NOVEMBER 1

10:00 a.m.
Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue hearings on S. 1879, to bar the granting of pipeline rights-of-way to applicants who produce oil products. 3110 Dirksen Building

NOVEMBER 14

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To hold hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings. 2228 Dirksen Building

NOVEMBER 15

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings. 2228 Dirksen Building

NOVEMBER 16

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings. 2228 Dirksen Building

NOVEMBER 17

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings. 2228 Dirksen Building

NOVEMBER 18

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings. 2228 Dirksen Building

HOUSE OF REPRESENTATIVES—*Thursday, October 27, 1977*

The House met at 11 o'clock a.m.

Rabbi Tzvi H. Porath, Ohr Kodesh Congregation, Chevy Chase, Md., offered the following prayer:

Father of the strong and the wise
Before whom even the strongest are weak
And the wisest are as an unlearned child
Inspire the leaders of this great Nation with Thy goodness

In moments of temptation give them strength;
In hours of doubt, renew their faith;
In days of weariness, give them courage.

Clothe their deliberation with wisdom; to enable them to distinguish truth from falsehood, right from wrong

Guide them in their actions, so that they reflect a small spark of Thy great wisdom

And may we all have a share in helping to make a creative contribution to a better, more peaceful world.

Amen.

CALL OF THE HOUSE

Mr. STEIGER. Mr. Speaker, under clause 1, rule I, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. WRIGHT. 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. 702]

Applegate	Diggs	Michel
Armstrong	Dodd	Montgomery
Ashley	Drinan	Murphy, Ill.
AuCoin	Duncan, Tenn.	Murphy, Pa.
Badillo	Eckhardt	Roncalio
Bedell	Edwards, Ala.	Scheuer
Beilenson	English	Seiberling
Bevill	Flowers	Shuster
Bolling	Ford, Mich.	Skubitz
Brown, Mich.	Gibbons	Stockman
Burton, John	Harkin	Stokes
Burton, Phillip	Harsha	Teague
Chappell	Heckler	Tucker
Chisholm	Kemp	Vander Jagt
Clawson, Del	Kindness	Waxman
Conyers	Koch	Whalen
Cornwell	McFall	Wiggins
Davis	McHugh	Wilson, Tex.
Derrick	Marlenee	Young, Alaska

The SPEAKER. On this rollcall 377 Members have recorded their presence by electronic device, a quorum.

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

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 SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1771. An act to amend certain provisions of the Foreign Assistance Act of 1961 relating to the Overseas Private Investment Corporation.

RABBI TZVI PORATH

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

Mr. STEERS. Mr. Speaker, it is my pleasure and my honor to welcome Rabbi Tzvi Porath and Mrs. Porath to our session this morning. He is now in his 25th year at the Ohr Kodesh Congregation in Chevy Chase, Md.

He was previously an Air Force chaplain for 4 years in World War II.

He was the first Jewish chaplain at the National Institutes of Health. He is now the chaplain at the Bethesda Naval Hospital.

He obtained his master's degree in social work at the University of Pittsburgh; his Ph. D. at Yeshiva University in New York. He also received an honorary doctorate at the Jewish Theological Seminary in New York.

Mr. Speaker, our community is well aware of his contributions to it and his dedication to our well-being, personally and spiritually.

In particular, we salute his dedication to the cause of Soviet Jewry. His work in behalf of those who face persecution is an inspiration to us all.

APPOINTMENT OF CONFEREES ON H.R. 3454, ENDANGERED AMERICAN WILDERNESS ACT OF 1977

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3454) to designate certain endangered public lands for preservation as wilderness, to provide for the study of additional endangered public lands for such designation, to further the purposes of the Wilderness Act of 1964, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Arizona? The Chair hears none, and apponts the following conferees: Messrs. UDALL, KASTENMEIER, RONCALIO, WEAVER, VENTO, JOHNSON of Colorado, and SYMMS.

APPOINTMENT OF CONFEREES ON S. 1750, SACCHARIN STUDY, LABELING, AND ADVERTISING ACT

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1750) to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act, as amended, to conduct studies concerning toxic and carcinogenic substances in foods, to conduct studies concerning saccharin, its impurities and toxicity and the health benefits, if any, resulting from the use of nonnutritive sweeteners including saccharin; to ban the Secretary of Health, Education, and Welfare from taking action with regard to saccharin for 18 months, and to add additional provisions to section 403 of the Federal Food, Drug, and Cosmetic Act, as amended, concerning misbranded foods, with a House amendment thereto, insist on the House amendment, and agree to the conference asked by the Senate.

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

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gen-

tleman explain his unanimous-consent request?

Mr. STAGGERS. We are going to conference on the bill S. 1750; just to conference.

Mr. ROUSSELOT. Just to conference, and to protect the House position?

Mr. STAGGERS. That is right.

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

The SPEAKER. Is there objection to the request of the gentleman from West Virginia? The Chair hears none, and appoints the following conferees: Messrs. STAGGERS, ROGERS, SATTERFIELD, PREYER, FLORIO, DEVINE, and CARTER.

PERMISSION FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES TO MEET DURING 5-MINUTE RULE TODAY

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries may be permitted to meet today during the 5-minute rule. We have scheduled an informal briefing only.

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

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman assure us that there will be no legislation considered?

Mr. HUGHES. There will be no markup.

Mr. ROUSSELOT. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

ARROGANCE OF POWER SHOWN IN PRESIDENTIAL APPOINTMENT

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

Mr. HYDE. Mr. Speaker, the term "arrogance of power" appropriately describes the President's appointment of Samuel Zagoria as Republican member of the Federal Election Commission.

The spirit, if not the letter of the law—designed to provide honesty, fairness, and balance to Federal elections is trampled upon by the leader of the Democratic Party, selecting as Republican member someone whose political philosophy is compatible with his own, rather than someone acceptable to the Republican leadersihp. Contrary to what the law contemplates, Mr. Carter opposes political diversity on the FEC; he demands unanimity with his own views in support of Federal financing of congressional elections.

By this action Mr. Carter has brutalized not only the rights of the Republican minority, but the democratic process itself.

HOW VIETNAM USES U.S. DOLLARS

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

Mr. YOUNG of Florida. Mr. Speaker, for some months now I have been telling my colleagues about U.S. dollars going to Vietnam through the World Bank and some of the other multinational organizations. Today, I would like to tell the Members what the Vietnamese are planning to do with some of their money. Unfortunately, the time limit placed upon me this morning will require that I provide the details for the record, which I will do.

Members might be interested to know that General Giap, Hanoi's Minister of Defense, was also North Vietnam's leading general during the war, has been reported as reaching an agreement to provide guns, ammunition, and military advisers to the PLO. I do not think anyone in this Chamber needs a crystal ball to tell him what the PLO is going to do with the guns and ammunition they may be getting from Vietnam.

THE ABORTIVE INTERNATIONAL WOMEN'S YEAR CONFERENCE

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

Mr. BADHAM. Mr. Speaker, now this morning's Washington Post has neatly fallen into the trap laid by the administration and the State Department for, if you will pardon the expression, the abortive International Women's Year Conference. Recently the State Department issued a press release, when people of all political persuasions started to complain about the conduct of regional IWY delegate conferences, stating that in their eyes anyone who did not go along with the libber proposals of Abzug and company was a member of the ultra-right, whatever that is.

As a State legislator, I voted for ratification of ERA, but I began to wonder about the situation when, quoting Elizabeth Becker of today's Post on Abzug, she says:

> She and Jean Stapleton, who plays television's classic housewife . . .

Jean Stapleton is a superb actress, but hardly America's classic housewife. I doubt many American women or men would consider this role the "classic housewife." Quoting further from the article:

> The degree of success the proposals will meet next month apparently rests on the support that "ultra-right" groups have drummed up among the elected state delegations. Abzug said the KKK, the John Birch Society, the Mormon Church and the Right to Life antiabortion group were among the groups "attempting to subvert the conference."

I take strong exception to the fact that Abzug and company are lobbying with statements like this are funded from the Federal Treasury and admonished not to lobby for the ERA. They have clearly done so illegally and have tried to pass the blame on to others. Abzug should go.

VETERANS' ADMINISTRATION RESEARCHERS, DR. ROSALYN S. YALOW AND DR. ANDREW V. SCHALLY, RECEIVE NOBEL PRIZE

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

Mr. HAMMERSCHMIDT. Mr. Speaker, I would like to congratulate the two Veterans' Administration researchers who recently received the most widely recognized honor in the world, the Nobel Prize.

Dr. Rosalyn S. Yalow of the Bronx, N.Y. VA Hospital, and Dr. Andrew V. Schally of the New Orleans VA Hospital, recently selected to share the award for two different projects, are career VA employees. Between them they have given the Veterans' Administration more than 40 years of service. It is obviously a tribute to them to receive such an award, Mr. Speaker, and I congratulate them both from the bottom of my heart. In addition, it speaks favorably for our Veterans' Administration medical system that it has been able to attract and hold such talented employees for so many fruitful years. At a time when the VA medical system has come under attack from some quarters as being outmoded, it is obvious that, not only is mainstream medicine continuing to be practiced in our hospitals, but research efforts are being conducted that are on the cutting edge of modern scientific thought.

The Nobel Prize to those two distinguished researchers was no shot out of the blue. Both have previously received the prestigious Albert Lasker Award for basic research, and between them hold a dozen other major national awards for their accomplishments.

I congratulate them, and also the many other VA researchers who continue to accomplish great things, not only for our Nation's veterans, but for the citizens of the world.

PLO AND GENEVA CONFERENCE

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

Mr. FREY. Mr. Speaker, almost a month has elapsed since the release of the United States-U.S.S.R. pact on resumption of the Geneva Conference. The ensuing days have brought cries of protest from concerned Jewish-Americans, murmurs from the White House against a "Jewish lobby," and stepped up efforts here and abroad to discredit the Israeli leadership.

Those who seek a lasting peace in the Mideast—and let me add I think the

President is one who does—might consider their stance now that the shock of the settlement has subsided.

Three specific areas of concern are evident in the letters, calls and literature I have received in my office. All three relate directly to the Carter-Vance-Gromyko agreement of October 1.

First. The phrase "resolution of the Palestinian question" gives rise to the fear of recognition, and therefore legitimization, of the PLO.

Second. The phrase "withdrawal of Israeli armed forces from territories occupied in the 1967 conflict" questions the defensibility of Israel's borders in the face of continued agitation and a newly strengthened PLO.

Third. The call for a "just and lasting settlement—comprehensive, and incorporating all parties concerned" raises serious doubts about an imposed settlement, hammered out between the United States, the U.S.S.R., Israel, Arab nations and the PLO. A settlement the President would like to see this year.

Those three phrases, or "key issues" as the agreement terms them, must scare the devil out of the Israelis and must in turn give pause to the free world. With the United States already tilting heavily toward the Arab position and now bringing the Soviet Union into the arena, Israel is becoming increasingly and dangerously isolated.

There can be no question that the United States-U.S.S.R. agreement is a warning to Israel. One need only consider who stands to gain from an enforced Geneva Convention to understand that the United States has signaled Israel that they will stand alone in Geneva.

The PLO, now legitimatized by Carter and Gromyko, will bring to the table a strong argument for a new Palestinian state. Their argument will be backed by the United States call for withdrawal of Israeli forces from the 1967 borders.

Farouk Kaddomi, the political representative of the PLO, was interviewed by Newsweek while attending a Palestine National Council (PNC) meeting in Cairo in March. The interview has been quoted many times, but bears repeating. Kaddomi said the establishment of a West Bank/Gaza state would only set the stage for the takeover by the Palestinians of "the rest of our land." Kaddomi said:

> There are two stages to our return. The first phase is to the 1967 lines, and the second to the 1948 lines . . . the third stage is the democratic state of Palestine.

At the March PNC meeting, the leadership of the PLO again affirmed their commitment to the destruction of Israel. Not one word of the 1968 National Covenant, the constitution of the PLO, was changed. That covenant asserts that the partitioning of Palestine in 1947 and the establishment of Israel are fundamentally "null and void" (article 19). Article 20 denies that Jews are a national people with a right to statehood. Article 15 calls for the Arabs to "purge the Zionist presence from Palestine."

At the March meeting in fact the PLO reaffirmed its specific adherence to the covenant and called for further "armed struggle" for "all" the land and pledged to reject "peace or recognition" with Israel.

The administration has argued that PLO recognition of the U.N. resolution 242 implicitly means recognition of Israel—but the facts are otherwise. In fact the President has invited to the conference table a terrorist organization committed to the destruction of Israel.

The entrance of the Soviet Union is another worrysome Carter initiative. The previous administration slowly and carefully froze the Soviet Union out of the Mideast discussions—effectively cutting their dominance in the area. Carter's invitation smacks of appeasement—a move to gain Soviet acceptance of SALT proposals.

If—and it is a big if—the Geneva Conference is successful and a settlement acceptable to all parties is reached, President Carter will have moved closer to détente with the Soviets. If Geneva is unsuccessful, President Carter will have given the Soviets diplomatic reentry to the Mideast, and for nothing.

What of American interests in the Mideast? Lasting peace, not just an end to hostilities, is a goal all Geneva participants must seek. Without that peace, Geneva crumbles, the PLO is strengthened, and the Soviets regain influence. The stakes are incredibly high and at what cost to America?

During the last 30 years, the relationship between Israel and the United States has had its ups and downs. The high points—recognition of the Israeli state, the 6-day war, the Sinai talks—have strengthened the relationship. Israel today is America's strongest, most loyal ally in the Mideast. While the enormous amount of support Israel receives from the Jewish-American community is a contributing factor to the sense of camaraderie and unity of purpose America enjoys with Israel, there is more to the "special relationship."

Free people the world over look to Israel as a symbol of the honesty, decency, and fairness of mankind. The Carter initiative puts this symbol in jeopardy. I hope that the President reconsiders the policy presently pursued.

PRESIDENT CARTER BACKS STEEL CAUCUS LIKE HE BACKED GAS PRODUCERS

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

Mr. ASHBROOK. Mr. Speaker, I am a member of the Steel Caucus, as are many Members of this body. The Steel Caucus met at the White House this morning, and I was not able to go, because I was fulfilling other duties as a member of the Committee on Education and Labor. It is my understanding, however, and I think the Members will be glad to know, that the President generally gave the Steel Caucus the same promise that he gave the gas producers last October. He is behind them 1,000 percent. Maybe he will put it in writing, too.

BING SPEAKS OUT

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

Mr. DORNAN. Mr. Speaker, most Americans were shocked at the untimely passing 2 weeks ago of that incomparable, great American, Bing Crosby. However, most Americans are not aware that Mr. Crosby left us an eloquent goodbye in the form of a guest column in the Los Angeles Herald Examiner newspaper. Bing's career spanned an amazing one-half century. He is obviously an expert on entertaining.

Another beloved performer, Jack Haley, Sr., whose career has spanned an even longer period of time, since 1919, has asked me to bring to my colleagues attention this moving, thoughtful Bing Crosby column. I have placed it in the CONGRESSIONAL RECORD of yesterday, October 26. It is on pages 35355 and 35356. I would just like to read one brief paragraph to give my colleagues a feeling for the depth of concern of Bing's warning to all of us. He suffered, as we know, a serious accident last summer, and he wrote of his observations during his recovery period as follows:

> I was laid up for five or six weeks lately—hospitalized—and of course, I saw lots and lots of TV. It became apparent to me that very slowly and very subtly writers and producers are working in nudity, permissiveness, irresponsibility, profanity, scenes of semi-explicit sex, provocative dialogue, smutty innuendoes and situations into their shows. Moral responsibility is almost indiscernible.

Mr. Speaker, I think the responsibility weighs heavily upon us to fight for the type of decency across our land that was personified by the career of the great Bing Crosby and to remember his final words. and heed his warning. After all, he told his final audience at the Palladium "I love you all."

HUMAN RIGHTS IN SOUTH AFRICA

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

Mr. EDWARDS of Oklahoma. Mr. Speaker, from time to time there comes before the people of this country an issue that is of such pervasive moral effect that silence becomes impossible and previous positions must be reexamined. One of those isues is before us now as we see a long-time and important ally of this country, South Africa, reaching to extremes in the suppression of human rights.

I realize that we cannot ignore the importance of South Africa as a necessary element in our national security.

On the other hand, however, it becomes absolutely imperative that every one of us, and particularly those of us who call ourselves conservatives and who value individual liberty as among the highest of values, speak out forcefully in condemnation of what is happening in South Africa today.

SEEKING ANSWERS TO ADMINISTRATION'S POSITION ON BUSING

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

Mr. MARTIN. Mr. Speaker, all the Members know how important it is to be able to help our constituents to get straight answers for them from their Government. We know how inadequate we feel when we are unable to succeed in that task.

