and, of course, Executive Sessions of the Banking Committee will also be necessary.

This proposal may offer a long-term solution to our Nation's mass transit problems. However, in the meantime, mass transit has reached a crisis situation due to ever-increasing deficits and the need for increased ridership as a result of the energy crisis. The Conference Report on S. 386 which is currently pending before your Committee offers, in my opinion, the best possible short-range solution to this immediate problem. I would, therefore, urge you to reconsider your decision not to grant a rule waiving points of order on the Conference Report on S. 386.

I would like to again stress that the authorization provisions of S. 386 expire at the end of fiscal year 1975. Therefore, if the House Public Works Committee or the Senate Committees on Banking, Housing and Urban Affairs and Public Works in the interim devise a better alternative solution to the emergency mass transit crisis and to the problem of operating deficits, that proposal could, of course, always supersede the provisions contained in S. 386.

In my opinion, the need to act now is imperative. Additional delay will only heighten the crisis and result in further loss of confidence by our Nation's citizens in their government.

With every good wish,

Sincerely,

HARRISON A. WILLIAMS,
Committee on Banking, Housing and Urban Affairs.

[From the Washington Star-News, Mar. 8, 1974]

A BAD WEEK FOR TRANSIT

While it is nothing new for constructive legislation to come suddenly unraveled, what's happened on the public transit front during the last few days has left urban officials here, and around the country, shaking their heads in dismay.

In Richmond, where the Virginia General Assembly is staggering toward adjournment, the House of Delegates had delighted everyone in Northern Virginia by voting to send some $15.2 million in urgently needed transit-aid funds to the Washington suburbs. But the state Senate seems bent on revising and watering down that grant substantially, and the outcome at this writing is uncertain.

Capitol Hill, meanwhile, is the scene of a more grievous and far-reaching setback. The House Rules Committee, at the administration's urging, has virtually buried a House-Senate compromise which would provide—for the first time in history—early federal subsidies to help defray the pyramiding transit operating deficits that are plaguing Washington and most big cities.

The ramifications of that setback to the District, which is counting on federal subsidies to meet its mounting Metrobus-deficit commitments this year, are severe enough. But the impact in other cities is worse. What it means in New York, its officials say, is that that city's basic 35-cent transit fare will collapse, possibly rising to as high as 60 cents by summer. While it seems incredible that anything of that magnitude will be allowed to occur, the seriousness of the problem nationwide can hardly be overstated. And the most depressing thing is the fact that a further indefinite delay in obtaining federal transit operating subsidies comes on the very heels of President Nixon's concession—at long last—that the concept is valid and necessary.

There is doubt, to be sure, that the subsidy bill before the Rules Committee would have survived a presidential veto even in the event of its enactment. Mr. Nixon has his own version of transit subsidies in the omnibus administration transportation bill just introduced, which treats the largest cities less favorably than the compromise hammered out by the House-Senate conference. The President wants his own formula (as a lot of small-town congressmen obviously do, too) and he wants it considered in concert with other transportation issues.

We think he is wrong on both counts. The urgency of the need for transit subsidies justifies their consideration on an emergency basis, without awaiting the tortuous progress of the omnibus bill as a whole. The House-Senate bill's heavy emphasis on large cities, furthermore, is simply a matter of common sense. That's where the transit problems happen to be.

If there is no hope of a reversal by the Rules Committee, however, and we suspect that is the case, all that remains now is to get to the President's bill as fast as possible. His aides talk hopefully of enactment by fall. Congress should make certain of it.

[From the New York Times, Mar. 7, 1974]

FLAILING THE CITIES

The Nixon Administration has delivered a blow to New York and the nation's other major cities by manipulating a subservient House Rules Committee to sidetrack a bill that would have provided immediate operating aid to hard-pressed transit systems, throughout the country.

Transportation Secretary Claude S. Brinegar has charged that the bill, which would have given New York $166 million it urgently needs to help preserve the 35-cent fare, was "heavily weighted to a handful of big cities." Of course it was, because that is where the most desperate need is.

As reported by a House-Senate conference committee, the bill would have distributed funds nationwide according to a compromise formula which takes into consideration population (50 per cent), the number of passengers carried (25 per cent) and the number of miles they travel (25 per cent). This is much more reasonable than an Administration proposal which would distribute transit operating aid solely on the basis of population, an arrangement that allocates to New York only 9 per cent of total funds although this city accounts for 40 per cent of the nation's transit passengers. Only last month, the President himself promised to try to work out a more equable formula that would meet the "unique problems of some of our largest cities." He has not yet kept that promise.

The Congressional bill, sponsored by Senator Harrison A. Williams and Representative Joseph G. Minish, both of New Jersey, is an emergency measure. Its adoption would have helped prevent further deterioration of the nation's public transportation systems while the President's proposals received the careful Congressional consideration they obviously will require.

Yesterday's tabling by the Rules Committee, a sorry repetition of its recent action on the Land Use bill, virtually destroys hope for saving the 35-cent fare here. The Administration role in engineering this denouncement suggests the futility of expecting sympathetic urban aid from a President who—to quote Representative Edward Koch of Manhattan—appears bent on "flailing the cities."

[From the Washington Post, Mar. 9, 1974]

DERAILING THE TRANSIT BILL

Once again the House Rules Committee has acted arbitrarily and denied the full House a chance to work its will on an important piece of domestic legislation. Last week the victim was the land use bill. This week the Rules panel, egged on by the Nixon administration, refused to approve a resolution to facilitate debate on the conference report on emergency urban mass transit aid. Unless the committee reconsiders, struggling transit systems in many cities may have to wait many months for any federal support in the effort to provide vital public services at reasonable fares.

One might think the energy problem would make operating aid for mass transit more popular, or at least more palatable, than before. But the conference report brought out by Sen. Harrison A. Williams and Rep. Joseph G. Minish, Democrats of New Jersey, ran into several roadblocks. One was the Nixon administration's opposition to any mass transit measure different from its own. Another was persistent congressional hostility to focusing federal transit aid on the big cities where the largest, most immediate transit problems are. A third was the apparent desire of some Rules Committee members to avoid antagonizing the House Public Works Committee, which is embroiled in a jurisdictional dispute with Rep. Minish's subcommittee.

In strategic terms, the difference between the Williams-Minish bill and the administration's approach is essentially the difference between a short-term rescue mission and the administration's long-range reforms in the structure of federal transportation aid. The Williams-Minish bill would simply authorize $800 million in the next two years for cities to use for any combination of transit operating subsidies and capital improvements. In contrast, the complex Unified Transportation Assistance Act recently unveiled by President Nixon would provide slightly less money, spread more widely and channeled through the states, as a prelude to creating a single urban highway-transit fund supported from general revenues, in 1977.

The goals of the administration's plan—more comprehensive transportation planning and flexible funding—are laudable; Congress should have moved further in these directions long ago. But like any ambitious bill, the Nixon plan reopens some points of perennial controversy, such as how the aid should be distributed and how much control state governments, as opposed to cities, should enjoy. The administration's measure also finesses entirely the most sensitive issue of transportation-aid reform: what should be done about the highway trust fund when the current law expires in 1977?

The issue of allotment also plagues the Williams-Minish bill, since there is widespread congressional resistance to sending almost 20 per cent of the total funds to New York City, where 40 per cent of the nation's transit riders live. From a political standpoint, the funds might have been apportioned somewhat differently. Still, if the aim is to bolster mass transit, it is hard to argue against the notion that the money should go, in general, where the urgent problems are—just as agricultural subsidies tend to flow to agricultural states, and flood protection aid is concentrated along major riverbanks.

By blocking enactment of the Williams-Minish bill, either in the Rules Committee or through a presidential veto, the administration hopes to use the pressures of urban transit crises to speed the passage of its own plan.

Indeed, hearings are scheduled this month in both the Senate and the House. But if the tortuous course of the 1973 highway-aid act is any guide, many hurdles and delays are still ahead, and the administration will have to show far more willingness to compromise than has been evident to date. Meanwhile, the squeeze on many transit systems, including Metro, increases every day. Fuel costs keep rising, and more rush-hour riders create greater deficits. The immediate relief offered by the Williams-Minish bill would be desirable. If that is not to be forthcoming, the administration and the Public Works Committees have an obligation to proceed with broader, longer-range legislation at once.

STATEMENT BY U.N. COMMISSIONER FOR NAMIBIA, THE HONORABLE SEAN McBRIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. DIGGS) is recognized for 5 minutes.

Mr. DIGGS. Mr. Speaker, the House Foreign Affairs Subcommittee on Africa held hearings on the 21st of February on the critical developments in Namibia, which is the former U.N. mandate of South-West Africa. I would like to insert for the thoughtful consideration of my colleagues the statement by the United Nations Commissioner for Namibia, the Honorable Sean McBride, at Lusaka, Zambia, on the 19th of February.

Mr. McBride emphasizes that—

One feature of the present worsening situation in Namibia which is worrying is the failure of the press and media in many parts of the world to inform public opinion adequately of the repression which is taking place and of the attempts which are being made to suppress the South-West Africa Peoples' Organization.

The hearings of the subcommittee on the situation in Namibia will be continued on March 21 at which time a witness from the Department of State is scheduled to testify.

The text of Mr. McBride's statement is as follows:

STATEMENT BY UNITED NATIONS COMMISSIONER FOR NAMIBIA, SEAN MCBRIDE, ZAMBIA, FEBRUARY 19

I have just taken up duty as the United Nations Comissioner for Namibia. I regarded it as essential to come in the first instance to Lusaka to consult with the Zambian authorities and the leaders of the South-West Africa People's Organization. In addition, of course, I came to visit my office here and to meet Namibian refugees who have been so generously granted asylum in Zambia.

I want you to understand that the meaning of my journey is not purely symbolic; I want to formulate and discuss a programme of action with those who are most directly involved and whose judgement I respect.

We have to break new ground in this struggle for Namibia, so that the world and also South Africa will understand that neither the African people nor the United Nations are prepared to tolerate the continued illegal occupation of Namibia. Efforts to engage in a dialogue with the South African Government not only failed but showed up the intransigence of the South African Government. This has made the United Nations more conscious than ever of its obligation to fulfil the commitment the United Nations solemnly undertook in 1966.

While I am speaking to you today there are dark clouds overhanging Namibia. The South African authorities have reneged on the promises they gave to the Secretary-General in writing. There would be, they had said, no impediments to political activity, but their deeds have been different. All the known leaders of SWAPO are now being charged or detained without trial. Hundreds of other Namibians are daily brought to court and sentenced on flimsy charges arising from the application of the so-called pass law.

The intention of the South African authorities is clear—no political activity is to be allowed in the Territory. Not only is it the intention of the South Africans to prevent the people of Namibia from expressing politically their desire for complete independence but they are, as all oppressive colonial dictatorships, seeking to sow terror among the people they misrule.

It is essential that the white people of South Africa should make a reappraisal of their situation in light of the realities of the world of today. The oppression of the overwhelming majority of the people of Namibia by a small white colonial racist minority cannot subsist. Not only are the peoples of Africa not prepared to accept this but the entire international community is determined to end this situation. The principles of democracy and of national self-determination are now universally accepted.

The actions of the South Africa authorities in Namibia reflects a growing disregard for the elementary human rights of the people. Injustices and violations of the internationally recognized norms of human rights can no longer be relegated to a dark corner of the international conscience. The violations of human rights in Namibia and the defiance of the express decisions of the international community are now becoming the top priorities for international action.

One feature of the present worsening in Namibia which is worrying is the failure of the press and media in many parts of the world to inform public opinion adequately of the repression which is taking place and of the attempts which are being made to suppress the South-West Africa People's Organization.

The international press must not allow the South African authorities to cajole it into accepting what amounts to a conspiracy of silence. The financial and strategic influence of South Africa in the Western world is only too well known but the international press will not allow these considerations to silence it in the face of injustice.

Today's oppression and how to cope with it is one thing. But there must be also a long-term programme for an independent united Namibia, and the cadres to make that a reality must be organized and trained. It is not going to be easy, but the Namibians have the necessary courage and determination, and the international community will give them their full support.

LABOR—FAIR WEATHER FRIEND—IX

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas, (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, one of the founding members of the Labor Council for Latin American Advancement, and a member of its board, is Paul Montemayor. I have known Paul for a long time. You would think that an old friend like that would call up or write, when his organization has called you a union buster.

I can remember many dark nights in Paul's career, when he would call me to discuss this or that problem with the union. I was one of the very few politicians in Texas who would even talk to union people back then, and I like to think that Paul liked my independence—which made it possible for me to talk to anybody, including him.

Over the years, we have had our disagreements. I remember a few years ago that Paul thought it was wrong of me to be independent of an effort that he was involved in, something called the Southwest Council of La Raza. I was not with the program, he would say, and that was bad. He no longer liked my indipindence.

But, even so, my door has been open. Not very long ago, Paul Montemayor came up to introduce a lobbyist for an organization called RASSA, and tell me how much that organization could help. I spent a long time discussing this, and at the end expressed my doubts that RASSA would ever be much help to me.

Well, that has turned out to be the case. When the LCLAA attacked me, I did not hear from the RASSA lobbyist. He asked me no questions, expressed no interest, gave no sign of concern. Nor did I hear from Paul.

It is important to him that I hear him out. It must mean nothing to him that I should also be heard, or dealt with in a fair, open, and honest manner. There is no sign that he cares that his organization has given me a bad deal, violated my good name, and acted even without its board's consent in the bargain. I do not hear from Paul, now that I could use a little help, or could expect him to speak up for a little common decency. Evidently it has been a one-way street.

It is too bad. I have been a friend of Paul Montemayor for a very long time, in good times and bad. And he has been my friend, at least in fair weather. It is beginning to look as if he is one more labor friend who is good for fair weather only. I am disappointed, sorry to find how little energy this energetic fellow has even to the extent of insisting that his friends and fellow LCLAA board members not run down his own rights in their anxiety to attack me. I would think that Paul would be concerned that his own rights were violated in this business, even if he does not care about mine. But then maybe not. Maybe all those years are not worth even that.

A DECADE AND A HALF OF STATEHOOD: HAWAII LOOKS BACK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Hawaii (Mr. MATSUNAGA) is recognized for 30 minutes.

Mr. MATSUNAGA. Mr. Speaker, 15 years ago, on March 12, 1959, by an overwhelming vote of 323 to 89, the House of Representatives passed, as the Senate had the day before, an act to provide for the admission of the State of Hawaii into the Union.

My image of that day remains vivid. The Hawaii Territorial Legislature had recessed in anticipation of the action in Washington, and was assembled in the throne room of Iolani Palace listening to a running account of the statehood bill's progress, by telephone, from then-Delegate to Congress John A. Burns.

As I have so often recounted, announcement of the final vote was greeted with a deafening cheer—followed almost immediately by an almost mystical silence. It was as if all of those present had joined in silent prayer, both to thank God for the great blessing he had seen fit to bestow on Hawaii's citizens, and to ask His guidance in their new and heavier responsibilities. Moved by the compelling appropriateness of the occasion, the House Chaplain led the group in prayer. Many knelt down on the floor with tears welling in their eyes.

And what has 15 years of statehood brought to Hawaii? Our great natural beauty remains, despite incursions on many fronts in the development of various buildings and projects. Hawaii is still, in the words of Mark Twain:

The loveliest fleet of islands anchored in any ocean.

It remains a place where peoples, cultures, and customs coexist, indeed, thrive on coexistence. It was for good reason that our late President, John Kennedy, chose Hawaii as the place to deliver his first major civil rights address. "Hawaii is," he explained, "what the United States is striving to be."

Hawaii has developed into the most reliable bridge between East and West in our struggle for international cooperation and world peace. The most visible symbol of this role for the Island State lies in the East-West Center, associated with the University of Hawaii. At this great institution Asians and Americans meet each other in an aca-

demic and social atmosphere which leads to interchange and a deeper understanding of each other's problems and cultures.

Hawaii has, and will continue to have, problems unique among the States of the Union, because of its geography and insular character. But Hawaii also makes, and will continue to make, a contribution unique among the States to a greater America in a better world.

Perhaps Hawaii's contribution is best described in the best known Hawaiian word, "Aloha." My good friend Rev. Abraham Akaka, speaking the day after the House passed the statehood bill back in 1959, described with passion and precision the relationship between statehood and the spirit of aloha. His words remain relevant today, and I include Reverend Akaka's remarks in the RECORD at this point:

ALOHA KE AKUA

(By Rev. Abraham Kahikina Akaka)

"One nation under God, indivisible, with liberty and justice for all"—these words have a fuller meaning for us this morning in Hawaii. And we have gathered here at Kawaiahao Church to give thanks to God, and to pray for his guidance and protection in the years ahead.

Our newspapers lately have been full of much valuable historical data concerning Hawaii's development, growth, and aspirations. I will keep these stories as long as I live, for my children and their children, for they call to mind the long train of those whose sacrifices were accepted, whose prayers and hopes through the years were fulfilled yesterday. There yet remains the formal expression of our people for statehood, and the entrance of our Islands into the Union as a full-fledged member.

I would like today to speak the message of self-affirmation: that we take courage to be what we truly are, the Aloha State.

On April 25, 1820, one hundred and thirty-nine years ago, the first Christian service conducted in Honolulu was held on this very ground. Like our Pilgrim Fathers who arrived at Plymouth, Massachusetts, in 1620, so did the fathers of a new era in Hawaii kneel in prayer after a long and trying voyage to give thanks to God who had seen them safely on their way.

Gathered around the Reverend Hiram Bingham on that day were a few of our "kupunas" who had come out of curiosity. The text of the sermon that day, though it was April and near Easter time, was from the Christmas Story. And there our people heard these words for the first time: "Mai maka'u 'oukou, no ka mea, eia ho'i, ke ha'i aku nei au ia 'oukou i ka mea maika'i, e 'oli'oli nui ai e lilo ana no na kanaka apau. No ka mea, i keia la I hanau ai, ma ke kulanakauhale o Davida, he ola no 'oukou, aia ka Mesia ka Haku"—"Fear not, for behold, I bring you good tidings of great joy which shall be to all people. For unto you is born this day in the city of David a Saviour which is Christ the Lord."

Although our grandfathers did not realize it fully then, the hopes and fears of all their years through the next century and more were to be met in the meaning and power of those words, for, from that beginning, a new Hawaii was born. For through those words, our missionaries and people following them under God became the greatest single influence in Hawaii's whole development—politically, economically, educationally, socially, religiously. Hawaii's real preparation for statehood can be said to have truly begun on that day and on this spot one hundred and thirty-nine years ago.

Yesterday, when the first sound of firecrackers and sirens reached my ears, I was with the members of our Territorial Senate in the middle of the morning prayer for the day's session. How strange it was, and yet how fitting, that the news should burst forth while we were in prayer together. Things had moved so fast. Our mayor, a few minutes before, had asked if the church could be kept open, because he and others wanted to walk across the street for prayer when the news came. By the time I got back from the Senate, this sanctuary was well filled with people who happened to be around, people from our government buildings nearby. And as we sang the great hymns of Hawaii and our nation, it seemed that the very walls of this church spoke of God's dealing with Hawaii in the past, of great events both spontaneous and planned.

There are some of us to whom statehood brings great hopes, and there are some to whom statehood brings silent fears. One might say that the hopes and fears of Hawaii are met in statehood today. There are fears that Hawaii as a state will be motivated by economic greed; that statehood will turn Hawaii (as someone has said) into a great big spiritual junkyard filled with smashed dreams, worn-out illusions; that it will make the Hawaiian people lonely, confused, insecure, empty, anxious, restless, disillusioned—a wistful people.

There is an old "mele" that reminds me of such fears as these, and of the way God leads us out of our fears. "Haku"i i ka uahi o ka lua, pa i ka lani, ha'aha'a Hawai'i moku o Keawe i hanau'ia . . . no Puna, no Hilo, po i ka uahi o ku'u'aina . . . ola ia kini, ke 'a mai la ke ahi"—"There is a fire underground, but the firepit gives forth only smoke, smoke that bursts upward, touching the skies, and Hawaii is humbled beneath its darkness . . . it is night over Hawaii, night from the smoke of my land . . . but there is salvation for the people, for now the land is being lit by a great flame."

We need to see statehood as the lifting of the clouds of smoke, as the opportunity to affirm positively the basic Gospel of the fatherhood of God and the brotherhood of man. We need to see that Hawaii has potential moral and spiritual contributions to make to our nation and to our world. The fears Hawaii may have are to be met by men and women who are living witnesses of what we really are in Hawaii, of the spirit of Aloha, men and women who can help unlock the doors to the future by the guidance and grace of God.

This kind of self-affirmation is the need of the hour. And we can affirm our being, as the Aloha State, by full participation in our nation and in our world. For any collective anxiety, the answer is collective courage. And the ground of that courage is God.

We do not understand the meaning of Aloha until we realize its foundation in the power of God at work in the world. Since the coming of our missionaries in 1820, the name for God to our people has been Aloha. One of the first sentences I learned from my mother in my childhood was this from Holy Scripture: "Aloha ke Akua"—in other words, "God is Aloha." Aloha is the power of God seeking to unite what is separated in the world—the power that unites heart with heart, soul with soul, life with life, culture with culture, race with race, nation with nation. Aloha is the power that can reunite when a quarrel has brought separation; aloha is the power that reunites a man with himself when he has become separated from the image of God within.

Thus, when a person or a people live in the spirit of Aloha they live in the spirit of God. And among such a people, whose lives so affirm their inner being, we see the working of the Scripture: "All things work together for good to them who love God . . . from the Aloha of God came his Son that we might have life and that we might have it more abundantly."

Aloha consists of this new attitude of heart, above negativism, above legalism. It is the unconditional desire to promote the true good of other people in a friendly spirit, out of a sense of kinship. Aloha seeks to do good, with no conditions attached. We do not do good only to those who do good to us. One of the sweetest things about the love of God, about Aloha, is that it welcomes the stranger and seeks his good. A person who has the spirit of Aloha loves even when the love is not returned. And such is the love of God.

This is the meaning of Aloha. I feel especially grateful that the discovery and development of our Islands long ago was not couched in the context of an imperialistic and exploitive national power, but in this context of Aloha. There is a correlation between the charter under which the missionaries came—namely, "to preach the Gospel of Jesus Christ, to cover these islands with productive green fields, and to lift the people to a high state of civilization"—a correlation between this and the fact that Hawaii is not one of the trouble spots in the world today but one of the spots of great hope. Aloha does not exploit a people or keep them in ignorance and subservience. Rather, it shares the sorrows and joys of people; it seeks to promote the true good of others.

Today, one of the deepest needs of mankind is the need to feel a sense of kinship one with another. Truly all mankind belongs together; from the beginning all mankind has been called into being, nourished, watched over by the love of God. So that the real Golden Rule is Aloha. This is the way of life we shall affirm.

Let us affirm ever what we really are—for Aloha is the spirit of God at work in you and in me and in the world, uniting what is separated, overcoming darkness and death, bringing new light and life to all who sit in the darkness of fear, guiding the feet of mankind into the way of peace.

Thus, may our becoming a State mean to our nation and the world, and may it reaffirm that which was planted in us one hundred and thirty-nine years ago: "Fear not, for behold I bring you good tidings of great joy, which shall be to all people."

MY FRIEND—TOMMY HOOKER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. CHAPPELL) is recognized for 5 minutes.

Mr. CHAPPELL. Mr. Speaker, January 15, 1974, was a hollow day for me—hollow because my right arm in Government retired from active public service for health reasons—hollow because I knew how much I, my staff, my constituents, and America would miss the experience of his stewardship, the warmth of his demeanor, and his personal sacrifice to all. Yet, I dare not dwell upon the loss of my devoted friend and administrative assistant to public service lest I mitigate the great appreciation I feel for him, my deep admiration for his self-discipline, personal determination, and my gratitude for his accomplishments. I must dwell then, Mr. Speaker, upon some of the greatness of Tommy Hooker.

Tommy Hooker and I grew up together on adjoining farms—a younger brother he was to me—a saddlemate on many a cattle search and drive. He sprang from strong parents. Ernest and Azilee Lyles Hooker took their parental responsibilities seriously and built into their chil-

dren their own good humor, their own appreciation for hard work and opportunity, and their love for their country and their fellow man. Tommy practices well what they taught and what he learned. He finished high school—served overseas in the Korean conflict, returned home—but, within a few short months, a service-connected disability paralyzed him, totally at first and then for the remainder of his life, from the waist down. Told that he would never walk again, he determined to rehabilitate himself, and after months of agonizing therapy, he walked again, but a pair of crutches would be his constant companion.

The tenacity and courage he had displayed as a Golden Glove boxing champion in high school sprang forth in new determination. After attending the University of Florida, he formed his own business in Ocala, then became a Veterans Service Officer—one of the most effective and knowledgeable in the State. He was the first service officer to receive the Outstanding Service Officers Award in Florida.

When I was elected to the Congress, Tommy joined me as my legislative aide, specializing in veterans and social security legislation. He later assumed the heavy and demanding position as administrative assistant. His loyalty, good humor, and ability to get the job done have been invaluable to me. He served this office and the people of the Fourth Congressional District with no thought to himself. It is this kind of dedication, loyalty, and patriotism that has provided this Nation with the leaders that make our country great. It is difficult for a man like Tommy Hooker to slow down, and only on doctors' orders does he do so now. He has gone back home—to Ocala, Fla., to preserve his health, spend more time with his family, and enjoy his farm and the beautiful Florida sunshine.

Our Congress and our country will sorely miss one of its most dedicated public servants. He was a source of inspiration to all with whom he served and a mountain of comfort to all with whom he counseled.

I will deeply miss him, his help, his professional service; but most of all, I will miss his day-to-day friendship. As Carrie James Bond said:

> We find at the end of a perfect day the soul of a friend we've made.

Mr. Speaker, I know my colleagues and our staffs in the Congress join me in paying tribute to Tommy Hooker—a great American—my true friend.

INTRODUCTION OF HEALTH CARE LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. MILLS) is recognized for 10 minutes.

Mr. MILLS. Mr. Speaker, there is widespread agreement that the present system of paying hospitals under medicare and medicaid on the basis of retroactive reimbursement of incurred costs provides no incentive for cost containment efforts on the part of hospitals and that this factor is a significant part of the cause of the rapid increase in hospital costs.

The inflationary trends in the health field in general, and hospitals in particular, must be contained and the Federal Government, as a major purchaser of health services under medicare and medicaid, has a responsibility to take a leadership role in reversing the inflationary spiral in health care costs.

Unfortunately, too many people, including some hospital people, believe that Government leadership means detailed regulation and the Government setting of hospital charges. To my mind, such a step would be pure folly. Should that happen, I believe we will see innovation stifled and the quality of care fall to the lowest common demonstrator.

The Federal Government, however, can meet its responsibility without being the regulator. It can meet the challenge of reversing the inflationary trend by providing appropriate incentives for hospitals to institute sound business practices designed to reduce unnecessary costs while maintaining high-quality care. The ingenuity of local people working in local institutions can produce a more efficient health delivery system if Government provides the proper motivation within flexible but clear guidelines.

What we desperately need is a way to harness the ingenuities of hospital boards, administrators, physicians, and employees in the direction of sound public policy rather than continue to impose regulations upon them which either stimulate their ingenuities to defeat the regulations or drain away their initiative.

Today I have introduced legislation which I believe will meet the need for Government leadership but will avoid too much bureaucratic regulation. The bill will establish meaningful incentives designed not only to recognize superior performance but also to reward efficient and effective management.

But before describing what the bill would do, a very brief discussion of the problems of hospital rate regulation is in order.

There are many problems with Government rate regulations for health providers. I believe a utility-type system of rate setting would—

Require the creation of a new governmental bureaucracy, loaded down with people to tell health care institutions how to do their job;

Stifle productive competition and the influences to keep down prices that go with it;

Result in the eventual Government takeover of health care institutions since the power to control charges implies caretaker responsibility; and

Require almost all States to develop from scratch the necessary expertise to review and monitor hospital financial transactions when both the Federal Government and private insurance carriers have much greater expertise and experience in this area.

On the above points, I would like to quote from a recent address given by former Social Security Commissioner Robert M. Ball before the Institute of Medicine. The former Commissioner said, and I quote:

> In rate regulation it is necessary, of course, to take responsibility for controlling much more than the rate alone. As soon as one goes beyond the type of control the Federal government has been exercising over rate increase and sets the basic rates by institution or class of institution, the rate setting agency is soon dealing with the issues of quality of service, the availability of service, the subsidy of services that do not pay their own way and control over growth and duplication of services.

It seems clear to me that we should move to public-utility-type rate regulation of health care institutions only as a last resort—only after all other alternatives have been tried and found wanting. We have not yet tried, with sufficient vigor, other promising systems.

The bill I have introduced would establish, I believe, the most promising system yet devised.

The bill has two major parts.

The first part would make available to hospitals participating in the medicare and medicaid programs an alternative to the present retroactive cost payment method. Specifically, it would make available prospective payment methods under the medicare and medicaid programs—which buy more than one-third of all hospital care.

Under a prospective payment method, a hospital's payment rates would be set in advance. The hospital, in effect, has a target which it can aim for—and which, except for unforeseen contingencies, it has to live with and within.

If actual costs exceed the prospective rate then the hospital must absorb the difference. Similarly, if the hospital's actual costs are below the prospective rate then the hospital is in an improved financial situation. Thus, the incentives for the hospital itself are in the direction of increasing efficiency and effectiveness of management—not on expanding costs.

The idea of prospective payment is not new. Recent Social Security Act amendments have included authority for extensive experimentation with various types of prospective payment methods.

I have, however, been discouraged by lack of leadership and wilingness to experiment in this area. Quite frankly, one of my reasons for introducing this bill is the hope that HEW can be stimulated to take the initiative. If the administration really wants to reduce reliance on Government, then it should move actively in this area and not fall into traps set by its own planners for increasing dependency on Government.

My bill would require, in title I, that one or more methods of prospective payment be developed and made available to all hospitals participating in the medicare and medicaid programs as an option to retroactive cost reimbursement. The Secretary would be required to consult with hospitals, third-party payors, and other interested parties prior to developing these prospective payment methods. The methods finally used would be those in which a substantial number of hospitals would agree to participate. As an inducement for hospitals to participate

in a prospective payment method, a ceiling on the rate of annual increase in cost reimbursement would be imposed on those providers who elect to stay with cost reimbursement.

Prospective payment does, as I said, inject incentives for the hospital management to keep costs below the prospective rate. But what incentive is there for a hospital to keep its prospective rate as low as possible? With nothing else in the picture hospitals would want to have their prospective payment rates set as high as possible in order to maximize their return. The second part of the bill deals with this problem and also injects new incentives for quality administration in hospitals which do not elect to use a prospective payment system.

Under the second part of the bill similar hospitals would be compared on the basis of their efficiency and quality of management and the better performers would be rewarded. Specifically, hospitals would first be grouped into classes, then the actual proportionate increase in operating costs per beneficiary or other acceptable unit of comparison for the 3 previous years would be computed and compared with the other hospitals in the same class.

Hospitals which experience increases less than the average for all hospitals in their class would receive a "quality management" award in the form of a cash payment equal to 50 percent of the difference between actual costs and what the costs would have been had the hospital costs gone up at the average rate. Alternatively, if the dollar increase—not the proportionate increase—in costs increased less than the average dollar increase, the hospital would receive 50 percent of the difference between actual costs and what total reimbursable costs would have been had the dollar increase been the same amount as the average dollar increase.