Let me share with the Members of the House a recent experience in trying to help Mr. Everett Roberts, my constituent, who has been trying to get an answer from the administration on the question of the position of the President regarding busing. He found that his inquiry was referred first to Secretary Schlesinger and then to Secretary Califano, without any answer being submitted to him as yet.

So Mr. Roberts asked if I could help. I tried to make a contact in an indirect way. We contacted the White House Press Office to find out the President's position on busing. The President did not have a position.

We further requested that any type of news release would do, or any campaign clipping or unofficial statement. A second time we learned that no statement of the President's position could be given, and that the administration was taking a "no-comment" position on the issue.

So I had to apologize to my constituent and suggest that a nonposition was the most expedient position possible for the President.

Since then I have learned that on May 24, 1976, in an interview with U.S. News & World Report, the President did favor voluntary transfers of schoolchildren, disfavored mandatory busing, but supported Federal court orders mandating busing. That is to favor what is popular, oppose what is unpopular, and enforce the law. I can only wonder, and entreat my constituent to use understanding.

SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

Mr. ULLMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 9346) to amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, to reduce the effect of wage and price fluctuation on the system's benefit structure, to provide coverage under the system for officers and employees of the United States, of the State and local governments, and of nonprofit organizations, to increase the earnings limitation, to eliminate certain gender-based distinctions and provide for a study of proposals to eliminate dependency and sex discrimination from the social security program, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN).

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

Mr. FRENZEL. 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 405, nays 3, not voting 26, as follows:

[Roll No. 703]

YEAS—405

Abdnor	Corcoran	Hamilton
Addabbo	Corman	Hammer-
Akaka	Cornell	schmidt
Alexander	Cornwell	Hanley
Allen	Cotter	Harrington
Ambro	Coughlin	Harris
Ammerman	Crane	Harsha
Anderson,	Cunningham	Hawkins
Calif.	D'Amours	Hefner
Anderson, Ill.	Daniel, Dan	Heftel
Andrews, N.C.	Daniel, R. W.	Hightower
Andrews,	Danielson	Hillis
N. Dak.	Davis	Holland
Annunzio	de la Garza	Hollenbeck
Applegate	Delaney	Holt
Archer	Dellums	Holtzman
Armstrong	Dent	Horton
Ashbrook	Derrick	Howard
Ashley	Derwinski	Hubbard
Aspin	Devine	Huckaby
Badham	Dickinson	Hughes
Bafalis	Dicks	Hyde
Baldus	Diggs	Ichord
Barnard	Dingell	Jacobs
Baucus	Dornan	Jeffords
Bauman	Downey	Jenkins
Beard, R.I.	Drinan	Jenrette
Beard, Tenn.	Duncan, Oreg.	Johnson, Calif.
Bellenson	Early	Johnson, Colo.
Benjamin	Edgar	Jones, N.C.
Bennett	Edwards, Ala.	Jones, Okla.
Bevill	Edwards, Calif.	Jones, Tenn.
Biaggi	Edwards, Okla.	Jordan
Bingham	Eilberg	Kasten
Blanchard	Emery	Kastenmeier
Blouin	English	Kazen
Boggs	Erlenborn	Kelly
Boland	Ertel	Kemp
Bonior	Evans, Colo.	Ketchum
Bonker	Evans, Del.	Keys
Bowen	Evans, Ga.	Kildee
Brademas	Evans, Ind.	Kindness
Breaux	Fary	Kostmayer
Breckinridge	Fascell	Krebs
Brinkley	Fenwick	LaFalce
Brodhead	Findley	Lagomarsino
Brooks	Fish	Latta
Broomfield	Fisher	Le Fante
Brown, Calif.	Fithian	Leach
Brown, Mich.	Flippo	Lederer
Brown, Ohio	Flood	Leggett
Broyhill	Florio	Lehman
Buchanan	Flynt	Lent
Burgener	Foley	Levitas
Burke, Calif.	Ford, Mich.	Livingston
Burke, Fla.	Ford, Tenn.	Lloyd, Tenn.
Burke, Mass.	Forsythe	Long, La.
Burleson, Tex.	Fountain	Long, Md.
Burlison, Mo.	Fowler	Lott
Burton, Phillip	Fraser	Lujan
Butler	Frenzel	Luken
Byron	Frey	Lundine
Caputo	Fuqua	McClory
Carney	Gammage	McCloskey
Carr	Gaydos	McCormack
Carter	Gephardt	McDade
Cavanaugh	Giaimo	McDonald
Cederberg	Gibbons	McEwen
Chappell	Gilman	McFall
Chisholm	Ginn	McKay
Clausen,	Glickman	McKinney
Don H.	Goldwater	Maguire
Clay	Gonzalez	Mahon
Cleveland	Goodling	Mann
Cochran	Gore	Markey
Cohen	Gradison	Marks
Coleman	Grassley	Marlenee
Collins, Ill.	Gudger	Marriott
Collins, Tex.	Guyer	Martin
Conable	Hagedorn	Mathis
Conte	Hall	Mattox
Mazzoli	Pursell	Stanton
Meeds	Quayle	Stark
Metcalfe	Quie	Steed
Meyner	Quillen	Steers
Michel	Rahall	Steiger
Mikulski	Railsback	Stokes
Mikva	Rangel	Stratton
Milford	Regula	Studds
Miller, Calif.	Reuss	Stump
Miller, Ohio	Rhodes	Symms
Mineta	Richmond	Taylor
Minish	Rinaldo	Thompson
Mitchell, N.Y.	Risenhoover	Thone
Moakley	Robinson	Thornton
Moffett	Rodino	Traxler
Mollohan	Roe	Treen
Moore	Rogers	Trible
Moorhead,	Roncalio	Tsongas
Calif.	Rooney	Tucker
Moorhead, Pa.	Rose	Udall
Moss	Rosenthal	Ullman
Mottl	Rostenkowski	Van Deerlin
Murphy, Ill.	Rousselot	Vanik
Murphy, N.Y.	Roybal	Vento
Murphy, Pa.	Rudd	Volkmer
Murtha	Runnels	Waggonner
Myers, Gary	Ruppe	Walgren
Myers, John	Russo	Walker
Myers, Michael	Ryan	Walsh
Natcher	Santini	Wampler
Neal	Sarasin	Watkins
Nedzi	Satterfield	Waxman
Nichols	Sawyer	Weaver
Nix	Scheuer	Weiss
Nolan	Schroeder	White
Nowak	Schulze	Whitehurst
O'Brien	Sebelius	Whitley
Oakar	Seiberling	Whitten
Oberstar	Sharp	Wiggins
Obey	Shipley	Wilson, C. H.
Ottinger	Shuster	Wilson, Tex.
Panetta	Sikes	Winn
Patten	Simon	Wirth
Patterson	Sisk	Wolff
Pattison	Skelton	Wright
Pease	Skubitz	Wydler
Pepper	Slack	Wylie
Perkins	Smith, Iowa	Yates
Pettis	Smith, Nebr.	Yatron
Pickle	Snyder	Young, Alaska
Pike	Solarz	Young, Fla.
Poage	Spellman	Young, Mo.
Pressler	Spence	Young, Tex.
Preyer	St Germain	Zablocki
Price	Staggers	Zeferetti
Pritchard	Stangeland	

NAYS—3

Lloyd, Calif.	Mitchell, Md.	Wilson, Bob

NOT VOTING—26

AuCoin	Eckhardt	McHugh
Badillo	Flowers	Madigan
Bedell	Hannaford	Montgomery
Bolling	Hansen	Roberts
Burton, John	Harkin	Stockman
Clawson, Del	Heckler	Teague
Conyers	Ireland	Vander Jagt
Dodd	Koch	Whalen
Duncan, Tenn.	Krueger	

So the motion was agreed to.

The result of the vote was announced as above recorded.

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 further consideration of the bill H.R. 9346, with Mr. EVANS of Colorado in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, October 26, 1977, all time for general debate had expired. The first four amendments made in order pursuant to House Resolution 839 had been disposed of.

The Chair recognizes the gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER. Mr. Chairman, under the rule an amendment to be offered by myself was made in order. With the adoption of the Fisher amendment, however, it is necessary for me to ask unanimous consent at this point to offer

a revised amendment to reflect the adoption of the Fisher amendment.

Mr. Chairman, I ask unanimous consent to do so.

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

Mr. BAUMAN. Mr. Chairman, reserving the right to object, yesterday when this rule was debated the gentleman from Maryland opposed it, as did a number of other Members of the House. I think, as a matter of fact, 153 Members voted against it, a rather large number to vote against a rule.

I would like to quote from the rule:

No amendments to the bill or to the committee amendment in the nature of a substitute shall be in order except . . .

Then there are eight exceptions, which in the view of the gentleman from Maryland grants to eight Members of the House a greater privilege of debate and offering amendments than it does to the remainder of the House.

The rule says nothing about additional amendments to correct mistakes resulting from the amendments made in order by the rule.

If we live by the rule, it seems to me we also have to die by the rule. I do not support closed rules at any time, even when they are to my advantage. I regret that I must object.

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

Mr. BAUMAN. I yield to the gentleman from Wisconsin.

Mr. STEIGER. Mr. Chairman, I appreciate my colleague from Maryland yielding.

This is not an easy position for any of us to find ourselves in. I must admit that were we to go back down this road again, I would not accept the rule that was offered by the Committee on Ways and Means, because of the fact it did not allow flexibility.

The problem, may I say to my colleague from Maryland and to the committee, is that as a result of the adoption of the Fisher amendment yesterday, in order to maintain my commitment to the Committee on Ways and Means to offer amendments that are balanced, as balanced as the committee bill, I am required to raise the rate under the proposal in order to recognize the adoption of the Fisher amendment.

I would under this amendment, for example, have to raise it from the Fisher amendment from 5.15 to 5.40 percent in 1981 to 1984; 5.55 to 5.75, 1985 to 1989; 6.10 to 6.15, 1990 to 2010; and 6.15 to 6.20 in 2011 and thereafter.

Those increases in rates are required to maintain the same kind of integrity to the social security system, as the committee bill as modified by FISHER.

It is for that reason that I have asked unanimous consent to modify my amendment.

Under the rule, as the gentleman from Maryland knows, I can offer my amendment, and perhaps I will do so if for no other reason than to give the House a chance to debate this issue and then simply ask unanimous consent to withdraw the amendment, and I hope I will be given that opportunity.

Mr. BAUMAN. Mr. Chairman, further reserving the right to object, I would say that the gentleman from Wisconsin has just admitted rather candidly that the rule is wrong. It is a rule that allows consideration of this legislation in a manner that would not permit the protection of the integrity of the social security system. In other words, the Committee on Rules wrote a rule that allowed a bill of this major importance to come to the floor with only limited amendments to be offered, in such a manner that it could destroy the social security system. That, I think, is the responsibility of the leadership of this House and the Committee on Rules and those that seek to gag Members.

Mr. Chairman, I do object.

The CHAIRMAN. Objection is heard.

AMENDMENT OFFERED BY MR. STEIGER

Mr. STEIGER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STEIGER: Page 226, strike out lines 3 through 7 and insert in lieu thereof the following:

"(i) shall be $333.33⅓ for each month of any taxable year ending after 1978 and before 1980.

"(ii) shall be $375 for each month of any taxable year ending after 1979 and before 1981,

"(iii) shall be $416.66⅔ for each month of any taxable year ending after 1980 and before 1982,

"(iv) shall be $458.33⅓ for each month of any taxable year ending after 1981 and before 1983,

"(v) shall be $500 for each month of any taxable year ending after 1982 and before 1984, and

Page 226, line 8, strike out "(iii)" and insert in lieu thereof "(vi)".

Page 226, line 10, strike out "1979" and insert in lieu thereof "1983".

Page 226, strike out "in 1977 or 1978" in line 18 and all that follows down through the end of line 24 and insert in lieu thereof "in 1978, 1979, 1980, 1981, or 1982.".

Page 227, line 6, strike out "1977" and insert in lieu thereof "1978".

* * * * *

Page 125, strike out lines 22 through 25 and insert in lieu thereof the following:

"(A) in 1978 shall be $19,200,

"(B) in 1979 shall be $22,200,

"(C) in 1980 shall be $25,000,

"(D) in 1981 shall be $26,000,

"(E) in 1982 shall be $27,000,

"(F) in 1983 shall be $28,700,

"(G) in 1984 shall be $30,300, and

"(H) in 1985 shall be $31,800.

Page 126, line 3, strike out "1982" and insert in lieu thereof "1986".

Page 119, line 18, strike out "5.15" and insert in lieu thereof "5.40".

Page 120, strike out lines 2 through 4 and insert in lieu thereof the following:

5.75 percent;

"(5) with respect to wages received during the calendar years 1990 through 2010, the rate shall be 6.15 percent; and

"(6) with respect to wages received after December 31, 2010, the rate shall be 6.20 percent.".

Page 120, line 16, strike out "5.15" and insert in lieu thereof "5.40".

Page 120, strike out lines 20 through 22 and insert in lieu thereof the following:

5.75 percent;

"(5) with respect to wages paid during the calendar years 1990 through 2010, the rate shall be 6.15 percent; and

"(6) with respect to wages paid after December 31, 2010, the rate shall be 6.20 percent.".

Page 121, line 14, strike out "7.70" and insert in lieu thereof "8.10".

Page 121, line 18, strike out "8.20" and insert in lieu thereof "8.60".

Page 121, line 19, strike out "and".

Page 121, strike out lines 20 through 23 and insert in lieu thereof the following:

"(5) in the case of any taxable year beginning after December 31, 1989, and before January 1, 2011, the tax shall be equal to 9.20 percent of the amount of the self-employment income for such taxable year; and

"(6) in the case of any taxable year beginning after December 31, 2010, the tax shall be equal to 9.30 percent of the amount of the self-employment income for such taxable year.".

Page 122, line 9, strike out "1.00" and insert in lieu thereof "0.90".

Page 122, line 23, strike out "1.00" and insert in lieu thereof "0.90".

Page 123, line 15, strike out "1.00" and insert in lieu thereof "0.90".

Mr. STEIGER (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 Wisconsin?

Mr. ROUSSELOT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk continued the reading of the amendment.

Mr. STEIGER (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 Wisconsin?

There was no objection.

The CHAIRMAN. The gentleman from Wisconsin (Mr. STEIGER) will be recognized for 15 minutes, and the gentleman from Oregon (Mr. ULLMAN) will be recognized for 15 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER. Mr. Chairman, the dilemma that is posed by the rule and also by the position in which I find myself is a difficult one. The amendment that is now before us is one that was designed to deal with two specific aspects of the committee-reported bill, about which I have problems.

Mr. Chairman, the first of those is the earnings limit. As the Members know, under the committee bill the earnings limit is raised only to $4,000 in 1978 and to $4,500 in 1979. This amendment proposes to raise the earnings limit. As the Members know, the earnings limit is how much can one earn before there is a penalty on their social security benefits. My amendment would raise it in 1979 to $4,000: then to $5,000 in 1981; and then to $6,000 in 1983. It would be a statutory raise in the outside earnings test, and it is one which I think is fair, safer and surer than that which is proposed in the committee bill. Interestingly enough,

the committee bill gets us fairly close to that same level by 1983, if one assumes there continues to be a rate of inflation and wages go up at the same rate as they are at the present time.

But the other aspect of the committee bill was the aspect of the base. The base, as the Members know, under the bill that was reported to us by the Committee on Ways and Means, begins in 1978 to jump from where it would be under present law at $17,700 to $19,900, and it ends up in 1987 at $39,600. That is substantially above that which even the President of the United States proposed. He would have brought it to $33,900.

The proposal which I have before the committee now is one which raises the base in 1978 to $19,200, and then far more gradually brings it up to a level of only $35,400 in 1987. Thus, there is about a $4,000 difference between the Steiger proposal and the committee bill, and it is one which attempts to ameliorate what I believe is an otherwise precipitous increase in the base. Thus, this amendment was designed, when it was talked about in the Committee on Ways and Means and when I had it before the Members in the CONGRESSIONAL RECORD and when the Committee on Rules granted the rule, to deal with both prongs of the problem, that is, outside earnings limit rising above the committee bill, while at the same time lowering the base.

I also proposed, as part of the amendment, a 0.1 percent increase in tax in 1981, which would be across-the-board, of course, for all.

What has happened is that we yesterday adopted the Fisher amendment, and when we did that, then the Steiger proposal is not as well balanced as I believe it should be and, frankly, as I think the House ought to face the issues. It would be necessary to raise the tax rate in the 1981–84 period under this proposal to give exactly the same income flow to the trust fund.