A similar system would apply to hospitals under prospective reimbursement in order to provide an incentive for hospitals to keep the prospective rate as low as reasonable.

Since it will be the sum of the individual actions of hospital personnel which really determines whether a hospital would qualify for a quality management payment, my bill would require that hospital management, of all hospitals, have—and make known to the staff—a plan for distributing at least one-half of the payment to the employees and medical staff in the form of bonuses.

This principle of sharing savings or sharing profits is well established in for-profit industry and has been highly successful in motivating both management and employees to improved efficiency of operation and greater profits. Where this approach of sharing savings has been used in hospitals the results have also been highly successful. Unfortunately, it has only been used in a handful of hospitals. The provisions of my bill, however, will make these incentives available to all hospitals and all employees and staff within those hospitals. Those whose efforts make quality management awards possible should, and will, share in them.

In addition, the Secretary would be required to publicize all quality management award payments so that proper public recognition would go to those who were awarded them.

I believe that these provisions in my bill, prospective reimbursement and concrete recognition of superior performance, will do much to inject the proper incentives into hospital management and performance. And lest some erroneously conclude that quality will be impaired let me assure them that quality will be enhanced. It is only reasonable that a hospital which works for quality management will increase quality of care. Moreover, I have great faith that hospital leadership in this country will maintain its dedication to quality care under the many mechanisms which hospitals themselves have established to meet that objective.

Mr. Speaker, I have introduced this bill because I have become convinced that no Government regulatory body can be as effective in carrying out public policy as an effective system of incentives.

There seems to me too many people who are looking to even more regulation to solve problems which have in large part been created by regulation. At the very least, we must try out alternatives to regulation before committing ourselves to a path from which we could never turn.

I urge my colleagues, and others interested in these critical issues, to study the bill I have introduced, to make suggestions for improvement, and experiment with it. We need to develop the soundest system of incentives possible not only for the large existing programs of medicare and medicaid but also for precedents as the Nation moves toward some form of national health insurance.

DEFENSE DEPARTMENT BASE CLOSINGS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. EILBERG) is recognized for 5 minutes.

Mr. EILBERG. Mr. Speaker, as a means of saving money the Defense Department has been closing bases around the country and transferring missions from one installation to another.

In some cases these moves have brought about savings, others have meant no savings, but at least one, involving my city, Philadelphia, seems designed to waste money and ruin morale.

Last year the Department of the Navy moved the reserve functions of the 4th Naval District—located in Philadelphia—to the headquarters of the 3d District, at the Brooklyn Naval Base.

From all appearances this move will be a total disaster. At this time I will read into the RECORD a letter I have sent to Secretary of Defense James R. Schlesinger concerning this matter:

HOUSE OF REPRESENTATIVES,
Washington, D.C., March 13, 1974.

Hon. JAMES R. SCHLESINGER,
Secretary of Defense,
The Pentagon,
Washington, D.C.

DEAR MR. SCHLESINGER: In the past year, the Department of the Navy has administratively consolidated the Reserve Manpower function of the Fourth Naval District Headquarters to the Headquarters of the Third Naval District at the Brooklyn Naval Base. The standard organization and functional manual for Naval District Headquarters assigns a reserve function to the Commandant of each district. Accordingly, the consolidation action would seem to be counter to the intent of 10USC265 which prescribes the assignment of Training and Administrative Reserve Officers to the Naval District Commandant's staff.

Of far greater concern, however, is the situation which exists at the facility to which the reserve personnel and function have been transferred. A limited number of quarters and billeting space is available on post. The closest housing off the base is at Mitchell Field from which the commuting time is one hour in each direction. In view of the energy crisis, this seems intolerable. I am advised the enlisted men's quarters on the Brooklyn Naval Base are not cleaned regularly and that they reek of roaches. Latrines must be locked off and three locks are required on each wardrobe locker.

The records of the reserve personnel are being maintained in cardboard boxes lying on the floor. There have been several records mix-ups as a result, and the integrity of the records are now questionable.

Serious recruitment problems have been experienced as a result of the transfer of function since most of the civilian personnel declined to transfer from Philadelphia with the function. This loss of expertise has also been a contributing factor to the loss of integrity of the records.

It would seem that the reserve function is suffering from lack of adequate facilities for housing personnel and for office operations and records maintenance. This is a very serious situation when you consider the prime facilities in which this function operated in Philadelphia.

The area in which the base is located militates against recruitment of civilian personnel and causes serious morale problems among the naval military personnel. I am advised that one enlisted man cashed a check on the base and was mugged and robbed in a building on the base. A woman was mugged directly outside the gates. Approximately six hundred of the 1100 military personnel assigned are awaiting disciplinary action. Active duty personnel will not leave the base after duty hours.

My assistant, Charles Duld, visited the Brooklyn Base while serving on a two-week reserve tour of active duty. He personally witnessed the conditions of the enlisted men's quarters as well as the locked latrines and triple lock safeguards on the wardrobe lockers. The other items I cite were ascertained by Mr. Duld in discussion with personnel of the base.

Mr. Secretary, as a Member of Congress, I cannot sit idly by and permit the situation I describe to continue without raising my voice in protest to my colleagues. I believe immediate corrective action is required. Since the total transfer has not been completed, the logical solution to this most deplorable problem would seem to be to move the function back to the Headquarters of the Fourth Naval District in Philadelphia. I believe such an action would be more in consonance with the spirit and intent of 10USC265.

I shall appreciate hearing from you on this matter at an early date.

Sincerely,

JOSHUA EILBERG.

IN SITU OIL SHALE TECHNOLOGY ACT OF 1974

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah, (Mr. OWENS) is recognized for 5 minutes.

Mr. OWENS. Mr. Speaker, our goal of self-sufficiency in energy can be achieved only if a national commitment is made to develop all of our domestic energy resources of which oil shale is one of the most abundant. Exploitation of this resource would provide a supplemental petroleum source for the United States which would reduce dependence on imports from foreign countries and would contribute positively to the U.S. balance of trade.

We know that surface processing of oil shale will be expensive and will result in several adverse environmental impacts. Although there are more than 600 billion barrels of shale oil in Utah, Colorado, and Wyoming, the contribution of this domestic resource by 1980 to the U.S. energy supply may be minimal. Estimates of the quantity of shale oil which will be produced from the prototype oil shale leasing program of the Department of the Interior and from development on privately owned lands range from a high of 300,000 barrels per day by 1980 to a low of 100,000 to 250,000 barrels per day by 1985. For comparison, it is estimated that an early successful demonstration of a commercial scale oil shale processing plant along with other Government incentives such as guaranteed loans or guaranteed product pricing, could result in production of 1 million barrels per day of shale oil by 1983 and possibly 2 years sooner if in-place processing is successful.

We must develop a technology for processing shale at a rate which will significantly contribute to our future energy supply without undue environmental damages. We must develop a technology for processing shale which will produce a barrel of oil at the least cost for the American consumer. The best means of achieving this objective may prove to be the processing of oil shale in place with minimum surface deformation. Using this in situ technology, researchers have shown that it is possible to distill shale oil from shale in place without destroying an entire mountain. Reduction in air, water, and solid waste pollution may be possible with the use of this technology.

In view of the tremendous potential which in situ processing of oil shale offers, I am introducing the "In Situ Oil Shale Technology Act of 1974." The purpose of this legislation is to advance oil shale research and development by establishing a Government-industry corporation to further the technology required for commercial development of non-nuclear in situ processing of oil shale resources located within the United States.

This legislation would insure that the research and development funds are allocated to the development and demonstration of in situ processing technology for the U.S. oil shale resources. The bill would seek to decrease the lead time necessary before oil derived from shale by in situ processing comes on stream. Furthermore, the proposed In Situ Oil Shale Technology Corporation would allow the technical and managerial expertise of the Government and industry to work together to provide a better basis for evaluating and directing research and development on in situ processing. The need for this type of legislation is increased in view of the fact that the Department of the Interior does not require any of the tracts of the Prototype Oil Shale Leasing Program to be developed using in situ technology.

The legislation which I propose today represents a new concept which deserves serious attention. It is timely in view of the fact that both the Subcommittee on Mines and Mining and the Subcommittee on Environment of the House Interior and Insular Affairs are currently considering legislation pertaining to oil shale development.

Mr. Speaker, I solicit my colleagues to join me in careful consideration of this proposal.

PRESIDENT'S TAXES VASTLY UNDERPAID

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

Mr. VANIK. Mr. Speaker, there has been considerable controversy in the last several days concerning the possibility of a staggering underpayment of Federal income taxes by the President of the United States.

A number of accountants and tax lawyers have already provided careful studies of this question. I believe from the information that has been made available in the press and by tax analysts and advocates, the President may have understated his taxes by approximately half a million dollars—and that he must be assessed a tax penalty if the faith of the American people in the IRS is to be restored.

I would like to include in the RECORD at this point two thoughtful newspaper articles which discuss the tax payments of President Nixon.

The first article in the Wall Street Journal of January 2, 1974, is by Michael Skigen, a CPA and associate professor of accounting and taxes at Georgetown University's School of Business. As Mr. Skigen states:

> By my reckoning, the gross total of Mr. Nixon's taxes should have been at least $71,000 higher, and by now, if my calculations are correct, interest, and penalties would almost double this amount.

Mr. Skigen makes a special point of the improper handling of capital gains from the sale of President Nixon's New York City apartment.

In the Washington Post of January 7, 1974, Mr. Walter Pincus provides an exhaustive analysis of the donation of the President's papers. The general conclusion in this article is supported by a number of expert papers submitted to Tax Analyst and Advocates, a public interest tax law organization. Mr. Pincus points out that "the papers deduction will have saved Mr. Nixon from paying an additional $300,000 or more in taxes.

If penalties are added to the improper use of the papers deduction, and if the President had not used his home as a business use deduction in a highly questionable manner, the total tax and penalty underpayment of the President is in the neighborhood of $500,000.

Mr. Speaker, the President's tax filings are documents of the moral indifference of the President.

The article follows:

SECOND-GUESSING MR. NIXON'S 1040

(By Michael R. Skigen)

In the past four years President Nixon has spent almost $22,000 for income tax advice. Yet the President's tax return doesn't appear to be all that complicated—he has no investments in oil properties, cattle raising or timber, or even a substantial number of rental properties—all of which are common for one in his income bracket.

Nevertheless, from a strictly cash and estate standpoint, this fantastic expenditure seems to have been money well spent. Whether the tightrope walk along the outer boundaries of the IRS regulations was worth antagonizing the millions of Americans who paid more taxes than the President is another matter we won't go into here. As everyone now knows, the President, on total income for three years of more than $800,000, paid actual taxes in 1970, 1971 and 1972 of $5,979.01, equivalent to a man with income of about $17,000 a year. And even at that, according to his accountant Arthur Blech, he could have "picked up $10,000, $15,000, $20,000 more in expenses" that weren't claimed.

Asked why he made that decision for Mr. Nixon, Mr. Blech explained it was "because of the conservative nature of the work I tried to do. . . . Because the line was not black and white. The line was gray."

After examining the President's financial statements and tax returns in some detail, I'm sorry to say I found a good deal more gray than Mr. Blech apparently did. By my reckoning, the gross total of Mr. Nixon's taxes should have been at least $71,000 higher, and by now, if my calculations are correct, interest and penalties would almost double this amount. Admittedly, IRS rules are subject to varying interpretations and five tax accountants might come up with five different tax estimates. But my estimates are based on the way the taxes would be figured if the President had been treated by the IRS like an ordinary taxpayer.

VICE-PRESIDENTIAL PAPERS

First off, let me say that I found nothing improper in the way the President handled the gift of his vice-presidential papers to the National Archives, even though the tax savings from this $576,000 gift may amount to as much as $300,000. The papers were delivered with the intention of making a gift and more than three years later still have not been rejected. Delivery, acceptance or lack of rejection, and intent to give are the usual criteria applied by the IRS in such cases. However, it must be said that the IRS usually appraises non-cash gifts of such magnitude and does not rely solely on the appraisal obtained by the donor—even on one by such a distinguished appraiser as Ralph G. Newman.

It's another story with the deferral of the $143,000 gain from the sale of Mr. Nixon's apartment in New York City. This was decidedly improper. There are two IRS requirements to fulfill before one is entitled to defer payment of tax on the gain from the sale of a personal residence: (a) that the property be bought or built and (b) that the property be used within one year as the principal residence of the taxpayer. IRS uses several rules of thumb to determine principal residence but the President does not fill the requirements for any of them.

Furthermore, he does not qualify for the four-year exclusion available to certain members of the armed forces. The additional tax that would have been due had this matter been treated properly amounts to approximately $39,000 with the 10% surtax in effect for 1969.

The purchase of the President's San Clemente property and the subsequent sale of

the largest portion of that property to his friends Robert Alplanalp and C. G. Rebozo is another gray area that bears looking into.

According to Mr. Blech, the sale transaction was set up by him and designed to show no profit. This is a perfectly legal attempt. However, in maximizing the proceeds to Mr. Nixon (the proceeds actually taking the form of debt reduction), Mr. Blech allocated property values as of the date of the sale rather than the more usual basis of relative fair market values of the separate parcels at the date of purchase.

The auditing firm, Coopers & Lybrand, chosen by the President to examine his financial affairs, felt strongly enough about the situation to find a gain of approximately $117,000 on the sale to Messrs. Rebozo and Abplanalp. Since Mr. Blech and Coopers & Lybrand reportedly used the same appraiser's report for the allocation and since the IRS prefers to use fair market value of a property at the date of purchase for allocating costs of that property, I would agree with Coopers & Lybrand. It must be emphasized, however, that many accountants and IRS agents will agree to an allocation of costs based on predicted fair market values at the date of sale. (The prediction is usually made at or about the time of purchase.) The tax law and regulations only require that such allocation be "equitable."

It is interesting to note that the President did not reduce his basis in the San Clemente property by the deferred tax from the sale of his New York apartment, which he would have been required to do if his treatment were correct. The gain on the sale of his property would increase by another $117,000—a total of $234,000 in all. Mr. Blech insisted at the Dec. 8 White House press conference that he had taken such allocation into consideration, but the fact remains that this allocation does not appear either on the tax return or in the supplemental papers released by the White House.

Assuming that the original handling of the sale of the New York residence is incorrect, the gain of $117,000 reported by Coopers & Lybrand would not have increased income taxes in 1970, but a minimum tax of almost $6,000 would have been assessed, and, through the intricacies of the tax law the charitable contribution carryover from the gift of the vice presidential papers would have been reduced by almost $30,000 in 1973—from $94,000 to $64,000. The President's 1973 return is not due yet.

OTHER EXPENSES

At the White House press briefing on Dec. 8, Mr. Blech was asked on what basis the operating expenses of the President's San Clemente home were allocated between personal and business use. His response was that he was informed that of the total use made of San Clemente, about 50% was official business, and, to be conservative, he deducted only 25% of the applicable expenses. The expenses totaled over $32,000 in less than four years and exceeded $10,000 in 1971.

IRS regulations require that for a property used partly for business and partly for personal use, a two-tier allocation of costs be made. The first tier involves areas set aside exclusively for business use and the second involves areas used partly for business and partly for personal use. The description of the San Clemente property released by the White House reveals that only one room out of 16 (not counting bathrooms, porches or pantries) is used exclusively for business purposes. If we accept the estimate of maximum business use offered by Mr. Blech, and generously estimate that the property is used 60 days a year, with 30 of those days on presidential business and further assume that half the property is so used during those days, then the annual write-off should be closer to $2,600 than to $8,000.

While it is true that the IRS regulation requiring this type of allocation was ignored in a 1972 district court case, IRS has not acquiesced to that court decision and other taxpayers will have to go to court to obtain similar relief. The President was using this allocation basis in 1969, 1970, 1971 and 1972 even though the court case mentioned was not resolved until late 1972 or early 1973.

The point made here is that the President is, in effect, the chief IRS officer and should be required to comply with IRS regulations even more than anyone else. The impact of using this allocation of costs is to save the President about $6,000 or more in taxes over the 1969–72 period.

In addition, the President incorrectly treated the employe business expenses in his tax returns. Since he received an annual $50,000 expense allowance, all of his employe business expenses up to that amount are reimbursed. They are, therefore, deductions toward adjusted gross income, which in turn reduces the base against which charitable contributions are determined. The proper treatment of these expenses would indicate that the President has taken charitable contributions of over $61,000 in excess of those to which he was entitled. The tax on these deductions would amount to approximately $20,000.

The total impact of all the marginal items mentioned above can be summarized as follows:

Tax owed on sale of N.Y. property	$39,000
Tax on excess charitable contributions	20,000
Minimum tax from San Clemente sale	6,000
Tax from overstatement of deductible expense	6,000
Total	71,000

So, at the conclusion of this exercise, what does it all mean? Even if all my suggestions were accepted, the President would pay only a relatively small sum for one in his income bracket. However, it does seem to say something about the way the tax laws are structured. And it may be of some interest to the typical taxpayer who does not have vice-presidential papers to donate, who gets grief from the IRS for deducting his donations of clothing and other items to charities without professional appraisals and itemized receipts, and who can claim only one principal place of residence for both federal and state purposes.

MR. NIXON'S PAPERS: THE TAX QUESTION

(By Walter Pincus)

Investigations into various aspects of President Nixon's income tax returns are now being undertaken by the Internal Revenue Service, the Joint Committee on Internal Revenue Taxation, the House Judiciary Committee (studying impeachment) and the State of California. One particular point that deserves attention is the questionable manner in which Mr. Nixon's tax deductible "gift" of vice presidential papers was made. As with almost every phase of the Watergate affair, there seem to be substantial differences between what the President and his aides say happened, and what can be pieced together using a variety of sources.

Ralph G. Newman is a respected appraiser of historic books, manuscripts and archives. Edward L. Morgan is now an assistant secretary of the Treasury but until this year he had served in the White House as a deputy counsel to President Nixon. Frank DeMarco is a California lawyer who, since 1969, has handled Mr. Nixon's taxes. Each is unknown to most Americans, but the chances are growing that as Mr. Nixon's taxes are thoroughly investigated in the coming months, these gentlemen will become as recognizable as Rose Mary Woods and J. Fred Buzhardt, whose fame spread during the inquiry into the 18-minute gap on the White House tapes. As with the tapes, Mr. Nixon's taxes and particularly the tax-deductible gift in 1969 of pre-presidential papers valued at $576,000, require a suspension of disbelief. And as with the tape gap, there is the possibility that a criminal act was involved.

In his Nov. 17 appearance before the Associated Press managing editors, the President made one of his typical, misleading overstatements. Discussing why he paid less than $1000 in taxes on an earned personal income of over $250,000 in 1970 and 1971, he said it was "not because of the deductions for . . . gimmicks"; it was because Lyndon Johnson "came in to see me . . . and he told me that under the law, up until 1969, presidential and vice presidential papers given to the government were a deduction and should be taken, and could be taken as a deduction from the tax." Having credited the original idea to Johnson, Mr. Nixon went on to say he turned his papers "over to the tax people . . . They appraised them at $500,000." So when the tax people prepared his returns, they "took that as a deduction." But as can be seen from an inspection of those returns, as well as documents placed in the Congressional Record by Sen. Lowell Weicker (who has run his own investigation) and interviews with various participants, the matter of the tax-deductible papers is far more complex than the President's words would suggest.

Sometime after his election in 1968, Mr. Nixon and then President Johnson apparently did discuss the donation of papers. Johnson had since 1965 been availing himself of this "gimmick" to lower his taxable income. It was a simple thing: a public official had papers; he offered them to an educational institution or the government; the recipient put them in order and someone was brought in to appraise their value. Then, based on the appraised value and the donor's taxable income, all the papers were turned over at once, or given over a number of years with the deductions spread out.

Many officials have used this gimmick. And so in December 1968, Mr. Nixon or one of his aides got in touch with Mr. Newman, whose place of business is in Chicago. Newman had performed similar services for President Johnson. Around Dec. 20 Mr. Newman went to New York City and reportedly identified donatable materials belonging to Mr. Nixon which were kept in the offices of Nixon's law firm and in a New York warehouse. Since the end of the tax year was fast approaching, a deed to this material was drawn up, supplemented by a list of 21 specifically identified cartons of papers, letters, books, tapes and memorabilia from various parts of Mr. Nixon's career. The deed turned the listed material over to the U.S. government but reserved to the donor, Mr. Nixon, the right to limit access to the papers during his presidency to persons specifically designated by him. On Christmas Day 1968 Mr. Nixon signed the deed. The materials were said to have been delivered to the Federal Records Center in New York City Dec. 30, 1968, and accepted in writing by an official of the General Services Administration, which operates the National Archives and the presidential libraries.

Nothing more was done about these 1968 papers until mid-March 1969, when Mr. Nixon's tax returns were being prepared and a fuller description and appraisal of the 1968 gift were needed. On March 20, 1969, the 1968 papers were brought to Washington from New York and stored in stack area 14–W4 of the National Archives Building. The next day the assistant archivist for presidential papers, Daniel Reed, informed Mr. Newman that the 1968 papers were being readied for examination by him in Washington.

That same week a retired member of the National Archives staff, Sherrod East, was asked to return as a consultant to help organize the pre-presidential Nixon papers. In the preceding months hundreds of cartons had been gathered together from warehouses around the country and even the garage of the President's brother, Donald. Initially they had been crowded into a room in a federal building a block from the White House. On March 25, 1969, it was decided to move the approximately 500 cartons and 17 file cabinets to stack area 19–E3 in the National Archives. The move took place over the next two days, but upon arrival at the Archives the cartons had to be stacked "four and five high, in no discernible order," according to a report Mr. East later made. "Our problems were further complicated by the indiscriminate mixing of all kinds of office property, memorabilia, books, mementos, audiovisual materials, etc., with the records of a long and varied public and private career," Mr. East added.

Before he and his staff could get to work sorting all this out, Mr. East was, he wrote, "diverted to perform priority arrangement, boxing and labeling of some 45 cubic feet of (Nixon) papers which had been hurriedly separated from his storage files and deeded to the U.S. government before Dec. 31, 1968."

Mr. Newman arrived in Washington April 6, 1969, and stayed through April 8. In order for him to examine the 1968 gift—which East's group had by then put in order—a special document had to be drafted by Mr. Morgan in the White House permitting "limited right to access" to Newman. Mr. East recalls escorting Newman to the 1968 material in April 1969, and either East or one of his assistants remained with him during the entire time of his inspection. "To the best of my knowledge," East said recently, "he [Newman] looked only at the 1968 material." Since the larger batch of Nixon papers was held in a different area of the building, and since East was by then trying to unpack and organize that material, he holds quite firm to his recollection.

Archivist official Reed also has no personal knowledge of Newman's visiting the stack area where the newly arrived Nixon material was stored. And he has no access letter that would have permitted Newman to examine material other than that in the 1968 gift.

In discussing his April 1969 trip to Washington with recent questioners, Mr. Newman has been vague about whether he actually saw anything other than the 1968 gift. He has recalled that a Nixon aide or lawyer, perhaps DeMarco, told him that a $500,000 gift was being considered, so that the President would be able to carry forward a deduction of some $100,000 from his taxes for the coming five years. Newman has said he may have made a "ballpark estimate" of the value of the newly gathered material, based on a description of the amount involved. Mr. East, who was working on the new material, says that in April 1969, when Newman was there, most of it was in unidentified cartons and packing cases; no description of contents was possible. It was East's job over the next two months to put the papers and material in order so that Newman or someone else could see what papers were there and decide what was to be done with them. As far as Mr. East knew, the Nixon material he was working on in stack area 19 was to be organized "for reference and accessioning purposes." He and his associates then proceeded to identify the series of papers contained within the boxes.

While this was going on, Congress (and the Nixon administration) was working to close the tax loophole that allowed for the donating of deductible papers. No one expected the law to be changed prior to Dec. 31, 1969.

East's work was done by the end of May, and in November 1969 Mr. Newman returned to stack 19 of the Archives to work on what was to become the 1969 gift. In that month he reportedly separated out 1,176 National Archives boxes that he valued—for tax purposes—at $576,000. Of the material placed in the Archives on March 26, there remained at least 16 steel file cabinets, 64 boxes of sound tapes, 47 boxes of motion picture film, 28 boxes of memorabilia and hundreds of other Nixon document boxes that have not been deeded.

In late December the Congress closed the loophole: No deductions would be permitted on 1969 income taxes for material that had not been donated prior to July 25, 1969. The President's 1969 tax plans included about $100,000 to be deducted for donated papers. If he did not get it, he would be in a tax bind. His income that year had been inflated by $92,445 in capital gains from the sale of his Fisher's Island stock. Without the papers deduction the President probably would have had to pay $10,000 or more additional tax. As it was, he took a deduction of $95,298 for the papers and would up with a tax refund of $35,301.

The manner in which the gift of the Nixon papers was accomplished has become the focus of investigation. On April 6, 1970, nine days before taxes were due, Mr. Newman drew up his appraisal of the 1969 gift. He said among other things that "from the sixth to the eighth day of April 1969," he or his employees did "examine the papers of Richard Milhous Nixon Part II." These were the papers which East and Reed now say Newman, to their knowledge, did not see at that time. Shortly thereafter on April 10, 1970 what purports to be a deed to the 1969 gift was delivered to the general counsel of GSA, parent agency to the Archives. That deed was dated March 27, 1969, the day the disorganized material arrived in stack area 19. The deed supposedly carried with it a list of the specific papers that made up the gift. The supposed original March 27 list is missing, and a 1970 replacement identifies the 1,176 boxes in the Newman appraisal. But as Mr. East recently noted, those 1,176 boxes did not exist as of March 27, 1969; on that date the material in them was scattered among 500 cartons and assorted file cabinets. Furthermore Mr. Newman did not segregate that material until November 1969.

Of particular interest to investigators—looking into the possibility that this deed was drawn up well after the July 25 gift deadline—is the fact that Deputy Counsel Morgan signed it on behalf of the President. The President did not himself sign it as he had for the 1968 gift. No power of attorney document from the President accompanied the deed. There is only an affidavit that Nixon lawyer DeMarco notarized. As a notary under California law, DeMarco should have kept a record book establishing the date this document was signed, irrespective of the date it carries. DeMarco had no such record.

The outlines of the impending tax investigations are clear. Newman will be questioned on what he did in April 1969 about the 1969 gift. Lawyer DeMarco and the White House have claimed that Newman at that time examined, designated and segregated the gift. The man who was then working directly with the papers says no such work was done. Newman may also be questioned on the basis for his appraisal. Of the 1968 gift, 9,000 items were classified as "children's letters," 1,000 were clippings from the 1960 campaign, and 8,000 were from overseas trips taken by the Vice President. Of the 1969 gift 57,000 items were listed as foreign trips by the Vice President, the bulk of the material—414,000 of a total of 600,000 items—being general correspondence between 1953 and 1961.

DeMarco and Morgan almost certainly will be questioned on the long delayed deed to the 1969 gift. Secretaries and typists who drafted the pertinent documents will also be questioned.

On his tax returns for four years—1969 through 1972—Mr. Nixon deducted $482,-019.67 as charitable contributions (i.e., the gift of his papers). Add to that the $60,000 to $80,000 he claimed as a deduction for the earlier gift of papers in 1968 and the $94,300 on his '69 gift which he may still claim against his 1973 taxes, and you come up with a possible deduction of $640,000.

In a practical sense, the papers deduction will have saved Mr. Nixon from paying an additional $300,000 or more in taxes. Put another way, the papers "deal" helped Mr. Nixon on his way to becoming a millionaire as much as any other financial venture he undertook.

AMENDMENTS TO H.R. 69

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. O'HARA) is recognized for 10 minutes.

Mr. O'HARA. Mr. Speaker, during general debate on H.R. 69, on March 12, I addressed myself to the concept that underlies the amendments I will offer to that bill when, next week, it is called up for reading and amendment.

In accordance with the requirements of House Resolution 963, I am today submitting to be printed in the RECORD, the text of those amendments, which will be printed at the conclusion of these brief explanatory remarks.

My amendments are twofold.

First, I am seeking to amend the distribution formula in the bill so that, of the funds appropriated under H.R. 69, two-thirds will be distributed among the recipient States and local educational agencies on the basis of school-age population, and the remaining one-third will be distributed on the basis of the formula as already proposed in the committee bill, with a 90-percent "hold harmless" provision.

My second amendment will begin by changing the wording of section 101 of the existing Elementary and Secondary Education Act to delete the emphasis on "concentrations of low-income families" and substitute the concept of targeting the special education needs of educationally deprived children. A further provision of the same amendment will remove from local educational agencies the requirement that they provide their funds to concentrations of low-income families and require instead that the funds be directed toward "the individual needs of children demonstrating the need for educational remediation" and conforming other sections of the bill accordingly.

According to the exigencies of the parliamentary situation, Mr. Speaker, I will either submit these amendments separately at the appropriate places, or include them in an amendment in the nature of a substitute for all of title I of H.R. 69. Under the provisions of the rule, I am also asking that the proposed substitute amendment be printed following the text of the other amendments.

The texts of the amendment follow:

AMENDMENTS TO H.R. 69, AS REPORTED
OFFERED BY MR. O'HARA

Page 29, beginning with line 18, strike out everything after "be" down through the period in line 21, and insert in lieu thereof the following: ": (A) from two-thirds of the amount appropriated for such year for payments to States under section 134(a) (other than payments under such section to jurisdictions excluded from the term "State" by this subsection), the product obtained by multiplying the number of children aged five to seventeen, inclusive, in the school district of such agency by 40 per centum of the amount determined under the next sentence, and (B) from the remaining one-third of such amount so appropriated, the product obtained by multiplying the number of children counted under subsection (c) by 40 per centum of the amount determined under the next sentence."

Page 31, line 17, insert after "be" the following: ": from two-thirds of the amount appropriated for such year for payments to States under section 134(a) (other than payments under such section to jurisdictions excluded from the term "State" by this subsection), the product obtained by multiplying the number of children aged five to seventeen, inclusive, in Puerto Rico by 40 percentum of (i) the average per pupil expenditure in Puerto Rico or (ii) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States, and, from the remaining one-third of such amount so appropriated.".

Page 48, line 10, strike out "85" and insert in lieu thereof "90".

AMENDMENT TO H.R. 69, AS REPORTED OFFERED
BY MR. O'HARA

Page 28, insert after line 3 the following:

DECLARATION OF POLICY

SEC. 101. Section 101 of title I of the Elementary and Secondary Education Act of 1965, as amended, is amended to read as follows:

"SEC. 101. In recognition of the special educational needs of educationally deprived children and the impact that the presence of such children have on the ability of local educational agencies to support adequate educational programs, the Congress hereby declares it to be the policy of the United States to provide financial assistance (as set forth in the following parts of this title) to local educational agencies serving such children to expand and improve their educational programs by various means (including preschool programs) which contribute particularly to meeting the special educational needs of educationally deprived children.";

And succeeding sections of Title I are accordingly renumbered.

Page 45, beginning with line 7, strike out everything after "(A)" down through line 11, and insert in lieu thereof the following: which meet the individual needs of children demonstrating the need for remedial education, and such payments shall be used only for such needs of such children, without regard to race, sex, religion, national origin, family income, or any other socio-economic criteria, and".

Page 45, beginning with line 17, strike out everything down through line 18 on page 46.