This does not, may I say to my colleague, the gentleman from Maryland, break the fund, but it would be necessary to define the amendment to more clearly reflect the agreement which was reached in the Committee on Ways and Means. With the objections to the modified amendment and because of the constraint of the rule, I must say that I find myself in a position where I am not at all sure that it makes any sense for us to vote on the Steiger proposal.

As I indicated to the gentleman from Maryland under his reservation, were we to do this again, I would not accept the kind of rule that we received, if in fact we were not then given the opportunity to take cognizance of an action taken in the Committee of the Whole. I think it is important in the future for both the Committee on Ways and Means and for the Committee on Rules to recognize that the kind of rule under which we are operating makes it impossible for the committee to have a full and adequate discussion of the issues.

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

Mr. STEIGER. I will be delighted to yield to the gentleman from Minnesota.

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

I appreciate the particular dilemma in which the gentleman finds himself. I did not rush precipitously to vote for what was obviously going to be a bad rule. It has proved to be a bad rule.

The fact that the amendment offered by the gentleman from Wisconsin (Mr. STEIGER) is now not in conformance with the agreement reached earlier in our committee is only one example. The amendment which was offered yesterday by the gentleman from Virginia (Mr. FISHER), and which was adopted, is another amendment which is out of balance because of some actuarial errors.

So we are operating under a rule that, instead of protecting us, has actually handcuffed us in our efforts to produce a good bill in this Committee. The gentleman from Wisconsin (Mr. STEIGER) really finds himself between Scylla and Charybdis, and he is probably going to have to withdraw his amendment.

Not only, in that case, do all Members of this Committee who cannot offer amendments find themselves being muffled today by this outrageous closed rule, but even the Members that the rule was designed to help are being forced to withdraw their amendments because they do not work under this rule.

If there ever has been a time since I have been in this House that we have proved the folly of letting a very small elite legislate for all of us who are supposed to be the representatives of the people, this is the time.

I congratulate the gentleman from Wisconsin for pointing out this folly into which we have let ourselves fall. I will point out also that the gentleman has brought to our attention another problem in the bill, and that is that the earnings limitation has not increased adequately to keep up with what most Members of the House feel is a necessity in today's world.

Mr. Chairman, I am sorry the gentleman from Wisconsin (Mr. STEIGER) is in these straits, and I think it is a shame the House has let itself fall into this trap.

Mr. STEIGER. Mr. Chairman, I thank my colleague, the gentleman from Minnesota (Mr. FRENZEL) for his comments.

I will eat my crow, and I will also try to spell those two other words—"the rock and the hard place" in which I find myself.

Mr. BURKE of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from Massachusetts.

Mr. BURKE of Massachusetts. Mr. Chairman, I want to commend the gentleman from Wisconsin (Mr. STEIGER). He has worked hard on this bill and has tried to bring about a fair and equitable solution of these problems. He acted very fairly in the committee.

I understand the dilemma in which the gentleman finds himself this morning, and I want to commend him for his statement.

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

Mr. STEIGER. I yield to the gentleman from California but before doing so I want to thank my thoughtful subcommittee chairman.

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

Let me say in all fairness to my colleague, the gentleman from Wisconsin (Mr. STEIGER), that I am not here to toss blame around to anyone, but I am just a little bit super-sensitive today about some of the comments I have heard from some of my friends on the other side with reference to the Committee on Rules.

I sat through the hearings and heard every word that was said, as far as I know, in connection with the rule, and I would appreciate the comments of my colleague, the gentleman from Wisconsin, with regard to that. So far as I know, we gave the gentleman exactly the rule that he requested. If there is fault to be found, then I suppose we are all at fault.

Let me say in all fairness to my good friend, the gentleman from Oregon (Mr. ULLMAN)—and I have great respect for him—that I was under the impression that we had given the gentleman exactly what he requested.

I am very sorry that the situation has developed, that we come to the position we are in now, but I think in fairness, particularly after the comments just made about the Committee on Rules, that the record should be set straight.

I do not know toward whom those remarks were aimed, but all I am trying to say is that I do not think the Committee on Rules needs any defense. I know, however, that the Committee on Rules is often the whipping boy of the House, and I think it always will be.

Mr. Chairman, I appreciate the comments of the gentleman from Wisconsin (Mr. STEIGER) on the issue.

Mr. STEIGER. Mr. Chairman, may I say to my colleague, the gentleman from California (Mr. SISK), that I hope he will note that I was not really aiming at the Committee on Rules as much as I was aiming at my own committee and myself, because I agreed to the rule.

However, I do not think any of us were fully cognizant of the fact that the Fisher amendment, frankly, was not balanced in the way I thought we had agreed to a balance, nor did we take cognizance of the effect of the adoption of the Fisher amendment. I say that because obviously I could not write my amendment, assuming the Fisher amendment were adopted. I suppose I could have said, "If Fisher is adopted, I will have to have an alternative form."

I guess what I am saying is that if we are to go over this road again, the Committee on Ways and Means will have to do a better job to assure that when we have made our decision, we are fully cognizant of the implications of the decision we have made.

Mr. SISK. Mr. Chairman, I thank my colleague for his comments.

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

Mr. STEIGER. I yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Chairman, I also wish to commend the gentleman from Wisconsin (Mr. STEIGER) for his diligence.

Insofar as the rule is concerned, the committee did request a rule that would allow committee amendments, and that was not included in the rule.

I think that would have been one way out of the dilemma. If we adopted amendments that made conforming changes necessary, then at least we could have brought back a committee amendment to bring it back into proper structure; but I do concur that it is a very difficult thing.

It would be impossible under an open rule where one was making adjustments on the floor. That is the reason we had a closed rule through the years because we build a package. Once one upsets the package, then all at once every other amendment is totally out of order.

I would readily agree with the gentleman with respect to the future, and I will be happy to work with him and with the gentleman from New York (Mr. CONABLE) and our members to try to develop a procedure that would take care of this problem.

Mr. Chairman, I fully concur. I appreciate the gentleman's responsibility in suggesting that he might withdraw his amendment.

Mr. STEIGER. First, Mr. Chairman, may I say that I do appreciate the comments of my colleague, the gentleman from Oregon (Mr. ULLMAN), the distinguished chairman of the committee, on this subject.

Yes, I think we do need to work out a better procedure to see that this sort of thing does not happen. Committee amendments, I do not think, are the answer because that is a kind of after-the-fact thing.

What we tried to do in the amendment process—and I thought it was the right decision—was to say, "If you are going to lower the base, as I was proposing, you have to increase the rate."

The committee amendment comes along in such a way that, in effect, I am getting a free ride. I do not think that is what we want.

Mr. ULLMAN. Mr. Chairman, what we could do under those circumstances is make assumptions that if the Fisher amendment carried, the committee could come back and offer an amendment to the other provisions to put them in order.

Mr. STEIGER. That would be in order.

Mr. ULLMAN. I hope, at least, that we can work out some procedure along those lines to take care of the problem.

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

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

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

Let me say that I have been very much impressed with the procedure we had here yesterday. I was frankly of the opinion that we had devised what has been a unique rule.

I have had a number of people ask me the question, "Is this not something brand new?" Basically, it is.

Unfortunately, we did not leave that escape valve which would take care of the situation, which I would hope would not cause us to revert to the closed rule again.

Mr. Chairman, I want to commend my colleague, the gentleman from Oregon (Mr. ULLMAN), for having devised what seems to me has been a very good situation, giving an ample opportunity for people to discuss the matter and yet retain some control. Unfortunately, I think we learn by our mistakes; and perhaps we can improve the situation in the future.

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

Mr. STEIGER. Mr. Chairman, I yield briefly to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague's yielding.

I am very tempted to get into the discussion on the whole rule question; but since that has been batted back and forth, I will try to restrain myself, though with some difficulty.

Mr. Chairman, I would like to ask my colleague, the gentleman from Wisconsin (Mr. STEIGER), whether, if I support his effort to eliminate completely the earnings limitation in a responsible manner, it is the gentleman's position that he may have to withdraw his amendment because of problems already described by the gentleman from Wisconsin.

I hope we will have another opportunity.

Mr. STEIGER. We will.

Mr. ROUSSELOT. I hope we will have the opportunity through the Ketchum amendment, which is in order under this very strange, unusual, and different rule that is now being developed.

Mr. STEIGER. Mr. Chairman, I cannot yield to the gentleman further.

Mr. ROUSSELOT. In that case, we can support the Ketchum amendment.

Mr. STEIGER. Yes, that is right.

Mr. Chairman, I ask unanimous consent to be permitted to withdraw my amendment.

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

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

AMENDMENT OFFERED BY MR. KETCHUM

Mr. KETCHUM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KETCHUM: Page 224, line 17, insert "And Eventual Repeal" after "Liberalization" (and conform the table of contents on page 118).

Page 226, strike out lines 7 through 13 and insert in lieu thereof the following:

"(iii) shall be $416.66⅔ for each month of any taxable year ending after 1979 and before 1981, and

"(iv) shall be $458.83 for each month of any taxable year ending after 1980 and before 1982.".

Page 226, line 18, strike out "1977 or 1978" and insert in lieu thereof "1977, 1978, 1979, or 1980".

Page 227, strike out lines 5 and 6 and insert in lieu thereof the following:

(e) Subject to subsection (f), the amendments made by the preceding provisions of this section shall apply with respect to taxable years ending after December 1977.

(f) Effective with respect to taxable years ending after December 31, 1981—

(1) subsections (d)(1), (f)(1)(B), and (j) of section 203 of the Social Security Act, and subsection (c)(1) of such section 203 (as amended by section 411(i) of this Act,) are each amended by striking out "seventy-two" and inserting in lieu thereof "sixty-five";

(2) the last sentence of section 203(c) of such Act (as so amended) is amended by striking out "nor shall any deduction" and all that follows and inserting in lieu thereof "nor shall any deduction be made under this subsection from any widow's or widower's insurance benefit if the widow, surviving divorced wife, widower, or surviving divorced husband involved became entitled to such benefit prior to attaining age 60.";

(3) clause (D) of section 203(f)(1) of such Act is amended to read as follows: "(D) for which such individual is entitled to widow's or widower's insurance benefits if she or he becomes so entitled prior to attaining age 60, or";

(4) section 203(f)(3) of such Act is amended by striking out "age 72" and inserting in lieu thereof "age 65";

(5) section 203(f)(5)(D) of such Act is repealed;

(6) section 203(h)(1)(A) of such Act is amended by striking out "the age of 72" and "age 72" and inserting in lieu thereof in each instance "age 65";

(7) the heading of section 203(j) of such Act is amended by striking out "Seventy-two" and inserting in lieu thereof "Sixty-five";

(8) subsections (f)(1), (f)(3), (f)(4)(B), and (h)(1)(A) of section 203 of such Act (as amended by section 501(d) of this Act) are each further amended by striking out "the applicable exempt amount" and inserting in lieu thereof "the exempt amount"; and

(9) the amendments made by subsections (a), (b), and (c)(1) of this section shall cease to be effective; and the provisions of section 203 of such Act (as otherwise amended by the provisions of this Act) shall read as they would if such subsections (a), (b), and (c)(1) had not been enacted.

Page 119, line 17, strike out "calendar years 1981 through 1984" and insert in lieu thereof "calendar year 1981".

Page 119, after line 18, insert the following new paragraph:

"(4) with respect to wages received during the calendar years 1982 through 1984, the rate shall be 5.25 percent;

Page 119, line 19, strike out "(4)" and insert in lieu thereof "(5)".

Page 120, line 2, strike out "5.45 percent" and insert in lieu thereof "5.55 percent".

Page 120, line 3, strike out "(5)" and insert in lieu thereof "(6)".

Page 120, line 4, strike out "6.00 percent" and insert in lieu thereof "6.10 percent".

Page 120, lines 15 and 16, strike out "calendar years 1981 through 1984" and insert in lieu thereof "calendar year 1981".

Page 120, after line 17, insert the following new paragraph:

"(4) with respect to wages paid during the calendar years 1982 through 1984, the rate shall be 5.25 percent; and

Page 120, line 18, strike out "(4)" and insert in lieu thereof "(5)".

Page 120, line 20, strike out "5.45 percent" and insert in lieu thereof "5.55 percent".

Page 120, line 21, strike out "(5)" and insert in lieu thereof "(6)".

Page 120, line 22, strike out "6.00 percent" and insert in lieu thereof "6.10 percent".

Page 121, line 13, strike out "1985" and insert in lieu thereof "1982".

Page 121, after line 15, insert the following new paragraph:

"(4) in the case of any taxable year beginning after December 31, 1981, and before January 1, 1985, the tax shall be equal to 7.05 percent of the amount of the self-employment income for such taxable year;

Page 121, line 16, strike out "(4)" and insert in lieu thereof "(5)".

Page 121, line 18, strike out "8.20 percent" and insert in lieu thereof "8.35 percent".

Page 121, line 20, strike out "(5)" and insert in lieu thereof "(6)".

Page 121, line 21, strike out "9.00 percent" and insert in lieu thereof "9.15 percent".

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

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

There was no objection.

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

The CHAIRMAN. The Chair will count. Obviously a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears. Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

Mr. KETCHUM (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 California?

Mr. ROUSSELOT. Mr. Chairman, reserving the right to object, how many pages is this amendment?

Mr. KETCHUM. Mr. Chairman, if the gentleman will yield, I cannot say. I imagine it is about four.

Mr. ROUSSELOT. The reason I ask that question is I want to be sure that the Ketchum language conforms to the rule and is "balanced" in its end result. Can the gentleman assure us that this will conform on the basis of the terrible rule that we now have to live with?

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

Mr. ROUSSELOT. I am happy to yield.

Mr. KETCHUM. To the very best of my knowledge, it will.

Mr. ROUSSELOT. I am delighted to hear that. We actually have an amendment now being offered under that bad rule that will conform, even though the original bill has been changed.

Mr. KETCHUM. Mr. Chairman, if the gentleman will yield further, I say to the gentleman from California that that question arose earlier this morning. I discussed it with the actuaries. They informed me that no change in the Ketchum amendment is necessary.

Mr. ROUSSELOT. Mr. Chairman, further reserving the right to object, is that the understanding of the chairman of the committee also?

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

Mr. ROUSSELOT. I would be delighted to yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Chairman, would the gentleman from California repeat the statement?

Mr. ROUSSELOT. The question is, does the amendment of the gentleman from California (Mr. KETCHUM) comply with the balanced objectives of the current rule, in view of the fact that the original bill has been changed?

Mr. ULLMAN. Will the gentleman yield?

Mr. ROUSSELOT. I would be delighted to yield.

Mr. ULLMAN. There appears to me to be a problem. In the Fisher amendment, we increased the rate by 0.1 in 1981, and that carries on through. Now, it appears to me that if the Ketchum amendment is not revised, that the exact same increase that we put into effect in the Fisher amendment would be in effect in the Ketchum amendment. Therefore, there would be no additional taxes on top of the Fisher amendment in order to accommodate this problem.

If in fact that were the case, I would very much wish that by unanimous consent we would allow that 0.1 in 1982 to be a part of the Ketchum amendment and carry on through. If that were true, then the Ketchum amendment would be adequately financed in tandem with the Fisher amendment, but as I understand the amendment, that would be necessary in order to provide the financing for the Ketchum amendment.

Mr. ROUSSELOT. Further reserving the right to object, I am not sure I understood the answer. What is the understanding of the gentleman from California?

Mr. KETCHUM. If the gentleman will yield——

Mr. ROUSSELOT. I will be glad to yield.

Mr. KETCHUM. The 0.1 increase in this amendment as presented takes place in 1982, prior to the Fisher amendment. If the chairman of the committee is correct, and I am not positive that he is or is not, the actuarial studies that we have been living with for the last few days or few months, a 0.1 technical amendment might be necessary to follow Fisher through.

Mr. ULLMAN. Will the gentleman yield further?

Mr. ROUSSELOT. I will be glad to yield.

Mr. ULLMAN. The Ketchum amendment, if I understand this, was intended to finance the liberalization of the outside earnings exemption by a 0.1 increase in payroll taxes beginning in 1982. Is that right?

Mr. KETCHUM. That is correct.

Mr. ULLMAN. Now, if it were in order, I would like to ask unanimous consent that that tax increase in 1982 be included as part of his amendment to adjust for the discrepancy that has been created by the addition of the Fisher amendment.

The CHAIRMAN. The Chair will state that such a request would not be in order at this time.

Mr. ROUSSELOT. That is my point.

Further reserving the right to object, the gentleman in the well, Mr. KETCHUM, is convinced on the best information available to him under this very strange rule his amendment does, in fact, conform to the rule. Is that correct?