Page 53, beginning with line 7, strike out everything down through line 2 on page 54.

Page 54, line 5, strike out "112" and insert in lieu thereof "111".

Page 57, line 10, strike out "113" and insert in lieu thereof "112".

AMENDMENT TO H.R. 69, AS REPORTED
OFFERED BY MR. O'HARA

Page 28, beginning with line 1 strike out everything down through page 58, line 18, and insert in lieu thereof the following:

TITLE I—AMENDMENTS OF TITLE I OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

DECLARATION OF POLICY

SEC. 101. Section 101 of title I of the Elementary and Secondary Education Act of 1965, as amended, is amended to read as follows:

"SEC. 101. In recognition of the special educational needs of educationally deprived children and the impact that the presence of such children have on the ability of local educational agencies to support adequate educational programs, the Congress hereby declares it to be the policy of the United States to provide financial assistance (as set forth in the following parts of this title) to local educational agencies serving such children to expand and improve their educational programs by various means (including preschool programs) which contribute particularly to meeting the special educational needs of educationally deprived children."

EXTENSION OF TITLE I PROGRAMS

SEC. 102. Section 102 of title I of the Elementary and Secondary Education Act of 1965 (hereinafter referred to as "the Act") is amended (1) by striking out "for grants to local educational agencies", and (2) by striking out "1973" and inserting in lieu thereof "1977".

ALLOCATIONS OF FUNDS

SEC. 103. Section 103(a) of title I of the Act is amended to read as follows:

"SEC. 103. (a)(1) There is authorized to be appropriated for each fiscal year for the purpose of this paragraph an amount equal to not more than 1 per centum of the amount appropriated for such year for payments to States under section 134(a) (other than payments under such section to jurisdictions excluded from the term 'State' by this subsection). The amount appropriated pursuant to this paragraph shall be allotted by the Commissioner (A) among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective need for grants under this part, and (B) to the Secretary of the Interior in the amount necessary (i) to make payments pursuant to subsection (d)(1), and (ii) to make payments pursuant to subsection (d)(2). The grant which a local educational agency in Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands is eligible to receive shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this title.

"(2) In any case in which the Commissioner determines that satisfactory data for that purpose are available, the grant which a local educational agency in a State shall be eligible to receive under this part for a fiscal year shall (except as provided in paragraph (3)) be (A) from two-thirds of the amount appropriated for such year for payments to States under section 134(a) (other than payments under such section to jurisdictions excluded from the term "State" by this subsection), the product obtained by multiplying the number of children aged five to seventeen, inclusive, in the school district of such agency by 40 per centum of the amount determined under the next sentence, and (B) from the remaining one-third of such amount so appropriated, the product obtained by multiplying the number of children counted under subsection (c) by 40 per centum of the amount determined under the next sentence. The amount determined under this sentence shall be the average per pupil expenditure in the State, except that (A) if the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, such amount shall be 80 per centum of the average per pupil expenditure in the United States, or (B) if the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, such amount shall be 120 per centum of the average per pupil expenditure in the United States. In any case in which such data are not available, subject to paragraph (3), the grant for any local educational agency in a State shall be determined on the basis of the aggregate amount of such grants for all such agencies in the county or counties in which the school district of the particular agency is located, which aggregate amount shall be equal to the aggregate amount determined under the two preceding sentences for such county or counties, and shall be allocated among those agencies upon such equitable basis as may be determined by the State educational agency in accordance with basic criteria prescribed by the Commissioner.

"(3)(A) Upon determination by the State educational agency that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children described in clause (C) of paragraph (1) of subsection (c), who are living in institutions for neglected or delinquent children, the State educational agency shall, if it assumes responsibility for the special educational needs of such children, be eligible to receive the portion of the allocation to such local educational agency which is attributable to such neglected or delinquent children, but if the State educational agency does not assume such responsibility, any other State or local public agency, as determined by regulations established by the Commissioner, which does assume such responsibility shall be eligible to receive such portion of the allocation.

"(B) In the case of local educational agencies which serve in whole or in part the same geographical area, and in the case of a local educational agency which provides free public education for a substantial number of children who reside in the school district of another local educational agency, the State educational agency may allocate the amount of the grants for those agencies among them in such manner as it determines will best carry out the purposes of this title.

"(C) The grant which Puerto Rico shall be eligible to receive under this part for a fiscal year shall be: from two-thirds of the amount appropriated for such year for payments to States under section 134(a) (other than payments under such section to jurisdictions excluded from the term "State" by this subsection), the product obtained by multiplying the number of children aged five to seventeen, inclusive, in Puerto Rico by 40 per centum of (i) the average per pupil expenditure in Puerto Rico or (ii) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil exenditure in the United States, 120 per centum of the average per pupil expenditure in the United States, and, from the remaining one-third of such amount so appropriated, the amount arrived at by multiplying the number of children counted under subsection (c) by 40 per centum of (i) the average per pupil expenditure in Puerto Rico or (ii) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States.

"(4) For purposes of this subsection, the

term 'State' does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands."

TECHNICAL AMENDMENT

SEC. 104. Section 103(b) of title I of the Act is amended by striking out "aged five to seventeen, inclusive, described in clause (A), (B), and (C) of the first sentence of paragraph (2) of subsection (a)" and inserting in lieu thereof "counted under subsection (c)".

DETERMINATION OF NUMBER OF CHILDREN TO BE COUNTED

SEC. 105.(a) Section 103(c) of title I of the Act is amended to read as follows:

"(c)(1) The number of children to be counted for purposes of this section is the aggregate of (A) the number of children aged five to seventeen, inclusive, in the school district of the local educational agency from families below the poverty level as determined under paragraph (2)(A), (B) two-thirds of the number of children aged five to seventeen, inclusive, in the school district of such agency from families above the poverty level as determined under paragraph (2)(B), and (C) the number of children aged five to seventeen, inclusive, in the school district of such agency living in institutions for neglected or delinquent children (other than such institutions operated by the United States) but not counted pursuant to section 123 for the purposes of a grant to a State agency, or being supported in foster homes with public funds."

(b)(1) Section 103(d) of the Act is redesignated as paragraph (2) of subsection (c) and the first sentence thereof is amended to read as follows:

"(A) For purposes of this section, the Commissioner shall determine the number of children aged five to seventeen, inclusive, from families below the poverty level on the basis of the most recent satisfactory data available from the Department of Commerce for local educational agencies (or, if such data are not available for such agencies, for counties); and in determining the families which are below the poverty level, the Commissioner shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census.".

(2) The second sentence of paragraph (2) of such section (as so redesignated) is deleted, and the third sentence of paragraph (2) of such section (as so redesignated) is amended to read as follows:

"(B) For purposes of this section, the Secretary of Health, Education, and Welfare shall determine the number of children aged five to seventeen, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; and in making such determinations the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census for a nonfarm family of four in such form as those criteria have been updated by increases in the Consumer Price Index. The Secretary shall determine the number of such children and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of January of the preceding fiscal year or, to the extent that such data are not available to him before April 1 of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to him at the time of such determination.".

(3) The fourth sentence of paragraph (2) of such section (as so redesignated) is amended by inserting "(C)" before "When" and by striking out "having an annual income of less than the low-income factor (established pursuant to subsection (c))" and inserting in lieu thereof "below the poverty level (as determined under paragraph (A)).".

(c) Section 103 of the Act is amended by striking out subsection (e).

SPECIAL USE OF FUNDS FOR INDIAN CHILDREN

SEC. 106. Section 103 of title I of the Act is amended by adding at the end thereof the following:

"(d)(1) From the amount allotted for payments to the Secretary of the Interior under clause (B)(i) in the second sentence of subsection (a)(1), the Secretary of the Interior shall make payments to local educational agencies, upon such terms as the Commissioner determines will best carry out the purposes of this title, with respect to out-of-State Indian children in the elementary and secondary schools of such agencies under special contracts with the Department of the Interior. The amount of such payment may not exceed, for each such child, 40 per centum of (A) the average per pupil expenditure in the State in which the agency is located or (B) 120 per centum of such expenditure in the United States, whichever is the greater.

"(2) The amount allotted for payments to the Secretary of the Interior under clause (B)(ii) in the second sentence of subsection (a)(1) for any fiscal year shall be, as determined pursuant to criteria established by the Commissioner, the amount necessary to meet the special educational needs of educationally deprived Indian children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior. Such payments shall be made pursuant to an agreement between the Commissioner and the Secretary containing such assurances and terms as the Commissioner determines will best achieve the purposes of this title. Such agreement shall contain (A) an assurance that payments made pursuant to this subparagraph will be used solely for programs and projects approved by the Secretary of the Interior which meet the applicable requirements of section 131(a) and that the Department of the Interior will comply in all other respects with the requirements of this title, and (B) provision for carrying out the applicable provisions of section 131(a) and 133(a)(3)."

STATE OPERATED PROGRAMS

SEC. 107. Title I of the Act is amended by inserting the following in lieu of parts B and C:

"PART B—STATE OPERATED PROGRAMS

"PROGRAMS FOR HANDICAPPED CHILDREN

"SEC. 121. (a) A State agency which is directly responsible for providing free public education for handicapped children (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children who by reason thereof require special education), shall be eligible to receive a grant under this section for any fiscal year.

"(b) Except as provided in section 124, the grant which an agency (other than the agency for Puerto Rico) shall be eligible to receive under this section shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (1) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (2) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States) multiplied by the number of such children in average daily attendance, as determined by the Commissioner, at schools for handicapped children operated or supported by the State agency, including schools providing special education for handicapped children under contract or other arrangement with such State agency, in the most recent fiscal year for which satisfactory data are available. The grant which Puerto Rico shall be eligible to receive under this section shall be the amount arrived at by multiplying the number of children in Puerto Rico counted as provided in the preceding sentence by 40 per centum of (1) the average per pupil expenditure in Puerto Rico or (2) in the case where such avearge per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States.

"(c) A State agency shall use the payments made under this section only for programs and projects (including the acquisition of equipment and, where necessary, the construction of school facilities) which are designed to meet the special educational needs of such children, and the State agency shall provide assurances to the Commissioner that each such child in average daily attendance counted under subsection (b) will be provided with such a program, commensurate with his special needs, during any fiscal year for which such payments are made.

"(d) In the case where such a child leaves an educational program for handicapped children operated or supported by the State agency in order to participate in such a program operated or supported by a local educational agency, such child shall be counted under subsection (b) if (1) he continues to receive an appropriately designed educational program and (2) the State agency transfers to the local educational agency in whose program such child participates an amount equal to the sums received by such State agency under this section which are attributable to such child, to be used for the purposes set forth in subsection (c).

"PROGRAMS FOR MIGRATORY CHILDREN

"SEC. 122. (a)(1) A State educational agency or a combination of such agencies, upon application, may receive a grant for any fiscal year under this section to establish or improve, either directly or through local educational agencies, programs of education for migratory children of migratory agricultural workers or of migratory fishermen. The Commissioner may approve such an application only upon his determination—

"(A) that payments will be used for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of migratory children of migratory agricultural workers or of migratory fishermen, and to coordinate these programs and projects with similar programs and projects in other States, including the transmittal of pertinent information with respect to school records of such children;

"(B) that in planning and carrying out programs and projects there has been and will be appropriate coordination with programs administered under part B of title III of the Economic Opportunity Act of 1964;

"(C) that such programs and projects

will be administered and carried out in a manner consistent with the basic objectives of clauses (1)(B) and (3) through (12) of section 131(a), and of section 132; and

"(D) that, in planning and carrying out programs and projects, there has been adequate assurance that provision will be made for the preschool educational needs of migratory children of migratory agricultural workers or of migratory fishermen, whenever such agency determines that compliance with this clause will not detract from the operation of programs and projects described in clause (A) of this paragraph after considering the funds available for this purpose.

The Commissioner shall not finally disapprove an application of a State educational agency under this paragraph except after reasonable notice and opportunity for a hearing to the State educational agency.

"(2) If the Commissioner determines that a State is unable or unwilling to conduct educational programs for migratory children of migratory agricultural workers or of migratory fishermen, or that it would result in more efficient and economic administration, or that it would add substantially to the welfare or educational attainment of such children, he may make special arrangements with other public or nonprofit private agencies to carry out the purposes of this section in one or more States, and for this purpose he may use all or part of the total of grants available for such State or States under this section.

"(3) For purposes of this section, with the concurrence of his parents, a migratory child of a migratory agricultural worker or of a migratory fisherman shall be deemed to continue to be such a child for a period, not in excess of five years, during which he resides in the area served by the agency carrying on a program or project under this subsection. Such children who are presently migrant, as determined pursuant to regulations of the Commissioner, shall be given priority in the consideration of programs and activities contained in applications submitted under this subsection.

"(b) Except as provided in section 124, the total grants which shall be made available for use in any State (other than Puerto Rico) for this section shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (1) in the case where the average per pupil expenditure in the State is less than 80 percentum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (2) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States) multiplied by (1) the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State full time, and (2) the full-time equivalent of the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State part time, as determined by the Commissioner in accordance with regulations, except that if, in the case of any State, such amount exceeds the amount required under subsection (a), the Commissioner shall allocate such excess, to the extent necessary to other States whose total of grants under this sentence would otherwise be insufficient for all such children to be served in such other States. The total grant which shall be made available for use in Puerto Rico shall be arrived at by multiplying the number of children in Puerto Rico counted as provided in the preceding sentence by 40 per centum of (1) the average per pupil expenditure in Puerto Rico or (2) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States. In determining the number of migrant children for the purposes of this section the Commissioner shall use statistics made available by the migrant student record transfer system or such other system as he may determine most accurately and fully reflects the actual number of migrant students.

"PROGRAMS FOR NEGLECTED OR DELINQUENT CHILDREN

"SEC. 123. (a) A State agency which is directly responsible for providing free public education for children in institutions for neglected or deliquent children or in adult correctional institutions shall be eligible to receive a grant under this section for any fiscal year (but only if grants received under this section are used only for children in such institutions).

"(b) Except as provided in section 124, the grant which such an agency (other than the agency for Puerto Rico) shall be eligible to receive shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (1) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (2) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States) multiplied by the number of such children in average daily attendance, as determined by the Commissioner, at schools for such children operated or supported by that agency, including schools providing education for such children under contract or other arrangement with such agency in the most recent fiscal year for which satisfactory data are available. The grant which Puerto Rico shall be eligible to receive under this section shall be the amount arrived at by multiplying the number of children in Puerto Rico counted as provided in the preceding sentence by 40 per centum of (1) the average per pupil expenditure in Puerto Rico or (2) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States.

"(c) A State agency shall use payments under this section only for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of such children.

"RESERVATION OF FUNDS FOR TERRITORIES

"SEC. 124. There is authorized to be appropriated for each fiscal year for purposes of each of sections 121, 122, and 123, an amount equal to not more than 1 per centum of the amount appropriated for such year, for such sections for payments to Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands under each such section. The amounts appropriated for each such section shall be allotted among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective need for such grants, based on such criteria as the Commissioner determines will best carry out the purposes of this title."

USE OF FUNDS BY LOCAL EDUCATIONAL AGENCIES; PARENT ADVISORY COUNCILS

SEC. 108. (a) Section 141(a)(1) of the Act is amended by striking out so much thereof as precedes clause (B) and inserting in lieu thereof the following:

"(1) that payments under this title will be used for the excess costs of programs and projects (including the acquisition of equipment, payments to teachers of amounts in excess of regular salary schedules as a bonus for service in schools eligible for assistance under this title, the training of teachers, and, where necessary, the construction of school facilities and plans made or to be made for such programs, projects, and facilities) (A) which meet the individual needs of children demonstrating the need for remedial education, and such payments shall be used only for such needs of such children, without regard to race, sex, religion, national origin, family income, or any other socio-economic criteria, and".