Mr. KETCHUM. To the very best I can determine.

Mr. ROUSSELOT. Mr. Chairman, I withdraw my reservation of objection.

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

There was no objection.

PARLIAMENTARY INQUIRY

Mr. BURKE of Massachusetts. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BURKE of Massachusetts. What question did we determine by the unanimous-consent request?

The CHAIRMAN. By unanimous consent we just dispensed with reading of the amendment.

Mr. BURKE of Massachusetts. I thank the Chairman.

The CHAIRMAN. The gentleman from California (Mr. KETCHUM) will be recognized for 15 minutes, and the gentleman from Oregon (Mr. ULLMAN) will be recognized for 15 minutes.

The Chair recognizes the gentleman from California (Mr. KETCHUM).

Mr. KETCHUM. Mr. Chairman, this amendment really speaks for itself, so I shall take very little time. What this amendment does is to dispense with one of the most onerous provisions of the social security law as it applies to those individuals who are now retired. Due to circumstances totally beyond their control, our retired citizens are practically being taxed out of their homes. They rely on their retirement; they rely on their social security, to provide at least a part of their living in their retirement years.

Through the ravages of inflation and increased property taxation, that no longer is true. As a result, those individuals attempt to supplement their income by doing additional work. As most of the Members know, the earnings limitation presently stands at $3,000. The committee bill raises those earnings limitations to $4,000 in 1978, to $4,500 in 1979, and that is it.

What this amendment seeks to do is to carry that forward and to allow a $5,000 earnings in 1980; $5,500 in 1981, and in 1982 to completely eliminate the earnings limitation so that all of our citizens 65 years of age and over will be subject to no other limitations than are presently in order for those individuals who are 72 years of age.

To accomplish this—and I certainly wish to be candid—there is a price tag.

There is no free lunch. Over 100 Members of this body have sponsored or cosponsored bills to bring this about.

Understandably, most of those bills have been introduced with no comments relative to financing.

Under the provisions of the agreement reached by the members of the Committee on Ways and Means with the chairman, we have attached to this a 0.1 tax increase in 1982, which will fund this amendment. I urge its adoption. I offer it, as I indicated yesterday, not on behalf of BILL KETCHUM, but on behalf of the over 100 Members who have offered this bill in this Congress.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. I thank the gentleman for yielding.

Mr. Chairman, as one of the Members who was an introducer of such a bill, I would like to join with the gentleman from California (Mr. KETCHUM) in support of this amendment. While we are talking about the fiscal aspect, many, many people on social security do not want to work and they are not going to work, and most of them are not able to work. But there are some who can and who should be permitted to work. One thing we have to remember is that those social security recipients who do continue to work and earn more, under this amendment, they will be in fact contributing to the social security trust fund and, depending on their income, will also be contributing to the general fund of the United States through their income taxes. So it is not all one sided. They are not just taking out. They will also be putting back in.

In Pinellas County, Fla., the country in which I live—and we are just a few days from when the social security checks go out—there will be 230,000 Pinellas Countians receiving social security checks. A lot of those people are able to work and should not be prohibited, through a financial penalty, from working.

Mr. Chairman, I want to give the Members this thought: Many of the persons who find themselves in the category of senior citizens today, retired, older Americans, are the very people who made such a tremendous contribution to the great advances that we have experienced in this country in medicine, in science, in industry, and they have a lot to offer. If they are permitted to be involved in the work force of this country, without being penalized from a financial standpoint, I think we would be amazed at the tremendous reservoir of knowledge and experience that these people have and could make available to us without it costing us very much at all.

Mr. Chairman, I think this is a good amendment whose time is well past due.

Mr. KETCHUM. I thank the gentleman for his contribution.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

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

Mr. DON H. CLAUSEN. I rise in support of his amendment and would like to commend him for his leadership on the Ways and Means Committee and in the Congress in this very important effort.

I have sponsored legislation in this Congress and past Congresses to remove the earnings limitation entirely. Over 130 have joined us this year in introducing similar legislation. Our colleague from California (Mr. KETCHUM) has worked long and hard to build this support and has become the champion of our senior citizens.

It is a well known fact that Americans today are living longer lives and enjoying many more productive years. Our efforts to remove the earnings limitation imposed on their social security benefits is in recognition of this fact.

Many of our senior citizens would like to continue working past the retirement age in order to supplement their retirement incomes. I firmly believe that anyone who has the desire to continue working either part time or full time should be allowed to do so and not prevented from doing so by an arbitrary limitation placed on them.

In talking to senior citizens in my congressional district and in the many letters I receive from them, they have told me that they want the freedom to live a life of independence. They want to be able to decide for themselves whether or not to continue working. They want the freedom to adjust their lifestyles in a way consistent with their own desires. They want to live out their twilight years with a degree of independence which permits them to be recognized as individuals.

The kinds of limitations placed on their earnings by the social security law has trapped them into a position where they have become dependent on other people and dependent on Government just to get by. They are proud individuals and this dependence is extremely difficult for them to accept.

At a time when Mr. and Mrs. Middle America are struggling to keep their heads above water, it is inequitable to deny our seniors an equal opportunity to adjust to the continually rising cost of living. Despite the automatic cost-of-living increases they receive annually in their benefits, many would like to be able to provide more for their families and live their lives with more dignity.

My colleague's amendment increases the earnings limitation to $5,000 in 1980, to $5,500 in 1981 and removes all limitations thereafter. The distinguished chairman of the Ways and Means Committee (Mr. ULLMAN) has indicated that this amendment is actuarially in balance.

I urge my colleagues to join us in voting for this proposal.

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

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

Mr. LAGOMARSINO. Mr. Chairman, it is with a great deal of pleasure that I rise to support my colleague (Mr. KETCHUM) in his amendment repealing the social security earnings limitation in 1982.

Although the amendment does not go as far as my own bill (H.R. 2457) repealing the limitation immediately, it does provide for a 5-year phase-out and, as such, is a compromise worthy of adoption by this house.

Mr. Chairman, it has been said that the true test of a society is the way in which it treats its senior members. I think it is fair to say that the social security earnings test has become for many a symbol of the arbitrary and condescending way we treat our seniors. The earnings test is not only unfair, it is, in my view, counterproductive.

It is unfair because it selects an arbitrary figure—at the present time less than the official poverty level—above which a 50-percent tax is applied on earnings. This 50-percent tax is in addition to Federal and State income taxes already paid on those earnings. The penalty is also arbitrary because it applies only to earned income, ignoring income from investments. And it is arbitrary because it does not relate to need.

But there is an economic argument as well as a humanitarian one for repealing the earnings limitation. The earnings test deprives our economy of the skills and productive capacity of millions of older citizens who want to work, who are capable of working, and who are not now working for no other reason than to avoid having their social security checks reduced. Not only do we lose their skills and output, we also lose the taxes which they would be paying on those earnings.

All this because of an arbitrary rule which relies solely on a person's age and income level to determine their capabilities.

Mr. Chairman, this House recently acted to give senior citizens new protection against age discrimination in employment. I feel we can do no less in this area of need. To me, it makes no sense to penalize a person for working. I urge adoption of this amendment as a humane, realistic, and economically sound approach to this issue.

Mr. BURKE of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the chairman of the subcommittee.

Mr. BURKE of Massachusetts. Mr. Chairman, I would like to have the gentleman at the microphone explain how this will affect Members of Congress who have reached the age of 65 and who draw down a $57,500 salary. Will they also be able to draw their social security benefits at the age of 65 under the gentleman's amendment?

Mr. KETCHUM. Mr. Chairman, I will say to the gentleman from Massachusetts (Mr. BURKE), who has been my dear friend from so many years ago, that under the present bill, as it is before us, neither the gentleman nor I will have one penny deducted for social security. Unfortunately, this body chose not to include all of us, so it is not going to affect us at all unless, I would say to my friend, the gentleman from Massachusetts, he and I upon our retirement from the Congress would, either voluntarily

or involuntarily, go out and qualify for social security.

Mr. BURKE of Massachusetts. Mr. Chairman, if the gentleman will yield further, I am not speaking of retired Members. I am talking about Members like myself who are over 65 years of age.

Will I be able to draw my social security checks month after month if I am in Congress in 1982, as I expect to be?

Mr. KETCHUM. Yes; I rather imagine that the gentleman from Massachusetts (Mr. BURKE) will in any event since he will be 72 in 1982 just as the gentleman from Florida (Mr. PEPPER) indicated some weeks ago when this very body recognized the fact that times have changed, conditions have changed, people are living longer and more productive lives, and, as a result, this body very wisely decided to raise the retirement age to age 70.

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

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

Mr. ROUSSELOT. I thank the gentleman for yielding. Mr. Chairman, I have supported, as the gentleman knows, the elimination of the earnings limitation. I testified before the gentleman's subcommittee on this subject and strongly supported the idea of the gentleman's amendment.

As I understand the amendment, which is in order under this rule, there would be no earning's limitation after 1982; is that correct?

Mr. KETCHUM. The gentleman is correct.

Mr. ROUSSELOT. So we would move in a responsible way toward eliminating this earnings limitation over a period of several years; it would not happen all at once?

Mr. KETCHUM. That's correct.

Mr. ROUSSELOT. So we are, by voting for the gentleman's amendment, doing it in a responsible way so as not to have the impact of that earnings limitation fall entirely next year?

Mr. KETCHUM. That's precisely the reason that it is graduated.

Mr. ROUSSELOT. The gentleman's amendment includes a very responsible method of getting to that point of no limitation, to be exact by 1982.

Mr. KETCHUM. I feel that it does, and I thank the gentleman for pointing that out.

Mr. ROUSSELOT. Mr. Chairman, I appreciate the gentleman's answer. I support the gentleman's amendment.

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

Mr. ULLMAN. Mr. Chairman, I would like to have the attention of the gentleman from California (Mr. KETCHUM).

He has been very diligent in attempting to keep his amendment on a sound actuarial basis in accordance with the mandate of the committee.

I ask unanimous consent, Mr. Chairman, that the rates in his amendment be adjusted to conform to the impact of the Fisher amendment on the bill.

Would the gentleman have any objection to doing that? I think that is what he intends to do. What, in fact, happened is that the Fisher amendment increased the taxes by 0.1, and that is exactly what the gentleman from California (Mr. KETCHUM) would do beginning in 1982; but the gentleman from Virginia (Mr. FISHER) has already done it in 1981. Therefore, the numbers in the Ketchum amendment beginning in 1982 are exactly the same as the number in the Fisher amendment from there on; but, in fact, they ought to be 0.1 higher.

I think that is the gentleman's intent, Mr. Chairman; and I would just ask unanimous consent that the numbers be adjusted to accommodate the Fisher amendment.

The CHAIRMAN (Mr. YATES). Is there objection to the request of the gentleman from Oregon?

Mr. BURKE of Massachusetts. Reserving the right to object, Mr. Chairman, and I am very reluctant to object, I would like to ask my good friend, the gentleman from Oregon (Mr. ULLMAN), my chairman, if he would be willing to agree to a unanimous-consent request allowing me to offer my general revenue sharing bill, one-third, one-third, and one-third.

Mr. ULLMAN. Mr. Chairman, if the gentleman will yield, as my friend, the gentleman from Massachusetts (Mr. BURKE), knows, I would do almost anything for him and have through the years. However. this is a very technical problem associated with an amendment that is being offered that is out of conformity because of the previous action that has been taken.

I think everyone here would want that amendment to be adjusted so that it does what the gentleman wants it to do and is not distorted because of previous action taken here.

Mr. ROUSSELOT. I reserve the right to object, Mr. Chairman.

The CHAIRMAN pro tempore. The gentleman from Massachusetts (Mr. BURKE) had reserved the right to object.

Is the gentleman from Massachusetts finished?

Mr. BURKE of Massachusetts. Mr. Chairman, the gentleman from Oregon (Mr. ULLMAN) still has not answered my question which was whether he would agree to my unanimous-consent request.

Mr. ULLMAN. If the gentleman will yield further, Mr. Chairman, I think that would be a little beyond the authority that I might have. At some future time the gentleman and I are going to be working that problem out. He is going to be around for a long time.

Mr. ROUSSELOT. Reserving the right to object, Mr. Chairman——

The CHAIRMAN pro tempore. The Chair will inform the gentleman from California that the gentleman from Massachusetts (Mr. BURKE) still has the floor.

Mr. BURKE of Massachusetts. Mr. Chairman, I am not going to object at this time. However, I am still reserving the right until I hear the rest of the argument. I wish my good friend would agree since I want to offer my general revenue sharing bill.

Mr. ULLMAN. Mr. Chairman, I am always going to get along with my good friend, the gentleman from Massachusetts.

Mr. BURKE of Massachusetts. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Oregon (Mr. ULLMAN) that the amendment offered by the gentleman from California (Mr. KETCHUM) be modified?

There was no objection.

The CHAIRMAN pro tempore. The request is granted, and the Clerk will report the modification to the amendment.

The Clerk read as follows:

Page 119, after line 18, insert the following new paragraph:

"(4) with respect to wages received during the calendar years 1982 through 1984, the rate shall be 5.35 percent;

Page 120, line 2, strike out "5.45 percent" and insert in lieu thereof "5.65 percent".

Page 120, line 4, strike out "6.00 percent" and insert in lieu thereof "6.20 percent".

Page 120, after line 17, insert the following new paragraph:

"(4) with respect to wages paid during the calendar years 1982 through 1984, the rate shall be 5.35 percent; and

Page 120, line 20, strike out "5.45 percent" and insert in lieu thereof "5.65 percent".

Page 120, line 22, strike out "6.00 percent" and insert in lieu thereof "6.20 percent".

Page 121, after line 15; insert the following new paragraph:

"(4) in the case of any taxable year beginning after December 31, 1981, and before January 1, 1985, the tax shall be equal to 8.05 percent of the amount of the self-employment income for such taxable year;

Page 121, line 18, strike out "8.20 percent" and insert in lieu thereof "8.45 percent".

Page 121, line 21, strike out "9.00 percent" and insert in lieu thereof "9.30 percent".

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Chairman, I want to say that the gentleman from California (Mr. KETCHUM) has been diligent in attempting to meet this actuarial requirement. I am pleased that he is accepting this modification because the amendment does now conform with the requirement of the committee that the items in the amendment be adequately financed.

Mr. Chairman, I think the gentleman would agree that I did not want to argue with him on the basis that it was not financed properly. I think we want to argue on the merits and not on a technical matter.

Therefore, this puts the argument on that plane: should we totally eliminate the limitation on outside earnings for older workers, or should we not?

I think, Mr. Chairman, we would be making a very, very bad mistake if we moved now to totally eliminate the restrictions on outside earnings for any beneficiaries. We would change the program totally from a retirement program to an annuity program. That was not the original intent. What we would say is that when one got to be 65, one could continue to work at his job and draw his full social security benefits. The system

was never intended to do that. If we had no unemployment, then maybe this could be justified.

The argument was made a few minutes ago, "That fellow is still paying into social security." The real argument is if he were not on that job, there would be another job opening for a young American or for a black American, or for one of those 6 or 8 millions of Americans who do not have a job. That is why we cannot do this at this time. It would be a great disservice to the workers paying into the social security system.

In the committee bill we move in the direction the gentleman wants. We increase the outside earnings exemption to $4,000 next year, then to $4,500, and then we have a step-up, an automatic increase, from there on. Remember, that is not a 100-percent exclusion. All it means is that you can still have a job and have social security benefits, even though you make more than that, because for earnings in addition to that exemption, for every $2 of earnings there is a reduction of $1 in social security, and that works its way all the way up the ladder. A person with a high benefit can earn up to $12,000 today and still get some social security benefits. They would be reduced benefits of course.

So I think what we have done in the bill is the responsible approach to the problem.

Organized labor, the National Council for Senior Citizens—everyone who is closely involved with this thing is just emphatically opposed to doing what the gentleman is suggesting. I know it is appealing, but I appeal to the good judgment and reason and common sense of the Members of this House to reject the amendment.

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

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

Mr. ROUSSELOT. I appreciate the gentleman's yielding.

The gentleman mentioned the history of the original social security legislation as it relates to retirement benefits. The gentleman knows full well that the original intent of social security was to provide supplemental income. It was never intended to be the total income of the individual; is that not true? Is that not true?

Mr. ULLMAN. That is not true in the sense that the gentleman is suggesting. It is not supposed to be a supplemental income for somebody in the work force.

Mr. ROUSSELOT. But in retirement.

Mr. ULLMAN. It is supposed to be a supplemental retirement income.

Mr. ROUSSELOT. That is right.

Mr. ULLMAN. For those who have other retirement.

Mr. ROUSSELOT. That is right.