(b) Section 141(a)(2) of the Act is amended to read as follows:

"(2) that the local educational agency has provided satisfactory assurance that section 132 will be complied with;".

(d) Section 141 of the Act is amended by striking out subsection (c), by redesignating subsection (b) as subsection (c), and by inserting after subsection (a) the following new subsection:

"(b) It is the purpose of the Congress to encourage, where feasible, the development for each educationally deprived child participating in a program under this title of an individualized written educational plan (maintained and periodically evaluated) agreed upon jointly by the local educational agency, a parent or guardian of the child, and when appropriate, the child. The plan shall include (1) a statement of the child's present levels of educational performance, (2) a statement of the long-range goals for the education of the child and the intermediate objectives related to the attainment of such goals, (3) a statement of the specific educational services to be provided to such child, (4) the projected date for initiation and the anticipated duration of such services, (5) objective criteria and evaluation procedures and a schedule for determining whether intermediate objectives are being achieved, and (6) a review of the plan with the parent or guardian at least annually with provision for such amendments as may be mutually agreed upon.".

ADJUSTMENTS NECESSITATED BY APPROPRIATIONS

SEC. 109. Section 144 of title I of the Act is amended by striking out the first sentence and inserting in lieu thereof the following: "If the sums appropriated for any fiscal year for making the payments provided in this title are not sufficient to pay in full the total amounts which all local and State educational agencies are eligible to receive under this title for such year, the amount available for each grant to a State agency eligible for a grant under section 121, 122, or 123 shall be equal to the total amount of the grant as computed under each such section. If the remainder of such sums available after the application of the preceding sentence is not sufficient to pay in full the total amounts which all local educational agencies are eligible to receive under part A of this title for such year, the allocations to such agencies shall, subject to adjustments under the next sentence, be ratably reduced to the extent necessary to bring the aggregate of such allocations within the limits of the amount so appropriated. The allocation of a local educational agency which would be reduced under the preceding sentence to less than 90 per centum of its allocation under part A for the preceding fiscal year, shall be increased to such amount, the total of the increases thereby required being derived by proportionately reducing the allocations of the remaining local educational agencies, under the preceding sentence, but with such adjustments as may be necessary to prevent the allocation to any of such remaining local educational agencies from being thereby reduced to less than such amount."

PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

SEC. 110. (a) Sections 142 through 144 of the Act (and all cross-references thereto) are redesignated as sections 143 through 145, respectively (and will be further redesignated under section 110(h) of this Act), and the following new section is inserted immediately after section 141:

"PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

"SEC. 132. (a) To the extent consistent with the number of educationally deprived children in the school district of the local educational agency who are enrolled in private elementary and secondary schools, such agency shall make provision for including special educational services and arrangements meeting the requirements of section 131(a) (such as dual enrollment, educational radio and television, and mobile educational services and equipment) in which such children can participate.

"(b)(1) If a local educational agency is prohibited by law from providing for the participation in special programs for educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), the Commissioner may waive such requirement and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a).

"(12) If the Commissioner determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), he shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a).

"(3) When the Commissioner arranges for services pursuant to this section, he shall, after consultation with the appropriate public and private school officials, pay the cost of such services from the appropriate allocation or allocations under this title."

TECHNICAL AND CONFORMING AMENDMENTS TO TITLE I OF ESEA

SEC. 111. (a) Section 141(a)(4) of title I of the Act is amended by striking out "section 145" and inserting in lieu thereof "section 433 of the General Education Provisions Act".

(b) Sections 141(a)(1)(B) and 144(a)(2) (as redesignated by section 109 of this Act) of the Act are each amended by striking out "maximum".

(c)(1) Section 143(a) (as redesignated by section 109 of this Act) of title I of the Act is amended by striking out "described in section 141(c)" and inserting in lieu thereof "provided for in section 122".

(2) Section 143(a)(1) (as redesignated by section 109 of this Act) of title I of the Act is amended by striking out "section 103(a)(5)" and inserting in lieu thereof "section 121".

(d) Section 144(a)(2) (as redesignated by section 109 of this Act) of title I of the Act is amended by striking out "or section 131".

(e) Section 144(b)(1) (as redesignated by section 109 of this Act) of title I of the Act is amended to read as follows:

"(1) 1 per centum of the amount allocated to the State and its local educational agencies as determined for that year under this title; or".

(f) The third and fourth sentences of section 145 (as redesignated by section 109 of this Act) of title I of the Act are each amended by striking out "section 103(a)(6)" and inserting in lieu thereof "section 122".

(g) Sections 146 and 147 of title I of the Act are each amended by striking out "section 141(c)" and inserting in lieu thereof "section 122".

(h) Part D of title I of the Act (and any cross-reference thereto) is redesignated as part C, section 141 of the Act (and any cross-reference thereto) is redesignated as section 131, sections 143 through 145 of the Act (as redesignated by section 109 of this Act) (and cross-references thereto) are further redesignated as sections 133 through 135, respectively, sections 146 through 149 of the Act (and cross-references thereto) are redesignated as sections 136 through 139, respectively), and section 150 of the Act (and any cross-reference thereto) is redesignated as section 141.

(i) Section 403 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by adding at the end thereof the following new paragraphs:

"(16) For purposes of title II, the 'average per pupil expenditure' in a State, or in the United States, shall be the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made (or if satisfactory data for that year are not available at the time of computation, then during the most recent preceding fiscal year for which satisfactory data are available), of all local educational agencies as defined in section 403(6)(B) in the State, or in the United States (which for the purposes of this subsection means the fifty States, and the District of Columbia), as the case may be, plus any direct current expenditures by the State for operation of such agencies (without regard to the source of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

"(17) For the purposes of title II, 'excess costs' means those costs directly attributable to programs and projects approved under that title which exceed the average per pupil expenditure of a local educational agency in the most recent year for which satisfactory data are available for pupils in the grade or grades included in such programs or projects (but not including expenditures under that title for any comparable State or local special programs for educationally deprived children or expenditures for bilingual programs or special education for handicapped children or children with specific learning disabilities)."

STUDY OF PURPOSES AND EFFECTIVENESS OF COMPENSATORY EDUCATION PROGRAMS

SEC. 112. (a) In addition to the other authorities, responsibilities, and duties conferred upon the National Institute of Education (hereinafter referred to as the "Institute") by section 405 of the General Education Provisions Act, the Institute shall undertake a thorough evaluation and study of compensatory education programs, including such programs conducted by States and such programs conducted under title I of the Elementary and Secondary Education Act of 1965. Such study shall include—

(1) an examination of the fundamental purposes of such programs, and the effectiveness of such programs in attaining such purposes,

(2) an analysis of means to accurately identify the children who have the greatest need for such programs, in keeping with the fundamental purposes thereof,

(3) an analysis of the effectiveness of methods and procedures for meeting the educational needs of children, including the use of individualized written educational plans for children, and programs for training the teachers of children,

(4) an exploration of alternative methods, including the use of procedures to assess educational disadvantage, for distributing funds under such programs to States, to State educational agencies, and to local educational agencies in an equitable and efficient manner, which will accurately reflect current conditions and insure that such funds reach the areas of greatest current need and are effectively used for such areas,

(5) experimental programs to be administered by the Institute, in cases where the Institute determines that such experimental programs are necessary to carry out clauses (1) through (4), and the Commissioner of Education is authorized, notwithstanding any provision of title I of the Elementary and Secondary Education Act of 1965, at the request of the Institute, to approve the use of grants which educational agencies are eligible to receive under such title I (in cases where the agency eligible for such grant agrees to such use) in order to carry out such experimental programs, and

(6) findings and recommendations, including recommendations for changes in such title I or for new legislation, with respect to the matters studied under clauses (1) through (5).

(b) The National Advisory Council on the Education of Disadvantaged Children shall advise the Institute with respect to the design and execution of such study. The Commissioner of Education shall obtain and transmit to the Institute such information as it shall request with respect to programs carried on under title I of the Act.

(c) The Institute shall make an interim report to the President and to the Congress not later than December 31, 1976, and shall make a final report thereto no later than nine months after the date of submission of such interim report, on the result of its study conducted under this section. Any other provision of law, rule, or regulation to the contrary notwithstanding, such report shall not be submitted to any review outside of the Institute before its transmittal to the Congress, but the President and the Commissioner of Education may make to the Congress such recommendations with respect to the contents of the reports as each may deem appropriate.

(d) There is authorized to be appropriated to carry out the study under this section the sum of $15,000,000.

(e)(1) The Institute shall submit to the Congress, within one hundred and twenty days after the date of the enactment of this Act, a plan for its study to be conducted under this section. The Institute shall have such plan delivered to both Houses on the same day and to each House while it is in session. The Institute shall not commence such study until the first day after the close of the first period of thirty calendar days of continuous session of Congress after the date of the delivery of such plan to the Congress.

(2) For purposes of paragraph (1)—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the thirty-day period.

SURVEY AND STUDY FOR UPDATING NUMBER OF CHILDREN COUNTED

SEC. 113. (a) The Secretary of Commerce shall, in consultation with the Secretary of Health, Education, and Welfare, expand the current population survey (or make such other survey) in order to furnish current data for each State with respect to the total number of school-age children in each State to be counted for purposes of section 103(c)(1)(A) of title I of the Act. Such survey shall be made, and a report of the results of such survey shall be made jointly by the Secretary of Commerce and the Secretary of Health, Education, and Welfare to the Congress, no later than February 1, 1975.

(b) The Secretary of Health, Education, and Welfare and the Secretary of Commerce shall study the feasibility of updating the number of children counted for purposes of section 103(c) of title I of the Act in school districts of local educational agencies in order to make adjustments in the amounts of

the grants for which local educational agencies within a State are eligible under section 103(a)(2) of the Act, and shall report to the Congress, no later than February 1, 1975, the results of such study, which shall include an analysis of alternative methods for making such adjustments, together with the recommendations of the Secretary of Health, Education, and Welfare and the Secretary of Commerce with respect to which such method or methods are most promising for such purpose, together with a study of the results of the expanded population survey, authorized in subsection (a) (including analysis of its accuracy and the potential utility of data derived therefrom) for making adjustments in the amounts paid to each State under section 134(a)(1) of title I of the Act.

(c) No method for making adjustments directed to be considered pursuant to subsection (a) or subsection (b) shall be implemented unless such method shall first be enacted by the Congress.

LEGISLATION TO REFORM BIG OIL TAX LOOPHOLES

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, hidden beneath big oil's rhetoric lies one simple fact—the petroleum industry enjoys an array of tax advantages unmatched by any other industry. The legislation which I introduced yesterday, H.R. 13381, would transform these tax breaks, which have too long favored big oil at the expense of the American taxpayer, into useful tools to combat the energy crunch.

The concerted media campaign launched by big oil to bolster its battered image is new to the public—it is not new to those of us who have been trying to reform the tax laws. In 1972, Gulf had an effective tax of only 1.2 percent of net income before taxes. The normal tax rate for a corporation is 48 percent. When questions were being asked about the extraordinarily low tax rate applied to oil earnings, Frank Ikard, president of the American Petroleum Institute, wrote each Congressman contending that the industry did indeed pay high taxes, worldwide amounting to $21.9 billion. Careful analysis of the basis for that statement by Tax Advocates and Analysts, a public interest group, revealed that $10 billion of that amount included motor fuel and other excise taxes, which like State and local sales taxes are never absorbed by producers, but are borne by consumers.

Part of the problem of hiding profits from the tax collector stems from the large number of big oil's wholly owned subsidiaries. For example, in 1971 Exxon owned 163 tankers totaling 13 million tons, in contrast to the U.S. Navy's 26 tankers totaling 563,000 tons. The oil companies' shipping subsidiaries fly the flags of many different countries, such as Liberia, Panama, Honduras, countries which neither require financial statements nor impose corporate income taxes and therefore provide paper havens for excess profits the corporation would rather the IRS never saw.

The most outrageous example of the extremes to which big oil would go to take advantage of the foreign tax credit loophole was revealed to me recently when I learned that an oil company refused to drill for oil in a foreign country unless a royalty was imposed on the operation thereby allowing the company to deduct a similar sum from its U.S. tax bill. With this kind of chicanery it is no complicated trick for the parent companies to funnel profits in and out of the subsidiaries so as to manipulate the amount of taxes owed the U.S. Government.

There are three major tax areas which urgently need to be reformed if we are to ever shorten gas lines and restore public confidence in Government. Foreign tax credits were originally created to avoid the possibility of having American companies taxed twice, once by a foreign country and once by the United States.

Incredible as it may seem, the royalties paid to foreign governments for oil extracted are treated under U.S. tax law not as a business expense but as a direct dollar-for-dollar credit against their U.S. tax bill. It has proven so beneficial that excess credits have been carried over by the oil companies for use against future income. The legislation I propose would prohibit the use of the foreign tax credit in the case of an oil or gas well located outside the United States and instead have foreign tax payments treated as a normal business expense. This alone could save U.S. taxpayers between $2 and $3 billion in 1974.

The depletion allowance is another major contributor to the low tax bill of big oil. This so-called incentive has the same effect as would allowing the individual taxpayer earning $50,000 a year to subtract $11,000 even before he begins to figure out his income tax return. I propose that this depletion allowance be disallowed for foreign wells. If, as the oil companies claim, this allowance is needed as an incentive, then let it operate so as to encourage domestic exploration. My bill does just that—in order to qualify for the allowance the well would have to be located within the United States, its territories, or within the Continental Shelf.

The third major tax break enjoyed by big oil is the intangible drilling expense deduction which allows the owner of a productive well to write off his capital investment and show a paper loss in the first year of successful operation despite the fact that the well has made its owner a handsome sum of money. The reform that I am calling for would restrict the benefit of this accounting illusion to domestic wells. Foreign wells are as unstable as the host governments, and the American taxpayer should not have to in effect pay for insuring the monetary success of the driller without assurances that the oil would continue to flow.

The effect of these three tax subsidies has been staggering. The extra profits generated from the foreign tax credit provisions alone approached $15 billion in 1973, revenues which should have benefited American taxpayers.

In 1971 business as a whole reduced corporate taxes by about 15 percent, while the oil industry reduced its effective tax rate by 73 percent. This legislation is a must—to control exploding oil profits, and redirect the industry to expand domestic production.

I include the following:

OIL COMPANY PROFITS

Company	1973 profits full year (millions)	Increase over 1972 (percent)
Exxon	$2,440	59
Texaco	1,292	45
Mobil	843	47
Shell	333	28
Union	180	48
Cities Service	136	37

Company	1973 profits 9 months (millions)	Increase over 1972 (percent)
Gulf	570	60
Standard of California	560	40
Standard of Indiana	389	32
Atlantic Richfield	178	37
Continental	153	23
Phillips	143	30

Source: UAW Solidarity, March 1974.

DANIELS HAILS SHEVCHENKO BIRTHDAY

(Mr. DOMINICK V. DANIELS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DOMINICK V. DANIELS. Mr. Speaker, on March 9, 1974, we observed the 160th anniversary of the birth of Taras Shevchenko, the great national poet of the Ukraine.

Mr. Speaker, at this critical time when a thaw is possible in East-West relations, I could not let this anniversary pass without reminding the world that there has been no letup in the campaign of forced Russification in the Ukraine, a policy inaugurated by the Tsars and continued under the Communist regime.

It is well, Mr. Speaker, to remember that Shevchenko's fame began with the publication in 1840 of Kobzar, a collection of poems extolling freedom for the people of his nation.

Mr. Speaker, I again take the floor of this House to use this forum to remind Mr. Nixon, who is charged under the Constitution with the direction of foreign policy, that there are still many who care about freedom for the people of the Ukraine. As long as I serve in this body there will be one voice which will continue to speak out for the people of the Ukraine.

COAL: OUR ACE IN THE HOLE

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, with 50 of my distinguished colleagues as cosponsors, I have introduced H.R. 12045 to confer emergency powers on the Federal Energy Administrator to achieve the maximum production and conversion of coal. We know that we have in this country approximately one-half of the coal reserves of the world. With coal alone, in addition to the petroleum products we produce and can obtain in this hemisphere, we could make this country in a few years independent of the Middle East as a source of fuel. But in order to do that we have got to coordinate and

concentrate our national efforts to achieve such maximum production. We know that the Germans ran most of the war with gasoline derived from coal. We already have proven techniques in this country by which coal can be converted into gas and gasoline. Hence, it is imperative that we enact such legislation and determine that we are going to make use of this great coal resource that we have to help meet the present energy crisis.

Mr. Speaker, there was an excellent article in the March issue of The Reader's Digest entitled "Coal: Our 'Ace in the Hole' To Meet the Energy Crisis" by Rogers C. B. Morton, U.S. Secretary of the Interior. In this article Secretary Morton urges that we fully employ our coal resources in a determined effort to supplement from coal our energy supply. I include the Secretary's article to follow immediately after these words by me in the body of the RECORD:

COAL: OUR "ACE IN THE HOLE" TO MEET THE ENERGY CRISIS

(By Rogers C. B. Morton, U.S. Secretary of the Interior)

America has enough of it to supply our energy needs for the next five decades. Now is the time to launch an Apollo-size program to get it out and put it to work—as quickly, cleanly and efficiently as possible

The urgency of our energy situation cannot be overstated. Airlines have cut back flight schedules. Many cars and trucks have disappeared from the highways. Our homes are sometimes chilly and dark. The mighty American economy, strongest in the world, is quite literally running out of gas.

The question is no longer whether shortages will lead to personal hardships. It's whether the United States, and indeed the free world, can survive current and projected energy shortages without severe social and economic losses.

I've heard people ask, "How come we've just found out now?" The fact is that scientists, economists and government experts have been warning us for years. We just weren't listening, nor were our elected officials. But there is no time now to waste bickering over where the blame lies. Right away, we Americans must roll up our sleeves and tackle the task that lies ahead.

BLEAK FUTURE?

That task is to establish national energy self-sufficiency, or as close to it as we can get. What do we have to work with? Where has our national energy supply been coming from? Answer: about 77 percent from oil and natural gas; 18 percent from coal; about 4 percent from hydroelectric power; about 1 percent from nuclear power.

Until 1972, we were able to meet about 90 percent of our oil needs from wells in the Western Hemisphere—on the mainland and offshore of the United States, in Venezuela and in Canada. Since then, however, Venezuelan production capacity has leveled off, as has our own domestic production, and Canada has limited its energy exports to us. Hence our only alternative has been to depend more heavily upon the Arabs. Before they established their embargo, we were counting on obtaining nearly three million barrels of oil a day from the Arab world.

In this context of crisis, what does the immediate future look like? In a word: "bleak." By 1985, *unless we find other sources in the meantime*, we shall depend for at least 57 percent of our total fuel supply on oil from other countries—particularly the Middle East and Africa. Without sufficient oil, we would, as a nation and a world power, trail off into impotence.

To depend this heavily upon other nations is to live and work at their mercy. This is why we must urgently develop new sources of energy.

BEST PATH

What are these sources? Let's discount, right off the bat, the more exotic ones, such as atomic energy, geothermal energy and solar energy. All of them, of course, hold great promise and must be brought along as fast as possible. But even atomic-fission energy will at best be able to supply no more than 17 percent of our total energy requirements by 1985. For the rest—for somewhat more than 80 percent of our energy—we'll still depend on oil, natural gas and coal.

We are working on new supplies of oil and natural gas. Three to four years from now, North Slope oil should be flowing through the Trans-Alaska pipeline. We've already acted to accelerate drilling on the Outer Continental Shelf, and are looking at the possibilities of other domestic reserves. We have proposed broadbased legislation to stimulate the production of natural gas.

Nevertheless, I believe that our best path to self-sufficiency by 1980 lies underground—in coal. Coal—three *trillion* tons of it, composing 89 percent of all our fossil-fuel resources—is literally our "ace in the hole." In fact, we have enough coal in the ground to supply *all* our energy requirements until well into the second quarter of the 21st century.

Unfortunately, we have been ignoring coal for years, concentrating instead on using the fuels that are in shortest supply. The reasons are obvious. Coal costs more to mine and deliver than oil and natural gas. Its smoke pollutes the air. Unregulated strip-mining for coal desecrates the land. And coal mining remains one of the most hazardous occupations in the nation.

These serious disadvantages have discouraged us from using coal and blinded us to its virtues. Since World War I, we have had the scientific capability to convert coal into a gas. This gas can fire a kitchen stove or power an electric generator. For a long time, we've also known how to liquefy coal into synthetic oil that can do anything petroleum can do. At an expected conversion rate of two barrels or more of synthetic oil from each ton of coal, our convertible reserves represent the equivalent of four trillion barrels of oil—about ten times the proven oil reserves in the entire world! And if we gasified these coal reserves, they would yield about 32,000 trillion cubic feet of pipeline-quality gas, approximately 20 times the world's known reserves of natural gas.

ALL STOPS OUT

Unfortunately, we do not have the capability to turn coal into oil or gas in commercial quantities, nor can we attain it overnight. At the production end, conversion processes on a large scale are either prohibitively costly or in pilot-plant stages; at the mining end, huge strides must be made in coal-extraction methods and in reclamation. But if we fail to concentrate on coal now—and I mean a national effort bigger than the Manhattan or Apollo programs—we shall have little chance of self-sufficiency by 1980 or, for that matter, by 1985.

Fortunately, the Interior Department has been carrying forward an active research program for making clean gaseous and liquid fuels from coal. Almost since its inception in 1910, the Bureau of Mines has been laying the technical groundwork for our current ability to construct large pilot plants, and to show the commercial feasibility of coal conversion. One coal-gasification pilot plant is in operation in Morgantown, W. Va., and a second with even more modern technology is being completed near Bruceton, Pa. Interior is also researching ways to convert coal to gas underground, thus minimizing the environmental damage from mining.

For more than a decade, Interior's Office of Coal Research (OCR) has also been working on a small scale with the gas and utilities industries to develop economical conversion processes. Eight months ago, most of OCR's target dates for big, commercial-scale operations were set for the mid-1980s. Now they're pegged at 1980, and we're pulling out all stops to meet them. Three years ago, OCR's budget was $17 million a year. Today it's more than $122 million, and by 1975 it should be at least $300 million a year. From then on, the investment must soar even more sharply upward.

Already in joint operation by Interior and the American Gas Association are two successful gasification pilot plants. One, at Rapid City, S.D., is testing Consolidation Coal Company's carbon-dioxide process. The other, at Chicago, is developing the Institute of Gas Technology's HYGAS process, which recently demonstrated for the first time the large scale conversion of coal to synthetic natural gas. A dozen other vital research-and-development projects are currently under way, including a $17-million pilot plant at Fort Lewis, Wash., which will soon process 50 tons of coal a day into a low-sulfur fuel known as Solvent Refined Coal.

HIGH PRICE TAG

From what we learn at these plants, and with an all-out national effort, we could well come "on stream" by the late 1970s with the Interior Department's projected solution to America's energy problem: vast mine, refinery and shipping points, already designated as COGs—for Coal-Oil-Gas.

We envision the first of these as a $450-million prototype of a total energy-systems complex, located somewhere near a minehead and close to an industrial area. A site of perhaps 1000 acres would be crammed with machinery, gasifiers, converters and refineries. Every day it would combine coal with water to produce large supplies of pipeline gas, synthetic oil, ashless, low-sulfur coal, butane or propane, organic chemicals for plastic and petrochemical products, sulfur, cement, iron—plus cinder bricks and blocks.

We should be building ten or more of these complexes by 1980, to increase our coal production by then from 500 million tons to 1500 million tons a year. But anyone who thinks we can achieve this by oldtime methods is dreaming. For one thing, you can't get that many people to work underground. Thus, for the short term, we must strip-mine; for the long term, we must automate the coal mine.

If we are to strip-mine on a large scale, however, Congress will have to come up with tough legislation to eliminate once and for all any permanent damage to the land. Reclamation projects in this country and abroad make me confident that we can put mined land back the way it was, perhaps even improve it.

As for deep mining, well before the year 2000 our underground mines should be practically automated. The machinery should be developed to do the most hazardous work, with men's duties largely confined to maintenance and control.

All these efforts will give us energy sufficiency with security. Combined with an awakened national ethic of frugality and restraint, we shall have energy for continued growth—and we'll have it via methods in keeping with our new standards for clean air, clean water and respect for the land.

The price tag is high: $10 billion spread over the next five years just for a starter. If we don't begin paying now, however, and instead turn the energy crisis into a time of complaining and recrimination, we shall surely plunge the country into economic chaos. The challenge is ours.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. PEPPER (at the request of Mr. O'NEILL), from 3 p.m. today through Thursday, March 14, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BEARD) to revise and extend their remarks and include extraneous material:)

Mr. KEMP, for 15 minutes, today.

Mr. ANDERSON of Illinois, for 30 minutes, today.

Mr. FRENZEL, for 15 minutes, today.

Mr. MILLER, for 5 minues, today.

Mrs. HECKLER of Massachusetts, for 5 minutes, today.

Mr. DICKINSON, for 60 minutes, on March 18, 1974.

(The following Members (at the request of Mr. MOAKLEY) to revise and extend their remarks and include extraneous material:)

Mr. MINISH, for 10 minutes, today.

Mr. DIGGS, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. MATSUNAGA, for 30 minutes, today.

Mr. CHAPPELL, for 5 minutes, today.

Mr. MILLS, for 10 minutes, today.

Mr. EILBERG, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

Mr. VANIK, for 5 minutes, today.

Ms. ABZUG, for 20 minutes, today.

Mr. O'HARA, for 20 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. BEARD) and to include extraneous material:)

Mr. BROOMFIELD.

Mr. KEMP in two instances.

Mr. DEL CLAWSON.

Mr. HOSMER in two instances.

Mr. MYERS.

Mr. ESCH in two instances.

Mr. ARCHER.

Mr. FRENZEL in three instances.

Mr. WYMAN in two instances.

Mr. HORTON.

Mr. BAKER.

Mr. O'BRIEN in 10 instances.

Mr. RAILSBACK.

Mr. HANRAHAN in three instances.

Mr. DERWINSKI in three instances.

Mr. CARTER in five instances.

Mr. BRAY in three instances.

Mr. NELSEN.

Mr. BELL.

Mr. MIZELL in five instances.

Mr. BROWN of Michigan.

Mr. WYDLER.

Mr. SHRIVER.

Mr. WALSH.

Mr. GILMAN.

(The following Members (at the request of Mr. MOAKLEY) and to include extraneous material:)

Mr. GONZALEZ in three instances.

Mr. RARICK in three instances.

Mr. MAHON.

Mr. MONTGOMERY.

Mr. JAMES V. STANTON.

Mr. BURTON in two instances.

Mr. PATTEN.

Mr. ROGERS in five instances.

Mr. STUDDS.

Mr. STOKES in six instances.

Mr. RANGEL in five instances.

Mr. DOWNING.

Mr. FASCELL in three instances.

Mr. HUNGATE in two instances.

Mr. HOWARD.

Mr. ROSTENKOWSKI.

Mr. NICHOLS in 10 instances.

Mr. DULSKI in five instances.

Mr. MINISH.

Mr. DANIELSON.

Mr. UDALL.

Mr. DORN in two instances.

Mr. ANDERSON of California in five instances.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 872. An act to facilitate prosecutions for certain crimes and offenses committed aboard aircraft, and for other purposes; to the Committee on Interstate and Foreign Commerce.

S. 3066. An act to consolidate, simplify, and improve laws relative to housing and housing assistance, to provide Federal assistance in support of community development activities, and for other purposes; to the Committee on Banking and Currency.

BILL PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on March 12, 1974, present to the President, for his approval, a bill of the House of the following title:

H.R. 5450. An act to amend the Marine Protection, Research, and Sanctuaries Act of 1972, in order to implement the provisions of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, and for other purposes.

ADJOURNMENT

Mr. MOAKLEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 1 minute p.m.,) the House adjourned until tomorrow, Thursday, March 14, 1974, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2040. A letter from the Chairman of the Board of Governors, Federal Reserve System, transmitting a report on monetary policy and the economy during 1973; to the Committee on Banking and Currency.

2041. A letter from the Secretary of the Interior, transmitting a report on a study of a 69.5-mile segment of the Allegheny River in Pennsylvania recommending against its inclusion in the National Wild and Scenic Rivers System, pursuant to 82 Stat. 906; to the Committee on Interior and Insular Affairs.

2042. A letter from the Deputy Assistant Secretary of the Interior, transmitting a copy of a proposed concession contract for the continued provision of lodging, food, and motor transportation facilities and services for the public within Canyon de Chelly National Monument during a term ending December 31, 1978, pursuant to 16 U.S.C. 17b–1; to the Committee on Interior and Insular Affairs.

2043. A letter from the Secretary of Transportation, transmitting a report covering calendar year 1973 on the leasing and hiring of quarters and the rental of inadequate housing at or near Coast Guard installations, pursuant to 14 U.S.C. 475(f); to the Committee on Merchant Marine and Fisheries.

2044. A letter from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to increase rates of disability compensation and dependency and indemnity compensation, and to provide for automatic adjustment thereof commensurate with future increases in the cost of living, and for other purposes; to the Committee on Veterans' Affairs.

RECEIVED FROM THE COMPTROLLER GENERAL

2045. A letter from the Comptroller General of the United States, transmitting a report on the examination of the financial statements of the Overseas Private Investment Corporation for fiscal year 1973 (H. Doc. No. 93–238); to the Committee on Government Operations and ordered to be printed.

2046. A letter from the Comptroller General of the United States, transmitting a report on improvements needed in the Washington Metropolitan Area Transit Authority's system of reporting on the status of Washington Regional Rapid Rail Transit System (METRO) cost and construction progress; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MORGAN: Committee on Foreign Affairs. H.R. 12799. A bill to amend the Arms Control and Disarmament Act, as amended, in order to extend the authorization for appropriations, and for other purposes; with amendment (Rept. No. 93–904). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 5525. A bill to declare that certain mineral interests are held by the United States in trust for the Chippewa Cree Tribe of the Rocky Boy's Reservation, Mont.; with amendment (Rept. No. 93–905). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 6175. A bill to amend the Public Health Service Act to provide for the establishment of a National Institute on Aging, and for other purposes; with amendment (Rept. No. 93–906). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 6371. A bill to provide for financing and economic development of Indians and Indian organizations, and for other purposes; with amendment (Rept. No.

93-907). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 10337. A bill to authorize the partition of the surface rights in the joint use area of the 1882 Executive Order Hopi Reservation and the surface and subsurface rights in the 1934 Navajo Reservation between the Hopi and Navajo Tribes, to provide for allotments to certain Paiute Indians, and for other purposes; with amendment (Rept. No. 93-909). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HOGAN: Committee on the Judiciary. H.R. 7682. A bill to confer citizenship posthumously upon L. Cpl. Federico Silva (Rept. No. 93-908). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BADILLO:

H.R. 13443. A bill to amend the Emergency Petroleum Allocation Act of 1973 to assure more equitable distribution of gasoline supplies on a State-by-State basis; to the Committee on Interstate and Foreign Commerce.

By Mr. BENNETT:

H.R. 13444. A bill to amend the Strategic and Critical Materials Stock Piling Act in order to apply the provisions of that act to materials needed to prevent disruption of the national economy; to the Committee on Armed Services.

By Mr. BROWN of California:

H.R. 13445. A bill to authorize the Secretary of Labor to provide financial and other assistance to certain workers and business firms to assist compliance with State or Federal pollution abatement requirements; to the Committee on Banking and Currency.