Mr. ULLMAN. But what the gentleman would do would make it a supplemental income for people in the work force, and that is not what was intended in any sense whatsoever.

Mr. ROUSSELOT. No. As I understand the gentleman from California's amendment—and since I support removing the earnings limitation and so testified before the subcommittee—the purpose is to provide that those who receive the social security retirement benefit have the free option to earn more than just a limited amount.

I would like to make one more point, if the gentleman would yield—and I appreciate his yielding—the only real place that the gentleman from California's amendment is different from the committee amendment is basically in the last year, 1982. The committee raises the limit to $5,640 and leaves it there. The gentleman from California says from 1982 on there will be no limitation. Is that not correct?

Mr. ULLMAN. May I reclaim my time? The basic principle involved here is not what the gentleman suggests—how much outside earnings there are. That man or woman reaching the age of 65 says,

Shall I retire and draw social security, or shall I continue to work and pay in?

Mr. ROUSSELOT. No. It is how much money one earns.

Mr. ULLMAN. I am not yielding now to the gentleman. That is not the proper perspective of what we ought to be doing in the social security system.

It seems to me what we are doing here is saying to all of those professional people, doctors, and lawyers who can work on through later years—we are saying to them,

Just keep on working. We will pay you social security the minute you reach 65, even though you are making $100,000, or however much. You are still going to get your social security.

That is wrong.

If we expand the limit, that is all right, but at least there is a limit. Let us keep that limit on. Let us not let that wealthy class of people, who tend to work longer, pick up that social security benefit. That is not what the system was intended to do.

Mr. Chairman, I yield 2 minutes to the chairman of the subcommittee, the gentleman from Massachusetts (Mr. BURKE).

Mr. BURKE of Massachusetts. Mr. Chairman, the gentleman from California is not correct, because in the law, after we raise these earnings ceilings during the next few years, there is an acceleration clause based on raising the wages, where the earnings limit will be raised periodically according to the rise of wages in the country.

Mr. KETCHUM. That is after 1982, if the gentleman will respond?

Mr. BURKE of Massachusetts. No.

Mr. KETCHUM. The gentleman has an accelerator after 1982? And what is it attached to, may I ask?

Mr. BURKE of Massachusetts. From 1980 on.

Mr. KETCHUM. From 1980 on there is an accelerator?

Mr. BURKE of Massachusetts. Yes.

Mr. KETCHUM. And what is it attached to? The cost of living or what?

Mr. BURKE of Massachusetts. It is attached to the wage base.

Mr. KETCHUM. The wage base which is kept by the Department of Labor?

Mr. BURKE of Massachusetts. It has been taken care of. I think the whole trouble with the gentleman is that he is a little confused.

Mr. KETCHUM. I am not confused at all.

Mr. BURKE of Massachusetts. The gentleman is confused on the earnings ceilings because the removal of the earnings ceilings is what the high-rollers in the country are looking for. They are the high-income people. This is for the people making $35,000 or $50,000 a year, and it will allow some earning $100,000 a year to draw his full social security benefits. It will destroy the whole principle of social security. I am surprised my good friend, the gentleman from California, should go this far, and also I am surprised at the other gentleman from California (Mr. KETCHUM). I know he is trying to help the little people, but it is not going to help the little people that much. It will help the big people, the fat cats, those making $75,000 or $100,000 a year, and they are going to be able to draw full social security benefits. It will be a drain on the system.

Mr. ULLMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri (Mr. GEPHARDT).

Mr. GEPHARDT. Mr. Chairman, I thank the gentleman.

I agree with my chairman and his position on this amendment. I give two reasons for it.

First, I think we have got to focus on this tax increase which this calls for. Under the bill as it stands with the Fisher amendment we are raising the tax per year of a person making $10,000 a year by $70 in 1982. If we add this on, we will be raising it by $80; for a man making $20,000, the committee bill raises the tax by $140, but the Ketchum amendment would raise it $160. For those making $30,000, it would be at $210 and he would go to $240; for those making $40,000, it would go to $280, and the Ketchum amendment would carry him to $320. The cumulative effect of adding this on to what we have already done in my book is too much and we should defeat it. We are already at the breaking point on taxes.

Mr. ULLMAN. Would the gentleman agree when we look at all these high-salaried people making this $100,000, when they draw their benefits, they would be quite high?

Mr. GEPHARDT. We have raised the retirement test in this bill to $6,000 by 1983. I think that is enough. We can and should look at it again in the future.

Mr. DRINAN. Mr. Chairman, early this year I introduced legislation to eliminate the earnings restriction of the social security law. I sought to repeal the provision which denies an older worker $1 in benefits for every $2 of earnings he or she makes over the limit which this year is $3,000.

In my view this restriction is unfair and discriminatory. It serves to penalize those older workers who most need the income from continued employment in order to maintain a decent standard of living. Older Americans who have substantial income from investments, stocks, bonds, rents, or similar assets are not subject to any reduction in their social security benefits based on these hold-

ings. This issue has been one of my main concerns since my election to the House in 1970 and I am deeply gratified that today we have the opportunity to strike this restriction from the law.

Under this amendment the earnings limitation will rise to $5,000 in 1980, $5,500 in 1981, and be totally eliminated in 1982. H.R. 9346 already provides that the earnings restriction will move to $4,000 in 1978 and $4,500 in 1979. This progression toward removal of the cap on outside earnings will vindicate the rights of those older workers between the ages of 65 and 72 to continue working without being penalized through the loss of their social security benefits.

Proponents of retaining the earnings limitation often argue that a change in the law would deviate from the intent of the original social security program. Yet, such arguments are not supported by fact. As the program was first reported by the Committee on Ways and Means in 1935, there was no earnings limitation included. The first Advisory Council on Social Security in 1938 described the contributory program as one in which payments would be "afforded as a matter of right." When the Congress acted on the Council's report by passing the Social Security Amendments of 1939, both the Ways and Means Committee and the Finance Committee reaffirmed this concept by declaring that "by granting benefits as a matter or right it preserved individual dignity." The concept of an individual earning a right to his or her benefit was restated approvingly by the Advisory Councils of 1948, 1958, and 1965.

Time for repealing the earnings restriction is long overdue and I urge my colleagues to support this amendment.

Mr. BIAGGI. Mr. Chairman, I rise today in support of the Ketchum amendment to eliminate the outside earnings limitation on social security beneficiaries.

The earnings limitation is unfair. It amounts to nothing more than a repayment of earned benefits. Under current law, social security recipients under the age of 72 who earn more than $3,000, in addition to paying both income and social security payroll taxes on the entire amount, must forfeit $1 in social security benefits for every $2 earned over and above the current $3,000 limit.

What this provision amounts to is nothing more than a penalty on those senior citizens who wish to continue working after the age of 65.

As chairman of the Subcommittee on Federal, State, and Community Services of the House Select Committee on Aging, I have been involved with the issue of senior citizen employment and the recent passage of legislation to curtail mandatory retirement. During committee and subcommittee hearings on this issue I heard witnesses testify on the effects of retirement on persons capable of and willing to work. The American Medical Association, a traditionally conservative group, testified that retirement adversely effects the well-being and life expectancy of those who wish to continue employment.

I see a parallel between mandatory retirement and the social security earnings limitation. Both discriminate against our senior citizens who wish to continue as members of the labor force. With the imminent passage of legislation to curtail mandatory retirement. I believe it is only logical and appropriate that the 95th Congress act today to eliminate the earnings limitation.

H.R. 9346, the Social Security Financing Amendments of 1977, as approved by the House Ways and Means Committee would increase the earnings limitation to $4,000 in 1978 and $4,500 in 1979. The Ketchum amendment would continue to raise the exemption to $5,000 in 1980 and $5,500 in 1981, and completely eliminate the retirement test for those individuals over age 65 in 1982.

The cost of the Ketchum amendment to the social security system would be minimal. The exempt amounts proposed during the phase-in periods of 1980 and 1981 would only slightly exceed what is already provided for under the automatic adjustment provisions of the Social Security Act. Consequently, no additional financing is needed for these years.

Compensation for the cost of the complete elimination of the earnings limitation in 1982 would be provided for through the imposition of a minimum payroll tax of 0.1 percent on employers and employees. This is certainly a small price to pay for an equitable social security system.

In each of the past three Congresses, I have sponsored legislation to eliminate the earnings limitation. It is gratifying to hear this proposal being discussed today. Passage of this legislation, with the Ketchum amendment, will insure the financial integrity of the social security system and insure our social security recipients of those benefits for which they contributed and to which they are entitled. I urge immediate approval of this amendment.

Mr. ALEXANDER. Mr. Chairman, I rise in support of the Ketchum amendment to phase out the outside income limitation for social security recipients.

I have been a sponsor of legislation to increase the outside earning income limitation to $10,000 in every session of the Congress since 1973. I have done so because of the number of retirees in my State who have written and talked to me about their need to continue working after retirement just to make ends meet. The Ketchum proposal will once and for all eliminate this repressive provision of the law that has virtually told the Nation's senior member of the labor force that he cannot retire and at the same time continue to work to the extent he wishes after age 65.

Under current law, a social security beneficiary who earns more than $3,000 during the year is penalized $1 for every $2 over that amount earned.

The Ketchum amendment would continue limitations in 1978 at $4,000 in 1979 at $4,500, in 1980 at $5,000 and in 1981 at $5,500. Beginning in 1982, the outside earnings limitations would be completely eliminated for those citizens over age 65. To offset the increased payments in 1982, the amendment provides for an increase in both the employer and employee tax rate of 0.1 percent each.

Mr. Chairman, many Americans of retirement age are capable of working, want to work, and are still valuable members of the work force. This Congress is working toward wiping away a gross inequity to the Nation's elderly with passage of legislation earlier this year to end mandatory retirement for most of the Nation's senior workers. We should eliminate this inequity as well for those who want to retire, continue working on a part-time basis and still retain the full measure of social security benefits that are rightfully theirs.

Mr. STANGELAND. Mr. Chairman, I rise in support of my colleague's amendment which would remove the earnings limitation on recipients of social security benefits. I have always thought that it was unfair to impose a limitation on the amount of money which a retired person receiving social security benefits could earn. These workers have earned their benefits and should receive them while still being allowed to lead full, active, and productive lives. This ceiling on earnings discourages our older citizens from continuing to contribute to our economic well-being and limits the jobs available to those who choose to work.

The earnings of these workers continue to be subject to social security taxes, so there is no great loss to the overall system. In addition, both Houses of Congress have recently voted to raise the mandatory retirement age in private industry to 70. Previously workers were forced to retire at age 65 although many had no desire to do so. Hopefully this change in the age discrimination law would allow millions of workers to continue their employment. This, of course, would eliminate some of the financial burden on the social security system and would solve the problem for many who do not choose to retire. But what about those who have already been forced into retirement? This amendment will assure their equality under the law and rectify what I consider to be an injustice.

Mr. ASHBROOK. Mr. Chairman, I rise in strong support of the Ketchum amendment. This amendment provides for a gradual phaseout of the earnings limitation on social security.

The current law allows up to $3,000 in annual earnings. Every $2 earned by a social security recipient beyond that amount results in a $1 loss in benefits.

The bill before us today does improve the situation. It would raise the limitation to $4,000 in 1978 and to $4,500 in 1979. This is a step forward but I do not believe it goes far enough. In fact, I am sponsoring a bill that would immediately increase to $5,000 the amount of outside earnings permitted each year without deductions from benefits.

The high rate of inflation has been especially difficult for older Americans. They should not be penalized for working and trying to better their economic status. After years of paying into the social security system they are entitled to full benefits, benefits that are rightfully theirs.

I urge Congress to give a financial break to our Nation's older Americans. I urge the complete phaseout of the social security earnings limitation.

Mr. ULLMAN. Mr. Chairman, I have no further requests for time, and I ask for a vote.

Mr. KETCHUM. Mr. Chairman, I would like to close this debate with a remark or two, and pending that let me state to the body that I shall, when we return to the House, ask unanimous consent that all Members may have 5 legislative days in which to enter their remarks on this amendment.

I think what we have got to face up to is that we are living in changing times. The social security system in 1935 addressed a totally different problem than the social security system addresses in 1977. As my friend, the gentleman from Massachusetts knows, 35 years ago we stormed the beaches of Guam. Things have changed since then. Attitudes have changed. People are living longer and more productive lives. In that process of change, while many of us are enjoying the fruits of all those changes, those individuals who are retired have not been able to share in all those benefits.

It is one thing to stand here and talk about wealthy doctors and wealthy lawyers, but I say to my colleagues, do not talk to the elderly rich in your districts, talk to those people that this very Congress discovered were eating dog food because they could not afford anything else.

Certainly, there are going to be individuals who benefit from this amendment that I wish would not benefit, but that is the way things are. We cannot draw a bill which addresses one segment of society in a program such as this.

What we are attempting to do is address the changing times. In 1935 we were going through a Great Depression and the object then of forcing individuals, if you will, to retire at the age of 65 was to remove them from the workforce to make room for others. In those days, everyone on the street wanted to work.

I submit to my colleagues, you can pick up the Washington Post or the Washington Star and look at job after job that is open and available and no one to fill them. These are jobs that these senior citizens would like to fill. These are the people whose productive capacity is still there. They have so much to offer the United States, so much in expertise, so much richness of experience, that it is a crime to deny them. To say on the one hand that 65 is a magic age, but at age 72 it is OK, earn anything you want; rich doctor, rich lawyer, keep right on practicing, because you can draw your social security, but not if you are age 65, that is a magic, magic age.

I ask you, I implore you, this amendment is balanced. There is a price for this amendment which we must pay and which we must ask every working man and woman in America to help pay.

I beg of you, pass this amendment. It is long overdue.

Mr. ULLMAN. Mr. Chairman, let me just conclude by saying, what we would be doing here would be getting into massive double dipping in the social security system. It was never intended to do that. I urge that we vote down this amendment.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from California (Mr. KETCHUM).

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 25, noes 33.

RECORDED VOTE

Mr. KETCHUM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 268, noes 149, not voting 17, as follows:

[Roll No. 704]

AYES—268

Abdnor	Emery	Lott
Alexander	English	Lujan
Allen	Erlenborn	Luken
Ambro	Evans, Del.	McClory
Anderson, Calif.	Evans, Ga.	McDade
	Evans, Ind.	McDonald
Anderson, Ill.	Fascell	McEwen
Andrews, N.C.	Fenwick	McKay
Andrews, N. Dak.	Findley	McKinney
	Fish	Madigan
Applegate	Fithian	Markey
Archer	Flippo	Marks
Armstrong	Flynt	Marlenee
Ashbrook	Ford, Tenn.	Marriott
Badham	Forsythe	Martin
Badillo	Fountain	Mathis
Bafalis	Fowler	Mattox
Barnard	Frenzel	Michel
Baucus	Frey	Mikulski
Bauman	Fuqua	Miller, Ohio
Beard, R.I.	Gammage	Mitchell, N.Y.
Beard, Tenn.	Gibbons	Moakley
Bennett	Gilman	Mollohan
Bevill	Ginn	Moore
Biaggi	Glickman	Moorhead, Calif.
Blanchard	Goldwater	
Blouin	Goodling	Mottl
Boggs	Gore	Murphy, N.Y.
Bowen	Gradison	Murtha
Breaux	Grassley	Myers, John
Breckinridge	Guyer	Myers, Michael
Brinkley	Hagedorn	Natcher
Broomfield	Hall	Neal
Brown, Mich.	Hammer-schmidt	Nichols
Brown, Ohio		Oakar
Broyhill	Hanley	Ottinger
Buchanan	Hannaford	Panetta
Burgener	Hansen	Pepper
Burke, Fla.	Harkin	Perkins
Burleson, Tex.	Harrington	Pettis
Burton, John	Harris	Pike
Butler	Harsha	Pressler
Byron	Heckler	Pritchard
Caputo	Hefner	Pursell
Cederberg	Hightower	Quayle
Clausen, Don H.	Hillis	Quie
	Hollenbeck	Quillen
Cleveland	Holt	Rahall
Cochran	Horton	Railsback
Cohen	Hubbard	Rangel
Coleman	Huckaby	Regula
Collins, Tex.	Hyde	Rhodes
Conable	Ichord	Rinaldo
Conte	Ireland	Risenhoover
Corcoran	Jeffords	Roberts
Cornwell	Jenrette	Robinson
Coughlin	Johnson, Colo.	Roe
Crane	Jones, N.C.	Rogers
Cunningham	Jones, Tenn.	Roncalio
D'Amours	Kasten	Rooney
Daniel, Dan	Kazen	Rose
Daniel, R. W.	Kelly	Rousselot
Davis	Kemp	Rudd
de la Garza	Ketchum	Runnels
Delaney	Kindness	Ruppe
Derrick	Krueger	Russo
Derwinski	Lagomarsino	Santini
Devine	Latta	Sarasin
Dickinson	Leach	Satterfield
Dicks	Lehman	Sawyer
Dornan	Lent	Schroeder
Drinan	Levitas	Schulze
Duncan, Tenn.	Livingston	Sebelius
Early	Lloyd, Calif.	Shipley
Edwards, Ala.	Lloyd, Tenn.	Shuster
Edwards, Okla.	Long, Md.	Sikes
Simon	Symms	White
Skelton	Taylor	Whitehurst
Skubitz	Thone	Whitley
Smith, Nebr.	Traxler	Whitten
Snyder	Treen	Wiggins
Solarz	Trible	Wilson, Bob
Spence	Tsongas	Wilson, C. H.
St Germain	Vander Jagt	Wilson, Tex.
Staggers	Waggonner	Winn
Stangeland	Walgren	Wolff
Stanton	Walker	Wydler
Steers	Walsh	Wylie
Steiger	Wampler	Yatron
Studds	Watkins	Young, Alaska
Stump	Weiss	Young, Fla.