By Mr. BURKE of Massachusetts:

H.R. 13446. A bill to amend title 10, United States Code, to permit the Secretary of the Navy to establish annually the total number of limited-duty officers permitted on the active list of the Navy and Marine Corps, and for other purposes; to the Committee on Armed Services.

By Mr. CARTER:

H.R. 13447. A bill to amend the Social Security Act to provide adequate financing of health care benefits for all Americans; to the Committee on Ways and Means.

By Mr. DORN (for himself, Mr. TEAGUE, Mr. ROBERTS, Mr. SATTERFIELD, and Mr. HAMMERSCHMIDT):

H.R. 13448. A bill to amend section 620, title 38, United States Code, to exempt contract nursing home care under this section from the requirements of the Service Contract Act of 1965; to the Committee on Veterans' Affairs.

By Mrs. GRASSO:

H.R. 13449. A bill to amend the Small Business Act and the Small Business Investment Act of 1958 to stimulate and encourage industrial and commercial development in the United States by assisting and facilitating the development by small business concerns of new products and industrial innovations and inventions; to the Committee on Banking and Currency.

H.R. 13450. A bill to amend the Public Health Service Act to assist research and development projects for the effective utilization of advances in science and technology in the delivery of health care; to the Committee on Interstate and Foreign Commerce.

H.R. 13451. A bill to amend the Internal Revenue Code of 1954 to permit an exemption of the first $5,000 of retirement income received by a taxpayer under a public retirement system or any other system if the taxpayer is at least 65 years of age; to the Committee on Ways and Means.

H.R. 13452. A bill to amend title II of the Social Security Act to permit the payment of benefits to a married couple on their combined earnings record where that method of computation produces a higher combined benefit; to the Committee on Ways and Means.

H.R. 13453. A bill to amend title XVIII of the Social Security Act to provide payment under the supplementary medical insurance program for optometrists' services and eyeglasses; to the Committee on Ways and Means.

H.R. 13454. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. HALEY (for himself, Mr. HOSMER, Mr. MELCHER, and Mr. STEIGER of Arizona):

H.R. 13455. A bill to further the purposes of the Wilderness Act by designating certain lands for inclusion in the National Wilderness Preservation System, to provide for study of certain additional lands for such inclusion, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. HOLIFIELD (for himself, Mr. BROOKS, Mr. FOUNTAIN, Mr. FASCELL, Mr. REUSS, Mr. MACDONALD, Mr. RANDALL, Mr. CULVER, Mr. HICKS, Mr. CONYERS, Mr. ALEXANDER, Ms. ABZUG, Mr. DONOHUE, Mr. JAMES V. STANTON, Mr. RYAN, Ms. COLLINS of Illinois, Mr. GUDE, Mr. MCCLOSKEY, Mr. PARRIS, Mr. REGULA, Mr. HINSHAW, Mr. PRITCHARD, and Mr. HANRAHAN):

H.R. 13456. A bill to establish a Consumer Protection Agency in order to secure within the Federal Government effective protection and representation of the interests of consumers, and for other purposes; to the Committee on Government Operations.

By Ms. HOLTZMAN (for herself, Ms. BURKE of California, Ms. GRASSO, Mr. MOSS, Mr. ROYBAL, and Mr. WOLFF):

H.R. 13457. A bill to amend the Fair Labor Standards Act of 1938 to narrow the circumstances under which an employer employing employees subject to that act may have wage differentials based on the sex of the employees; to the Committee on Education and Labor.

By Mr. LENT:

H.R. 13458. A bill to discourage the use of painful devices in the trapping of animals and birds; to the Committee on Merchant Marine and Fisheries.

By Mr. LUJAN:

H.R. 13459. A bill to govern the disclosure of certain financial information by financial institutions to governmental agencies, to protect the constitutional rights of citizens of the United States and to prevent unwarranted invasions of privacy by prescribing procedures and standards governing disclosure of such information, and for other purposes; to the Committee on Banking and Currency.

By Mr. LUJAN:

H.R. 13460. A bill to amend the Freedom of Information Act to require consent of subject individuals before disclosure of personally identifiable information in certain circumstances; to the Committee on Government Operations.

By Mr. MILLS:

H.R. 13461. A bill to complement both the health facilities and services planning provisions of section 1122 of the Social Security Act and section 314 of the Partnership for Health Act and the utilization effectiveness and quality assurance provisions of title XI of the Social Security Act by promoting the efficiency and effectiveness of hospital management through the establishment of payment incentives in the medicare and medicaid programs; to the Committee on Ways and Means.

By Mr. MOAKLEY (for himself, Mr. BADILLO, Mr. DELLUMS, Mr. RANGEL, Mr. DIGGS, Mr. CRONIN, Mr. PODELL, Mr. BENNETT, Mrs. CHISHOLM, Mr. BOLAND, Mr. CLAY, Mrs. BURKE of California, Mr. HELSTOSKI, Mr. DANIELSON, Mr. CULVER, Mr. ROYBAL, Mr. EDWARDS of California, Mr. CHARLES H. WILSON of California, Mr. LEGGETT, Mr. CONYERS, Mrs. HECKLER of Massachusetts, Miss HOLTZMAN, Mr. WOLFF, Mr. HILLIS, and Mr. ROSENTHAL):

H.R. 13462. A bill to provide assistance and full time employment for persons who are unemployed and underemployed as a result of the energy crisis; to the Committee on Education and Labor.

By Mr. MONTGOMERY:

H.R. 13463. A bill to amend title XI of the Social Security Act to repeal the recently added provision for the establishment of Professional Standards Review Organizations to review services covered under the medicare and medicaid programs; to the Committee on Ways and Means.

By Mr. NELSEN:

H.R. 13464. A bill to amend the Clean Air Act to assure consideration of the total environmental, social and economic impact while improving the quality of the Nation's air; to the Committee on Interstate and Foreign Commerce.

By Mr. OWENS:

H.R. 13465. A bill to amend the Mineral Lands Leasing Act to advance oil shale research and development by establishing a Government-industry corporation to further the technology required for commercial development of nonnuclear in situ processing of oil shale resources located within the United States; to the Committee on Interior and Insular Affairs.

By Mr. PEPPER:

H.R. 13466. A bill to provide for the continuing availability of capital for economic growth and the creation of new jobs and to provide for greater competitiveness in our economy by amending the Internal Revenue Code of 1954 to impose limitations on institutional holdings of securities and to encourage individuals to invest in securities; to the Committee on Ways and Means.

By Mr. PICKLE:

H.R. 13467. A bill to amend the Truth in Lending Act to prohibit discrimination on account of sex or marital status against individuals seeking credit; to the Committee on Banking and Currency.

By Mr. RODINO:

H.R. 13468. A bill to amend the Internal Revenue Code of 1954 and the Social Security Act to provide income and payroll tax relief to low- and moderate-income taxpayers; to the Committee on Ways and Means.

By Mr. ROGERS (for himself (Mr. STAGGERS, Mr. KYROS, Mr. PREYER, Mr. SYMINGTON, Mr. ROY, Mr. NELSEN, Mr. CARTER, Mr. HASTINGS, Mr. HEINZ, and Mr. HUDNUT):

H.R. 13469. A bill to amend the Public Health Service Act to revise the National Health Service Corps program and the Public Health and National Health Service Corps scholarship training program; to the Committee on Interstate and Foreign Commerce.

By Mr. ST GERMAIN:

H.R. 13470. A bill to amend the Truth in Lending Act to prohibit discrimination on account of age in credit card transactions; to the Committee on Banking and Currency.

By Mr. SKUBITZ:

H.R. 13471. A bill to amend the Emergency Petroleum Allocation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. STAGGERS (for himself and Mr. DEVINE) (by request):

H.R. 13472. A bill to amend the Public Health Service Act to revise and extend programs of Federal assistance for comprehensive health resources planning, and to assist the States in regulating the costs of health care; to the Committee on Interstate and Foreign Commerce.

By Mr. TEAGUE:

H.R. 13473. A bill to amend title 10, United States Code, to establish a center for research regarding prisoner-of-war health problems; to the Committee on Armed Services.

H.R. 13474. A bill to amend title 38, United States Code, to extend the 20-year protection to ratings for children permanently incapable of self-support; to the Committee on Veterans' Affairs.

By Mr. THORNTON (for himself, Mr. SARBANES, Mr. TALCOTT, Mr. STUDDS, Mr. CLEVELAND, Mr. MOAKLEY, Mr. HECHLER of West Virginia, Mr. HOGAN, Mr. GUNTER, and Mr. PRICE of Illinois):

H.R. 13475. A bill to amend the Small Business Act to provide for loans to small business concerns seriously affected by shortages of energy producing materials, and for other purposes; to the Committee on Banking and Currency.

By Mr. TIERNAN:

H.R. 13476. A bill to provide public service employment opportunities for unemployed and underemployed persons, to assist States and local communities in providing needed public services, and for other purposes; to the Committee on Education and Labor.

H.R. 13477. A bill to amend title II of the Social Security Act to provide that increases in monthly insurance benefits thereunder (whether occuring by reason of increases in the cost of living or enacted by law) shall not be considered as annual income for purposes of certain other benefit programs; to the Committee on Ways and Means.

By Mr. VANIK (for himself, Mr. FORD, Mr. MATSUNAGA, Ms. ABZUG, Mr. STRATTON, Mr. ROSENTHAL, Mr. STOKES, Mr. OWENS, Mr. RIEGLE, and Mr. ROE):

H.R. 13478. A bill to amend the Internal Revenue Code of 1954 to eliminate, in the case of any oil or gas well located outside the United States, the percentage depletion allowance and the option to deduct intangible drilling and development cost, and to deny a foreign tax credit with respect to the income derived from any such well; to the Committee on Ways and Means.

By Mr. BRADEMAS:

H.R. 13479. A bill to provide assistance and full-time employment to persons who are unemployed or underemployed as a result of the energy crisis; to the Committee on Education and Labor.

By Mr. DANIELSON (for himself, Mr. CORMAN, Mr. HAWKINS, Mrs. GRASSO, Mr. JOHNSON of California, Mr. LEGGETT, Mr. MCFALL, Mr. MOSS, Mr. SISK, Mr. VAN DEERLIN, and Mr. WALDIE):

H.R. 13480. A bill to amend title 38, United States Code, to provide veterans and other elegible persons a 10-year delimiting period for completing educational programs; to the Committee on Veterans' Affairs.

By Mr. HÉBERT (for himself, and Mr. BRAY) (by request):

H.R. 13481. A bill to amend title 10, United States Code, to repeal sections which impose certain restrictions on enlisted members of the Armed Forces and on members of military bands; to the Committee on Armed Services.

H.R. 13482. A bill to amend Public Law 92-477, authorizing at Government expense the transportation of house trailers or mobile dwellings, in place of household and personal effects, of members in a missing status, and the additional movements of dependents and effects, or trailers, of those members in such a status for more than 1 year, to make it retroactive to February 28, 1961; to the Committee on Armed Services.

By Mr. LITTON (for himself, Mr. BADILLO, Mr. BINGHAM, Mr. BREAUX, Ms. BURKE of California, Mr. CHAPPELL, Mr. DENT, Mr. EILBERG, Mr. FLOOD, Mr. FORD, Mr. FRENZEL, Mr. HAWKINS, Mr. KEMP, Mr. KETCHUM, Mr. MANN, Mr. OBEY, Mr. OWENS, Mr. POWELL of Ohio, Mr. ROBINSON of Virginia, Mr. ROBISON of New York, Mr. ROYBAL, Mr. RUPPE, Mr. STEPHENS, Mr. YATRON, and Mr. YOUNG of Illinois):

H.R. 13483. A bill to amend the Legislative Reorganization Act of 1970 to provide seminars to freshmen Members of the Congress, and for other purposes; to the Committee on House Administration.

By Mr. PRICE of Illinois (for himself, Mr. HOLIFIELD, Mr. HOSMER, Mr. ANDERSON of Illinois, and Mr. MCCORMACK) (by request):

H.R. 13484. A bill to amend the Atomic Energy Act of 1954, as amended to provide for approval of sites for production and utilization facilities, and for other purposes; to the Joint Committee on Atomic Energy.

By Mr. TEAGUE:

H.R. 13485. A bill to provide that veterans' compensation shall not be considered as income in determining the financial eligibility of individuals for Federal benefits; to the Committee on Ways and Means.

By Mr. UDALL:

H.R. 13486. A bill to provide for the establishment of the Mojave-Sonora Desert National Conservation Area; to the Committee on Interior and Insular Affairs.

By Mr. HOWARD (for himself, Ms. ABZUG, Mr. BADILLO, Mr. BELL, Mr. CARTER, Mr. CLEVELAND, Mr. DU PONT, Mr. GILMAN, Mrs. GREEN of Oregon, Mr. HENDERSON, Mr. HUNGATE, Mr. JONES of North Carolina, Mr. MCDADE, Mr. MELCHER, Mr. MOAKLEY, Mr. MORGAN, Mr. PARRIS, Mr. PODELL, Mr. RANGEL, Mr. STEELE, Mr. THONE, Mr. TREEN, Mr. WILLIAMS, Mr. WOLFF, and Mr. ZWACH):

H.J. Res. 938. Joint resolution to authorize the President to issue a proclamation designating the month of May 1974, as 'National Arthritis Month"; to the Committee on the Judiciary.

By Mr. HUBER (for himself, Mr. BLACKBURN, Mr. HARRINGTON, Mr. HECHLER of West Virginia, Mrs. HECKLER of Massachusetts, Mr. KEMP, Mr. LONG of Maryland, Mr. MITCHELL of Maryland, Mr. QUIE, Mr. WHITEHURST, and Mr. WON PAT):

H. Con. Res. 446. Concurrent resolution offering honorary citizenship of the United States to Alexander Solzhenitsyn and Andrey Sakharov; to the Committee on the Judiciary.

By Mr. LUJAN:

H. Res. 981. Resolution to create a Select Committee on the Right of Privacy; to the Committee on Rules.

By Mr. OWENS (for himself, Mr. BINGHAM, Mr. BROWN of California, Mr. EDWARDS of California, Mr. HECHLER of West Virginia, Mr. DE LUGO, Mr. LEGGETT, Mr. MITCHELL of Maryland, Ms. MINK, Mr. STARK, Mr. STUDDS, Mr. VAN DEERLIN, Mr. WALDIE, Mr. CHARLES H. WILSON of California, Mr. WOLFF, Mr. WON PAT, and Mr. MOORHEAD of Pennsylvania):

H. Res. 982. Resolution to amend the Rules of the House of Representatives to provide for the broadcasting of meetings, in addition to hearings, of House committees which are open to the public; to the Committee on Rules.

SENATE—*Wednesday, March 13, 1974*

The Senate met at 10 a.m. and was called to order by Hon. ROBERT C. BYRD, a Senator from the State of West Virginia.

PRAYER

Brig. James Osborne, divisional commander, the National Capital and Virginias Division, the Salvation Army, offered the following prayer:

Almighty God, Father of all and cornerstone of this great Nation, touch and teach us today. Mark us for significant service for this exciting and exacting moment.

We particularly pray for these selected and elected servants, standing in the midst of great turmoil, encircled by the forces of good and evil, yet enriched and equipped by Thy presence and power.

Grant them strength to stand against all that is low and profane accompanied by wisdom to know and courage to choose high ideals and righteous causes.

Endow them with ability to see problems of this day and beyond them to lasting possibilities and eternal verities.

Guide our people to lives of love, fervent devotion, and spiritual efficiency.

Send us a sensitivity to those suffering and in need then direct us to appropriate action as the demonstration that righteousness exalts a nation.

Bestow on us new vision and verve through Jesus Christ our Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., March 13, 1974.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. ROBERT C. BYRD, a Senator from the State of West Virginia, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. ROBERT C. BYRD thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of