NOES—149

Addabbo	Gaydos	Nix
Akaka	Gephardt	Nolan
Ammerman	Giaimo	Nowak
Annunzio	Gonzalez	Oberstar
Ashley	Gudger	Obey
Aspin	Hamilton	Patten
Baldus	Hawkins	Patterson
Bedell	Heftel	Pattison
Beilenson	Holland	Pease
Benjamin	Holtzman	Pickle
Bingham	Howard	Poage
Boland	Hughes	Preyer
Bonior	Jacobs	Price
Bonker	Jenkins	Reuss
Brademas	Johnson, Calif.	Richmond
Brodhead	Jones, Okla.	Rodino
Brooks	Jordan	Rosenthal
Brown, Calif.	Kastenmeier	Rostenkowski
Burke, Calif.	Keys	Roybal
Burke, Mass.	Kildee	Ryan
Burlison, Mo.	Kostmayer	Scheuer
Burton, Phillip	Krebs	Seiberling
Carney	LaFalce	Sharp
Carr	Le Fante	Sisk
Cavanaugh	Lederer	Slack
Chisholm	Leggett	Smith, Iowa
Clay	Long, La.	Spellman
Collins, Ill.	Lundine	Stark
Conyers	McCormack	Steed
Corman	McFall	Stokes
Cornell	Maguire	Stratton
Cotter	Mahon	Thompson
Danielson	Mann	Thornton
Dent	Mazzoli	Tucker
Diggs	Meeds	Udall
Dingell	Metcalfe	Ullman
Downey	Meyner	Van Deerlin
Duncan, Oreg.	Mikva	Vanik
Eckhardt	Milford	Vento
Edgar	Miller, Calif.	Volkmer
Edwards, Calif.	Mineta	Waxman
Eilberg	Minish	Weaver
Evans, Colo.	Mitchell, Md.	Wirth
Fary	Moffett	Wright
Fisher	Moorhead, Pa.	Yates
Flood	Moss	Young, Mo.
Florio	Murphy, Ill.	Young, Tex.
Foley	Murphy, Pa.	Zablocki
Ford, Mich.	Myers, Gary	Zeferetti
Fraser	Nedzi	

NOT VOTING—17

AuCoin	Dodd	Montgomery
Bolling	Ertel	O'Brien
Carter	Flowers	Stockman
Chappell	Koch	Teague
Clawson, Del	McCloskey	Whalen
Dellums	McHugh	

The Clerk announced the following pairs:

On this vote:

Mr. Teague for, with Mr. AuCoin against.

Mr. Montgomery for, with Mr. McHugh against.

Mr. Carter for, with Mr. Dellums against.

Messrs. BARNARD, ROSE, FLIPPO, OTTINGER, EMERY, JEFFORDS, MURTHA, BAUCUS, LUKEN, MOAKLEY, STUDDS, and MARKEY changed their vote from "no" to "aye."

Ms. HOLTZMAN and Mr. POAGE changed their vote from "aye" to "no."

So the amendment, as modified, was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. JENKINS

The CHAIRMAN. Under the rule, the Chair recognizes the gentleman from Georgia (Mr. JENKINS).

Mr. JENKINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JENKINS:

Add to the table of contents the following new title:

TITLE VIII—NATIONAL COMMISSION ON SOCIAL SECURITY

Sec. 801. Establish a National Commission on Social Security.

Add the following new title and section after title VII:

TITLE VIII—NATIONAL COMMISSION ON SOCIAL SECURITY

SEC. 801. (a)(1) There is hereby established a commission to be known as the National Commission on Social Security (hereinafter referred to as the "Commission").

(2)(A) The Commission shall consist of—

(i) five members to be appointed by the President, by and with the advice and consent of the Senate, one of whom shall, at the time of appointment, be designated as Chairman of the Commission;

(ii) two members to be appointed by the Speaker of the House of Representatives; and

(iii) two members to be appointed by the President pro tempore of the Senate.

(B) At no time shall more than three of the members appointed by the President, one of the members appointed by the Speaker of the House of Representatives, or one of the members appointed by the President pro tempore of the Senate be members of the same political party.

(C) The membership of the Commission shall consist of individuals who are of recognized standing and distinction and who possess the demonstrated capacity to discharge the duties imposed on the Commission, and shall include representatives of the private insurance industry and of recipients and potential recipients of benefits under the programs involved as well as individuals who capacity is based on a special knowledge or expertise in those programs. No individual who is otherwise an officer or full-time employee of the United States shall serve as a member of the Commission.

(D) The Chairman of the Commission shall designate a member of the Commission to act as Vice Chairman of the Commission.

(E) A majority of the members of the Commission shall constitute a quorum, but a lesser number may conduct hearings.

(F) Members of the Commission shall be appointed for a term of two years.

(G) A vacancy in the Commission shall not affect its powers, but shall be filled in the same manned as that herein provided for the appointment of the member first appointed to the vacant position.

(3) Members of the Commission shall receive $138 per diem while engaged in the actual performance of the duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

(4) The Commission shall meet at the call of the Chiarman, or at the call of a majority of the members of the Commission; but meetings of the Commission shall be held not less frequently than once in each calendar month which begins after a majority of the authorized membership of the Commission has first been appointed.

(b)(1) It shall be the duty and function of the Commission to conduct a continuing study, investigation, and review of—

(A) the Federal old-age, survivors, and disability insurance program established by title II of the Social Security Act; and

(B) the health insurance programs established by title XVIII of such Act.

(2) Such study, investigation, and review of such programs shall include (but not be limited to)—

(A) the fiscal status of the trust funds established for the financing of such programs and the adequacy of such trust funds to meet the immediate and long-range financing needs of such programs;

(B) the scope of coverage, the adequacy of benefits including the measurement of an adequate retirement income, and the conditions of qualification for benefits provided by such programs including the application of the retirement income test to unearned as well as earned income;

(C) the impact of such programs on, and their relation to, public assistance programs, nongovernmental retirement and annuity programs, medical service delivery systems, and national employment practices;

(D) any inequities (whether attributable to provisions of law relating to the establishment and operation of such programs, to rules and regulations promulgated in connection with the administration of such programs, or to administrative practices and procedures employed in the carrying out of such programs) which affect substantial numbers of individuals who are insured or otherwise eligible for benefits under such programs, including inequities and inequalities arising out of marital status, sex, or similar classifications or categories;

(E) possible alternatives to the current Federal programs or particular aspects thereof, including but not limited to (i) a phasing out of the payroll tax with the financing of such programs being accomplished in some other manner (including general revenue funding and the retirement bond), (ii) the establishment of a system providing for mandatory participation in any or all of the Federal programs, (iii) the integration of such current Federal programs with private retirement programs, and (iv) the establishment of a system permitting covered individuals a choice of public or private programs or both; and

(F) methods for effectively implementing the recommendations of the Commission.

(3) In order to provide an effective opportunity for the general public to participate fully in the study, investigation, and review under this section, the Commission, in conducting such study, investigation, and review, shall hold public hearings in as many different geographical areas of the country as possible. The residents of each area where such a hearing is to be held shall be given reasonable advance notice of the hearing and an adequate opportunity to appear and express their views on the matters under consideration.

(c)(1) No later than four months after the date on which a majority of the authorized membership of the Commission is initially appointed, the Commission shall submit to the President and the Congress a special report describing the Commission's plans for conducting the study, investigation, and review under subsection (b), with particular reference to the scope of such study, investigation, and review and the methods proposed to be used in conducting it.

(2) At or before the close of each of the first two years after the date on which a majority of the authorized membership of the Commission shall submit to the President and the Congress an annual report on the study, investigation, and review under subsection (b), together with its recommendations with respect to the programs involved. The second such report shall constitute the final report of the Commission on such study, investigation, and review, and shall include its final recommendations; and upon the submission of such final report the Commission shall cease to exist.

(d)(1) The Commission shall appoint an Executive Director of the Commission who shall be compensated at a rate fixed by the Commission, but which shall not exceed the rate established for level V of the Executive Schedule by title 5, United States Code.

(2) In addition to the Executive Director, the Commission shall have the power to appoint and fix the compensation of such personnel as it deems advisable, in accordance with the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

(e) In carrying out its duties under this section, the Commission, or any duly authorized committee thereof, is authorized to hold such hearings sit and act at such times and places, and take such testimony, with respect to matters with respect to which it has a responsibility under this section, as the Commission or such committee may deem advisable. The Chairman of the Commission or any member authorized by him may administer oaths or affirmations to witnesses appearing before the Commission or before any committee thereof.

(f) The Commission may secure directly from any department or agency of the United States such data and information as may be necessary to enable it to carry out its duties under this section. Upon request of the Chairman of the Commission, any such department or agency shall furnish any such data or information to the Commission.

(g) The General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(h) There are hereby authorized to be appropriated such sums as may be necessary to carry out this section.

(i) It shall be the duty of the Health Insurance Benefits Advisory Council (established by section 1867 of the Social Security Act) to provide timely notice to the Commission of any meeting thereof, and the Chairman of the Commission (or his delegate) shall be entitled to attend any such meeting.

Mr. JENKINS (during the reading). Mr. Chairman, I ask unanimous consent to dispense with further reading of the amendment and that it be printed in the RECORD.

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

There was no objection.

The CHAIRMAN. The gentleman from Georgia (Mr. JENKINS) will be recognized for 15 minutes, and the gentleman from Oregon (Mr. ULLMAN) will be recognized for 15 minutes.

The Chair recognizes the gentleman from Georgia (Mr. JENKINS).

Mr. JENKINS. Mr. Chairman, I yield 4 minutes to myself and ask permission to revise and extend my remarks.

During the consideration of H.R. 9346 by the Ways and Means Committee on which I serve, I proposed this amendment to create a National Commission on Social Security. It failed there on a 17-to-17 tie vote. However, fellow members, both Democratic and Republican, have urged me to offer this amendment. I believe it will have the support of a great majority in this Chamber.

The reason that I introduced the amendment was the paucity of information on the various proposals for the long-term financing of our social security programs. There is little doubt that H.R. 9346 addresses only the short-term

financial needs of these programs. I believe that the Congress must soon find solutions to the long-term problems. Indeed, if this Congress raises the taxes on American citizens, as this bill proposes, to finance the programs between 1978 and 1985, I think it is equally important to assure our taxpayers that we intend to maintain a viable system through long-term solutions.

I have come to the Congress without much confidence in study and advisory councils. Too often they serve little use. However, as a member of the committee which has debated the intricate and complex issues in social security, I am convinced that a high level, nonpartisan, independent Commission with the mandate to work quickly and report to the Congress would well serve the Nation. In its entire history the system has never been studied by an independent group. Previous studies have been entirely by the administration without a broad scope or outlook for innovative financing methods.

In my judgment the study is necessary if the Congress is going to enact necessary long-term solutions to retirement, survivorship, disability, and health insurance programs. I urge your support.

Let me add that creation of this Commission is not an original idea. It is the composite idea of many Members of Congress. Mr. LEVITAS, my friend and senior colleague from Georgia, introduced a similar measure in the last Congress and earlier in this session. Our friend, Mr. STEIGER of Wisconsin, has introduced similar legislation and urged its enactment.

The Commission is a basic first step in our providing assurance of the long-term existence of social security.

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

Mr. JENKINS. I yield to my distinguished chairman, the gentleman from Oregon.

Mr. ULLMAN. Mr. Chairman, I want to commend the gentleman from Georgia for all the work he has done on this, and I know the gentleman from Wisconsin (Mr. STEIGER) on the other side has worked hard as the gentleman from Georgia has.

The committee did not vote to include this matter in the bill. I have no strong feelings about it. If properly constituted, the Commission might work out very well. I hope maybe we could limit debate on this and get to a quick vote.

Mr. JENKINS. Mr. Chairman, I thank the chairman for his support.

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

Mr. JENKINS. I yield 4 minutes to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Chairman, I thank my colleague, the gentleman from Georgia (Mr. JENKINS), for yielding.

Mr. Chairman, taking the admonition of the chairman of the Ways and Means Committee, I will not prolong the discussion of this matter, but I think a few comments are in order because this is an extremely important amendment that my colleague, the gentleman from Georgia (Mr. JENKINS), has offered. Several weeks ago I asked my colleague from Georgia, who serves on the Ways and Means Committee, if he would offer the National Commission amendment during the committee proceedings. It was a concept I had been working on for 2 years and I felt with his assistance we could get the job done. He agreed and diligently pursued the cause until we are now about to make this important decision.

Mr. Chairman, I do not see how we as responsible Members of Congress could consider passing another social security tax increase, another Band-Aid-and-Mercurochrome approach to shore up the system, without at the same time giving the American people some hope or some opportunity or some means by which to believe that a fundamental, long-term comprehensive consideration for change in the entire social security system will be forthcoming for the future.

We simply cannot continue to deal with the problem of finances of social security from 1 year to another. We simply cannot try to take care of universal coverage on the one hand or earnings limitation on the other on a piece-by-piece approach. There are more fundamental questions about social security that must be asked and must be asked by people who will not just sit in the social security offices in Baltimore and contemplate, but who will go out across America and talk to the retired people, and to the widows, and other beneficiaries and find out what is wrong with that system as far as their benefits are concerned, and, by the same token, talk with and listen to the wage earners, self-employed people, and to the businessmen employers who are contributing to this present system and find out from them what its problems are and what it means when we get to the point where over 8 percent of a person's earnings matched by employer payments are going into this system with all of its existing inequities.

I think the time has finally come—and today we reach an extremely important milestone—for the first time a blue ribbon, bipartisan National Commission, independent of HEW, will come into existence, appointed by the President of the United States, the Speaker of the House, and the President pro tempore of the Senate to ask those fundamental questions and make bold, innovative recommendations for the new future of survivorship, retirement, and disability programs.

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

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

Mr. ROUSSELOT. I appreciate the gentleman's yielding. I know that the gentleman from Georgia who is now speaking has been a strong advocate of keeping the number of commissions to a minimum, and I, too, have tried to follow that general rule. But we need a blue ribbon commission to study alternatives to the present social security system. I think the structure of this commission suggested by our other colleague, the gentleman from Georgia (Mr. JENKINS) is a good one. It assures that this commission must produce a product within 2 years; that the members of the commission are to be appointed by the House of Representatives, the Speaker, the President pro tempore of the Senate, the executive branch; that it include the private insurance industry as well as potential beneficiaries; that it is to be independent of the bureaucracy downtown and not fully dependent on the social security system itself; and that there are built into this amendment clear guidelines, rules and regulations, and recommendations, to report back to the House of Representatives and the Senate. I, too, agree with the gentleman from Georgia (Mr. JENKINS) the gentleman from Wisconsin (Mr. STEIGER), and the members of the committee—that we need a strong and independent commission to do positive and constructive work in many areas.

Let me explain: We are only beginning to get a glimpse today of some of the drastic effects social security has brought about on our lifestyle—on savings, capital formation, jobs, and economic growth. Many of these effects were never anticipated by the authors of social security and they are imperfectly understood today. Any government action which impinges on our freedom of choice and creates inefficiency ought to be reexamined. Let me give the House just a few examples.

When social security was enacted in 1935 half of the male population over age 65 was in the labor force. Today the figure is only 1 in 5 or 20 percent. The social security program, however, was not designed to discourage or penalize older working Americans. It was supposed to provide a modest supplement to the income of retired workers in commerce and industry. Professor Boskin of Stanford estimates that approximately two-thirds of the decline in the over-65 work force—one-third of those over 65—can be attributed to the benefit structure and earnings test of social security. This is wrong. We should not be biased against work. We should not discriminate against the aged. We should leave individuals alone to choose to work or not to work—unimpeded by Government. The national Social Security Commission will investigate how to make retirement a simple matter of individual choice.

Another example: Social security has replaced private savings and thereby decreased investment, capital formation, and economic growth. According to Dr. Feldstein of Harvard, the working population of this country makes its decision on how much to save and how much to consume on the basis of its expectations of future income. Citizens prepare for their own retirement by setting aside a part of their earnings. Private savings are invested. they earn a rate of return, and the holder of the investment eventually lives off the principal and the interest. The average wage earner today treats his social security taxes as a

pension investment and reduces his private savings accordingly.

Unfortunately, social security does not invest what it collects but spends its receipts on present benefits. The resulting reduction in total investment in the American economy causes capital formation to be less than it would otherwise be. Less capital per worker leads to lower productivity, lower wages, and higher unemployment—less of everything for everyone. We have created a bias against the traditional American virtue of thrift and against our historical emphasis on economic growth. The national Social Security Commission will study how to make savings once more a matter of individual choice.

Yet another example: social security has combined social insurance with social welfare and has created capricious transfers in income. As Joseph Pechman of the Brookings Institution has pointed out, this results in an inequitable distribution of the tax burden. Social security taxes the young in order to distribute benefits to the aged, irrespective of need. The aged are not automatically poor, and welfare should only go to the poor. So, too, a social insurance system should be tied directly to contributions, and each should receive benefits according to his share of the fund. Using funds from an insurance fund to pay for welfare results in a regressive tax scheme.

Furthermore, the current insurance aspects of our social security system are not tied directly to an individual's contributions at all. Social security is like a generational chain letter, with each generation paying for the preceding generation's benefits. Because of demographic changes, some generations are going to have to pay higher taxes than others. Contrary to the intent of the law, social security capriciously transfers income from the young to the old, from lower and middle income taxpayers to poor and rich beneficiaries, and from less populous to more populous succeeding generations. The National Social Security Commission will study how the insurance aspects of social security may be fully funded, and how the welfare and insurance components may be separated. We need to give our citizens the opportunity to freely determine their own welfare without depending on the future tax dollars of future taxpayers.

We need to study how the social security system may become voluntary for those in the labor force. We need to study how social security may return the decision to save and consume to the individual. We need to study the effects of social security on attitudes toward work, retirement, and the family, and how we can make those attitudes a matter of free choice. We need to study how the insurance aspects of social security may be fully funded, and how the welfare and insurance components of the system may be separated. In essence, we need to give our citizens the opportunity to freely determine their own welfare, and the National Commission on Social Security should tell us how to do it.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

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

Mr. JOHN L. BURTON. I thank the gentleman for yielding.

Is there anything in this amendment that says after the Commission makes its reports that Congress is going to do anything except look at it and say, "We did not do that; it is politically not feasible?"

Mr. LEVITAS. No. The National Commission cannot legislate, but what the National Commission can do is for the first time have the mandate and tools to fully and thoroughly examine the entire social security system, and in making its recommendations go into those issues that we have feared to go into for so long. We need to ask questions about general revenue funding, about the rule of private insurance programs and private sector operation, among other such questions that people have feared to ask about the social security sacred cow. I believe that when the American public realizes that there is some hope that we will make some fundamental changes, then the American public will demand that the Congress must act, and when the public speaks loudly, the Congress jumps.

Mr. JOHN L. BURTON. If the gentleman will yield further, the social security system is really only one part of the whole pension system in the country. Now that the President is going to appoint a Commission to study the entire pension system, we will go for this Commission, which probably we should have done 4 years ago because of all of the tax increases that are going to be in this one. But is there going to be some kind of coordination?

Mr. LEVITAS. Yes.

Mr. JOHN L. BURTON. Because if we were afraid to even go into the issue, I can imagine how well we are going to do when they come back with the solution.

Mr. LEVITAS. Let me respond. The gentleman from California makes a good point. Two and a half years ago when I first introduced legislation to create this National Commission and again this year I introduced the bill again with over 65 other Members of this body who are strongly in support of this proposal, I said that then—2 years ago—was the time to do this job and we did not need to come up to this point of financial crisis in order to create a National Commission; but we did not do it then. We seem to require a crisis to prompt us to act.

As part of this particular National Commission provision, the National Commission is mandated to look at other retirement programs and how they relate to social security and to the Commission which the President is going to appoint on all other retirement matters and there can be a perfect interface with this National Commission on Social Security.

Mr. JOHN L. BURTON. Has it been checked out due to the unique nature of this Commission, that is, appointments by the Congress, the Speaker, the President pro tempore, and the President; are we going to run into any problems under the Buckley against Valeo case, as we did on the Election Commission?

Mr. LEVITAS. I do not think so. That dealt with actual rulemaking and regulatory powers. The National Commission does not have rulemaking or regulatory powers.

Mr. JOHN L. BURTON. The type of power they have is such that would not be an issue?

Mr. LEVITAS. No, it would not. I urge support for this amendment.

Mr. WATKINS. Mr. Chairman, will the gentleman from Georgia yield, so I can ask the author of the amendment a question?

Mr. JENKINS. I yield to the gentleman from Oklahoma.

Mr. WATKINS. Mr. Chairman, does this Commission request also take into consideration a study of the Social Security Office?

The CHAIRMAN. The time of the gentleman from Georgia (Mr. JENKINS) has expired.

Mr. JENKINS. Mr. Chairman, I yield myself 2 additional minutes.

I yield to the gentleman from Oklahoma (Mr. WATKINS).

Mr. WATKINS. Mr. Chairman, did the gentleman get the question?

Mr. JENKINS. Would the gentleman repeat the question?

Mr. WATKINS. Will this Commission take into consideration the delivery system or the problems of social security offices in trying to provide these services?

Mr. JENKINS. Yes. There will be an in-depth study of the entire social security system.

Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER. Mr. Chairman, I am not much for commissions, either, but I must say as I looked at this problem and dealt with it for some time, the very points that the gentleman in the well, the gentleman from California, somewhat earlier was making and also made by the gentleman from Georgia (Mr. LEVITAS), it seems to me a very real reason why the Commission is a good idea. Most importantly, because it is mandated to go beyond the social security advisory committee that does exist under the law, although the one that is supposed to be appointed has not been appointed; but while they have looked at the social security system they have been rather myopic. That is all they have looked at from the standpoint of how do you do the best job for the system.

Retirement is not isolated to social security. It affects IRA's, Keogh's, and private employer systems and it is that which the Commission should address itself to. What is the relationship between all these various pension systems that we have; what is the relationship in terms of where we go in this country, in terms of retirement policies?

Mr. Chairman, I commend the gentleman from Georgia for the gentleman's leadership and for the gentleman's very active pursuit of this concept. I think the

Commission is worth the price and it is worth establishing. I am delighted to support it.

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

Mr. ULLMAN. Mr. Chairman, I am not going to take a great deal of time. As has been indicated, as far as I am personally concerned, the amendment makes some sense. If it is properly handled, it can be a very productive operation.

There has been some comment that somewhere along the line the Social Security Subcommittee and the Committee on Ways and Means has not lived up to its responsibilities. I think that is not the level where the studies ought to be made. There are many factors wholly beyond our control. There are great demographic changes taking place in this country and we need to look at them. I think that is where the focus ought to be. There are changes in our whole concept of retirement that we need to look at.

As the gentleman from Wisconsin said, the interrelationship between all of the pension programs, private and public pension programs, and the programs of social security need to be looked at. The study will obviously also include whether every American ought to be paying into the program or not.

So, I think that by broadening the dimensions of this study it can be very helpful to us. I would hope that if we adopt it, the commission is able to organize and get to work quickly on a subject that is terribly important for every American.

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

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

Mr. CONABLE. I am unenthusiastic, Mr. Chairman, about another study, but if the study does have the effect of going beyond the normal subject matter of the Advisory Council on Social Security, which has studied this subject in a narrow sense often, and frequently made recommendations that this Congress has ignored, I also must conclude that such a study would not do a great deal of harm. I am cheerful about any decision made by this body. I think I probably will vote for the study, but I wanted the Members to know that there has been a great deal of study of this subject already.

Mr. ULLMAN. Let me say that in accepting this study, I think it is of extreme importance that it be properly constituted, with the best staff available in this country; that we take the problems seriously. I have served on commissions. Ordinarily it takes a year or 18 months even to get organized. I hope that is not the case here. I hope we can move expeditiously get the proper staffing, and have this commission do what we all expect it to do; that is, look at the whole gamut of retirement and make, in fact, recommendations that will insure that we can move toward a future social security system into the next century.

Mr. Chairman, I yield back the balance of my time.

Mr. JENKINS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. JENKINS).

The amendment was agreed to.

Mr. FUQUA. Mr. Chairman, I reluctantly rise in opposition to H.R. 9346. I say "reluctantly" because I am fully cognizant of the massive problems confronting our social security system and the great need for action if we are to protect the integrity of social security.

This bill, however, takes a "band-aid" approach to the problem and will not, in the long-run, solve the problems. I oppose it even as a stop-gap measure because I recognize that if this bill passes many people will assume that the problems have been solved and this is simply not the case.

We cannot continue to raise taxes on employers and employees in an effort to keep social security afloat. The working man and woman is hard pressed as it is without having additional amounts deducted from his or her paycheck and employers will be left with no recourse but to raise the price of goods and services and this would be counterproductive to our drive to stimulate the economy.

It is my belief that the committee's work on this legislation was rushed and I do not feel that adequate consideration has been given to other proposals as to how best assure the solvency of social security. One approach I favor is the removal of disability payments from the social security system.

For many years social security worked well and it was only when additional burdens were added that the problems began. As a matter of fact, experts in the field tell me that the removal of disability would, by itself, place social security back on its feet again.

Disability payments must be recognized as a national problem which we, as a society, must solve and I propose that disability payments be made from general revenue rather than tapping the very limited resources of the social security trust fund.

Additionally, we should consider the possibility of a short-term infusion of funds from general revenue to make up for the losses already incurred from administration of disability.

This proposal deserves the most serious consideration by the House Ways and Means Committee and I believe it would be in the best interest of the Nation if we return this bill to the committee for their further consideration.

Mr. ASHBROOK. Mr. Chairman, I am deeply concerned by the committee's recommendation of mandatory social security coverage for Federal, State, and local government employees. This is a bad idea and it should be rejected.

The issue of mandatory coverage has great significance for millions of Americans. Approximately 2.6 million Federal employees and 4 million State and local government workers would be affected by this legislation. I do not believe that the proposed change is fair to these people.

Enactment of the Ways and Means Committee proposal would add an element of uncertainty. Could the social security system and the other government retirement systems be integrated in an equitable manner? Would people in the other retirement systems lose some of the benefits they have been promised? What rules would apply?

There are, of course, no answers to these important questions. Nevertheless we are urged to plunge head first into uncharted territory. Again, this is not fair to the local, State and Federal government employees who have such a great stake in this matter.

I also want to point out that since 1950 State and local governments have had the opportunity to bring their employees under social security. About 70 percent have availed themselves of that opportunity. The other State and local governments decided that it was not in their best interest to come under the plan. It is wrong for Congress to now override these local decisions and impose universal coverage, especially without a thorough study of the ramifications. This is one more example of unnecessary Federal intrusion into State and local affairs.

What we really have here is an attempted temporary bailout of the social security system. That system does face some difficult financial times ahead. Mandatory social security coverage of all Federal, State, and local government employees, however, is not the right way of solving the problem. It is merely a band-aid approach to a serious situation.

Let us be honest. One of the key problems is that social security has been turned into something it was never intended to be. Too many have tried to make a welfare plan out of it rather than carrying out its original purpose. And now we are being urged to bail out the social security system with other people's retirement plans. We are being urged to tamper with the pensions of local, State, and Federal workers rather than make hard decisions regarding the social security system.

People who have paid into their own retirement systems deserve to receive the benefits they have been counting on. They should not have to risk these benefits because of unwise governmental actions. They should be allowed to get the benefits for which they have worked.

I strongly urge the defeat of the mandatory social security coverage provision. It is a simple matter of fairness.

Mr. OTTINGER. Mr. Chairman, today we are considering H.R. 9346, a bill designed to restore the short-range and long-range financial soundness of the social security system and make other improvements in the system. Since public support for the program depends on confidence in its solvency, we must act now to restore financial integrity to the program and assure people that their social security protection is secure. This bill is very complex but it does assure the solvency of the programs of the social security system. Therefore, while I have some very strong objections to certain provisions of H.R. 9346, I will vote for final passage of this bill.

My overriding concern is the increase in the payroll tax. In testimony before

the Social Security Subcommittee in July, I stressed my strong desire to avoid increasing the payroll tax which already places a staggering burden on low- and middle-income workers—the backbone of this country. These workers pay the majority of our taxes, a disproportionate share, yet receive none of the benefits of the programs for which they pay. They are the most disillusioned of our voters. Placing further burdens on them is a travesty.

We have gone too far already in taxing low- and middle-income workers for social security. In 1937, the social security tax rate was 1 percent on a maximum base of $3,000, resulting in an annual tax of $30 or less. In 1977, at the rate of 5.85 percent, on the maximum base of $16,500, the tax is $965.25—a 3,000 percent increase. In fact, half the workers in the United States pay more in social security tax than they do in income tax.

Unfortunately, under the committee bill social security taxes are increased beyond those rates scheduled in existing law. An individual earning $15,000 annually now pays a social security tax of $877.50. Under this bill, the tax on $15,000 will be increased to $967.50 in 1981, and $1,012.50 in 1985. When you consider a typical person earning $300 per week has total payroll deductions—social security and Federal income tax—of approximately $68 per week, with a total take home pay of only $231 per week the injustice of further payroll deductions is apparent. Under this bill the deductions would increase and it is easy to see the reasons for distress.

Mr. Chairman, I would far prefer to use general revenues to finance part of the social security system. These revenues are generated by personal and corporate incomes taxes which are progressive in nature and therefore the low- and middle-income workers are not forced to carry such a disproportionate share of the load. H.R. 9346 allows standby authority for automatic loans from the general revenues to the trust fund whenever assets at the end of the year drop below 25 percent of annual outgo. However, if this borrowing authority is used, payroll tax rates will be temporarily increased to repay the loans. There is therefore really no resort to general revenues in this financing scheme. I will vote for this measure because of the urgency involved, but I am very dissatisfied with the financing route chosen by the Ways and Means Committee.

I have the same conflict with the earnings limitations provisions. I strongly support the increase in the earnings limitation for social security beneficiaries. This is long overdue. However, the limits are still too low—they should be eliminated altogether—and the cost of this very modest increase should not be tied to an increase in the payroll tax.

Finally, the most controversial provision of this bill—future universal social security coverage—has caused much concern, especially among the Federal Government workers affected. I think this is due largely to the fact that the details of universal coverage have not been worked out.

There has been a lot of misinformation about what this bill does and does not do regarding the present civil service retirement program. H.R. 9346 does not require that the Federal civil service retirement system be merged with social security or authorize the transfer of any funds from the Federal program to social security as widely stated; nor does it change any of the rights or benefits earned by employees under Federal, State, local or private retirement plans.

In fact, a provision of the bill requires that any plan for coordinating Federal retirement with social security shall insure that Federal employees would not be worse off in respect to coverage protection or the amount of contribution required of them. This protection is essential. Employees certainly are entitled to receive the benefits they were promised at the time they were hired as well as any improvements made in benefits during their working careers.

Clearly, if universal social security coverage were to be mandated, at some future time Congress would have to adjust the Federal civil service retirement program to take account of the new social security coverage in order to eliminate duplicative contribution requirements—5.85 percent of salary for social security and 7 percent for civil service retirement. Therefore the bill requires the Department of Health, Education, and Welfare, in conjunction with the Civil Service Commission, to put together a plan by January 1, 1980, on how the social security system can be coordinated with the civil service retirement system—in other words, how the federal system can be converted into a supplementary retirement program, as private pension plans are now.

Coordinating these two systems—social security and civil service retirement—would require a great deal of careful attention. Indeed it would be a very complex task. But these adjustments have been made in hundreds of companies where private pension plans are coordinated with social security payments. For Government workers, as for millions of other workers, social security can provide broader coverage than Federal employees now receive plus full retirement benefits.

I believe universal social security coverage is fair and right and will result in added benefits for Government and voluntary agency workers. However, I will support the Fisher amendment, only because the risks and benefits of coordination have not been spelled out and I don't believe it is fair to ask Federal workers to buy a plan the details of which are not available.

Congressman FISHER's amendment eliminates the 1982 mandated coverage of Federal, State, and local government employees. It requires that a plan for coordinating the systems be developed before Congress sets a date for extending coverage to all workers. Representative FISHER is not opposed to universal coverage some time in the future; his amendment merely requires, quite properly, that a plan should be worked out before a decision is made.

In conclusion, Mr. Chairman, I am voting for H.R. 9346 to assure the financial soundness of the social security program, but very reluctantly because of the harsh effects of the payroll tax on middle-income Americans.

Mr. DRINAN. Mr. Chairman, if social security coverage is to be required of all Federal employees as well as State and local government employees and those employees of nonprofit organizations not presently participating in the system, logic and commonsense would seem to require that careful study of such mergers be made before we mandate universal coverage. H.R. 9346 calls for universal coverage by 1982 but does not say how these retirement plans will be restructured under a merger with the social security program. Millions of workers would be affected and they have many questions which not even Members of Congress can answer at this time.

The Fisher amendment which would remove the requirement that universal coverage be accomplished by 1982 puts us back in the responsible position of legislating on the basis of careful study and discussion and not in a vacuum. Bringing Federal employees including Members of Congress into the social security system may or may not be a good idea; hopefully the study which will be due in 1980 will provide the information needed before a decision of this significance can be made.

The inclusion of State and local government employees raises a number of constitutional issues which must be addressed particularly in view of the 1976 Supreme Court decision in National League of Cities against Usery. In that decision the Court held that the Constitution did not delegate to Congress the authority to regulate the employer-employee relationships of State governments and their subdivisions.

The many problems and possible obstacles in bringing about universal coverage merit careful and responsible deliberation. By adopting the Fisher amendment we will dispel the alarm felt by the millions of workers whose retirement systems might be affected.

Mrs. LLOYD of Tennessee. Mr. Chairman, although the action taken by the House today in approving amendments to the Social Security Act recognizes the need to address both the long- and short-term weaknesses in the financing of the trust fund, I cannot accept the position taken by the majority that the only solution to this financial instability is to increase the taxes paid into the fund by both individuals and employers. Rather than attempt to patch over the problems of the social security fund, the Congress must examine the underlying objectives which the social security system was designed to meet, and the ever expanding array of social welfare programs which have been appended to those basic objectives. Because we have not given sufficient attention to the underlying causes of the weakness in the trust fund, I felt compelled to oppose this measure today. I am hopeful that

with the opportunity to work from a base constructed by the House, the Senate will be able to fashion a bill which more adequately meets the present needs of the social security system.

As originally conceived in 1935, the social security system was intended to be an insurance program for the elderly. Today, the system provides a wide range of benefits, including survivors', disability, and hospital payments, to 33 million people. While it is apparent that the current structure of the social security system can adequately support the income security programs for the retired and survivors' benefits, it is equally clear that the fund cannot continue to support the nonretirement programs which now overburden the social security system. I do not deny the fact that the benefits provided through these programs are essential and should be supported by Government funding. However, the legislation passed today fails to separate the nonretirement programs from the traditional benefits of the social security system. By funding these additional programs out of general revenues, where they properly belong, the Congress could protect both the fiscal stability of the social security trust fund, and avoid excessive increases in the social security tax rate and wage base.

This bill will raise the marginal tax rates of all Americans; not only the middle class, but also the low-income and wealthy Americans on top of the heavy burden of taxes already being paid. In its present form, this bill will result in a drain of $55 billion from consumers to tax revenues. In addition, employers will be required to pay an even larger share of the taxes than employees. This will only force a limit to the growth in employment which would further reduce tax revenues for the system and increase the demand for benefits to meet the nonretirement programs.

A particularly undesirable provision of this bill permits General Treasury funds to be borrowed to eliminate deficits in the social security system. Elimination of this provision, which I supported, would have maintained the insurance status of the social security system and prevented the growth in welfare programs thereby reenforcing the original purpose of the system. The standby authority in the bill appears to be a reasonable and practical approach, although I do support a review on a yearly basis of the need to transfer funds from general revenues to eliminate annual deficits. I feel the approach in this bill represents a trigger mechanism which can only provide a permanent back door method of financing the social security system through general revenue funds.

The original bill provided for some increase in the income earnings limitation and I strongly supported the successful attempt on the floor today to provide for a phasing-out of the limitation by the year 1982. Senior citizens are now prohibited from earning more than $3,000 per year if they wish to avoid forfeiting a portion of their social security benefits. The elimination of the retirement income ban will allow our elderly citizens to help themselves through increased earnings while protecting their eligibility to receive social security benefits. Furthermore, the tax revenues generated by their continued participation in our economy will provide support both to the social security system and our economy in general. The mandatory retirement legislation, passed by the House and Senate and in conference at this time, would allow people to continue to work until the age of 70. This legislation will also lend a substantial degree of stability to the system by allowing those people who choose to work to continue to contribute to the system while eventually collecting benefits from the system for a shorter period of time.

The irony of these shortsighted solutions is that the American people will be led to believe that the problems of the social security system have been solved and that is simply not the case. This legislation fails to provide the assurance that senior citizens in the future will receive the benefits they desperately need and obviously deserve. I suggest that H.R. 9346 does not go far enough or in the right direction toward providing for the long-range, comprehensive reforms that are needed to restore overall soundness to the social security system.

Mr. STOKES. Mr. Chairman, I rise in support of H.R. 9346, the Social Security Financing Amendments of 1977, as amended.

The principal or major purpose of the Social Security Act of 1935, as stated in its preamble, was: "To provide for the general welfare by establishing a system of Federal old-age benefits * * *."

In recent years, an increasing number of senior citizens have come to depend upon social security in their golden years. However, the program is fraught with financial difficulties and as a result, many older Americans are trapped in a system which guarantees but subsistence living standards.

I feel this bill is intended to restore the soundness to the social security system which has been losing money as benefit payments outpace tax receipts.

Mr. Chairman, I would specifically like to address my position on several amendments to the bill.

I voted against the Jenkins amendment, which sought to extend the increase in the wage base over a greater number of years, because though the maximum wage base has increased steadily, the disheartening fact remains that the elderly poor pay a greater percentage of their incomes than persons making more than the maximum wage base. The only equitable solution would be the requirement that the higher income earners make contributions in greater proportion to their income. This increase must be imminent and cannot be delayed for additional years.

I supported the Fisher amendment, which struck the provisions in the bill requiring mandatory social security coverage of Federal, State, and local employees, and employees of nonprofit organizations effective in 1982. A merger of the social security system and Federal retirement system—which were established for two different objectives—would mandate some workers to contribute and to collect—double dip—from both systems, which is just not equitable.

This amendment additionally requires the Department of Health, Education, and Welfare and the Civil Service Commission to conduct a feasibility study of universal coverage and report to the Congress by January 1, 1980, on proposals for integrating social security coverage for Government employees with Civil Service retirement benefits. I believe this is only fair since not enough information exists from which to conclude that universal coverage is prudent at this time. Coordination of these two systems, which affect so many Americans, will take a great deal of thoughtful, careful analysis and should not be done hastily.

Mr. Chairman, the Corman amendment also deserves attention. I voted against this amendment which sought to eliminate the minimum benefit from the social security program. It would have been totally unfair for Congress to cut off a level of benefits which beneficiaries had expected and counted on.

In conclusion, Mr. Chairman, I feel this bill is a giant step in addressing the financial problems of the social security system. Those of us who have been closest to the needs of the elderly realize they have a right to share in a social security program based upon a realistic appraisal of their contributions and needs.

I urge my colleagues to support this bill as amended.

Mr. CLEVELAND. Mr. Chairman, I intend to vote against final passage the social security financing bill. Before getting into my reasons for doing so, I would like to point out that this legislation does contain some needed improvements in the social security system which I support. Notable among these is the decoupling provision which eliminates the present double adjustment of benefit increases by indexing benefit levels to increases in wages only.

Other provisions which I endorse are the elimination of a variety of sex discriminatory practices and provisions to improve the treatment of women under the system—although the latter do not go as far toward that end as the Republican substitute which would provide compensation for the added contribution of working wives. I also support the freeze of the minimum primary benefit which I am sorry to say has been taken advantage of by those for whom it was not specifically intended.

In addition, we have at last succeeded in removing the earnings limitation which deprives senior citizens of their entitlement to social security benefits which they have earned if they choose to continue leading productive working lives beyond the age of 65. This is a much-needed improvement and one which I have been supporting for many years.

In the final analysis, however, this bill leaves unresolved the long-range deficit of the social security trust fund; a deficit which will equal $800 billion over 75 years.

UNFAIR TO MIDDLE-INCOME PEOPLE

Yet, in spite of this enormous and unresolved deficit, the legislation before us mandates a rapid increase in the wage base that will be unfairly punitive to middle-income Americans and will certainly have a depressing effect on the economy. While I realize fully that increases in the wage base as well as the tax rate are necessary, I feel that the committee's approach is neither sound nor fair.

UNIVERSAL COVERAGE

With regard to perhaps the most controversial provision of the bill; namely, universal coverage, I am disappointed at the House's approval of the Fisher amendment which struck this requirement. Universal coverage as provided for in the committee bill would have extended mandatory coverage, effective in 1982, to the three major groups not under social security: First, Federal civilian employees; second, State and local government employees, and third, employees of nonprofit organizations. This provision would have brought some 6 million additional workers into the system thereby extending social security coverage to 97 percent of the work force.

In spite of the fact that Federal employees and their organizations have mounted a vigorous opposition to this provision, I am convinced that it is unfair to the other working people of this country to continue the present system. Under the present law, many Federal workers have taken advantage of early retirement provided for in their pension system and then worked just enough years to obtain the minimum social security benefit to supplement their retirement income. As the gentleman from Florida pointed out in earlier debate, this means that a worker who has contributed as little as $111 in his lifetime to the social security trust fund can draw monthly benefits of $114 when he retires from social security in addition to whatever pension he is getting from other plans. This is demonstrably unfair to those who have worked a lifetime under social security and contributed far more in order to gain their benefits.

Furthermore, I believe if public employees would closely examine the universal coverage provisions, they would find it less objectionable than it may seem at first glance. In addition, with respect to State and local governments, it is important to point out that 70 percent of those employees already are covered by the social security system.

In conclusion, Mr. Chairman, while I feel very strongly that the House has a responsibility to act to remedy the financial situation of the social security trust and restore its integrity, I feel equally as strongly that such action must be responsible and responsive to the needs of our citizens. This legislation, in my opinion, does not meet those tests.

Mr. HAGEDORN. Mr. Chairman, as with the energy bill that was so skillfully propelled through this body earlier this year, H.R. 9346, the Social Security Financing Amendments of 1977, is primarily a tax measure. As with the energy program, these taxes are largely disguised and represent substitutes for genuine policy reform. The best that can be said about H.R. 9346 is that it is an improvement upon what was originally submitted by the administration.

There is little dispute that the social security system is facing a severe financial crisis, and that many of the comfortable myths that have grown around the program are being shattered. The program does not pay for itself, it is not actuarially sound, and it is not insurance. Workers are guaranteed nothing under the program and, as this bill demonstrates, may have their benefit levels changed at any time by a simple majority of Congress.

The system, in its current form, will survive only as long as the working majority in the country at any given time is willing to tax itself to pay program beneficiaries. This has posed no problem in the past simply because workers far outnumbered beneficiaries and bore a relatively reasonable tax burden. After years, however, of political exploitation of social security, a majority of workers find themselves paying more for social security than they do for Federal income taxes (not even counting the employer's contribution which is effectively part of the employee's total wage).

Expected demographic patterns portend a worsening of this situation during the latter quarter of this century. Sharply increased taxes, or reduced benefit levels will be necessary as the proportion of workers to beneficiaries declines from 3 to 1 currently to slightly more than 2 to 1 by the year 2000. The most sanguine observers of social security, such as former HEW Secretary Wilbur Cohen, concede that tax rates may have to be increased by 25 percent over this period, while less interested observers have suggested the need for a minimum 50-percent increase in the payroll tax. This would all come on top of the nearly 400-percent increase in the social security wage base from 1971 to 1981.

Despite such skyrocketing payroll tax increases, the social security program has run increasingly large annual deficits, with the trust fund having a current unfunded liability estimated to be in excess of $3.5 trillion.

Mr. Chairman, H.R. 9346 would increase taxes by nearly $65 billion over the next 5 fiscal years, and result in an eventual tripling of social security taxes. Hit hardest, by far, would be the middle-income American for whom the majority professes to have so much concern.

An individual employee earning $15,000 in 1977 would be paying into social security $878, with his employer paying the system another $878. The self-employed individual would be paying $1,185. Assuming, conservatively, a 5-percent annual inflation over the next 13 years, these same individuals would have to be earning $28,283 in 1990 to be able to maintain the same standard of living. Under the new law, they will be paying $2,107 (plus matching employer contribution), and $2,956 respectively. As a percentage of total income, the social security tax will have risen 32.3 percent.

An individual employee earning $20,000 in 1977 would be paying social security taxes of $965, as would his or her employer. The self-employed individual would be paying $1,303. Again, assuming a modest 5-percent inflation rate, these individuals would have to be earning $37,130 in 1990 to simply keep pace with increases in the cost of living. Under the new law, they will be paying $2,766 (plus matching employer contribution), and $3,880 respectively. As a percentage of total income, their social security taxes will have risen by approximately 60.4 percent.

By granting standby authority to the social security system to borrow from general revenues, this bill has also made available to Congress vast new sums of money that will enable it to continue meting out periodic benefit increases without having to make too clear who is paying for them.

The Fisher amendment, which I strongly opposed, would, in addition, tell the 100 million workers who are covered by social security that we are not satisfied with the amount of new taxes that the committee version of this bill imposes upon them, and that, in order to protect public employees and Members of Congress from the burdens of social security, we are going to raise their taxes still more. The Fisher amendment, by removing these groups from the purview of the program, would increase everyone else's taxes by $22 billion, raising their wage base by $1,800 and their tax rates by 0.1 percent. Somehow, the wondrous merits of compulsory participation in social security have escaped those most responsible for legislating and administering the program.

Public (and nonprofit) employees would not have lost any benefits whatsoever in being brought under social security. The experience of "integrated" retirement systems, both in the private sector and the public sector (military employees) has been a successful one, a fact attested to by numerous studies. A high percentage of State and local employees have already opted for inclusion under the social security program with no resultant loss of benefits.

We hear much about this or that piece of legislation being "labor legislation," and being a priority of the unions. Organized labor may have been quiet on this bill, but I guarantee that their members (as well as all other workers) will ultimately suffer far more from this single piece of legislation than from the failure of Congress to pass a dozen pieces of "common situs," "cargo preference," or "labor law reform" legislation. Not only are they going to be socked with enormously increased taxes, but the system in which they are forced to place so much confidence has been made only marginally sounder. In addition, the cost to the employer of hiring individuals, particularly those with any degree of skills, has been raised substantially, making it likely that many employers will make do with fewer employees. Billions more dollars have also been taken from the private capital markets, insuring continued shortages of investment

funds, and continued levels of high unemployment.

Many of the shortcomings in H.R. 9346 can be remedied by passage of the Conable substitute. This measure would provide for far more moderate increases in wage base and tax rate levels, make progress toward universal coverage, provide for a new "working spouse" benefit program for working wives, and restructure minimum benefits provisions, and the allocation of taxes among the OASDI and hospital insurance funds.

There are several provisions in this bill which I believe are worthy of commendation, including the decoupling and wage-indexing provisions, the gradual phase-out of outside earnings limitations upon social security recipients, and the elimination of sex-based differences in the social security law. It is despite these provisions that I find myself having to vote against this bill. H.R. 9346 is a bankrupt reform of an increasingly bankrupt program.

Mr. LEGGETT. Mr. Chairman, as we consider final passage of the Social Security Financing Amendments of 1977, I would like to offer several observations to my colleagues on the health of the social security system and its future. While I am generally pleased with the bill presented to the House by the Ways and Means Committee and the Committee on the Post Office and Civil Service, and I am pleased with the floor amendments we have adopted, especially the amendment offered by Congressman FISHER. I must state that we have not remedied all the problems the social security system will face over the next 75 years. We delude ourselves if we believe that the actions we have taken over the past 2 days have solved all the problems for all time.

I continue to be troubled by the regressive nature of the social security tax structure and the adverse impact it has on employment and industrial expansion. Sooner or later the Congress must address these problems. I do not believe we have done so adequately during our debate on this bill.

The proposed changes in the social security tax system will have an adverse impact on employment. The rapid increase in social security taxes proposed in H.R. 9346 would result in both the employer and employee having to pay $1,800 per annum in social security taxes for annual earnings of $27,900 or more by 1981. The employer would be burdened with a tax of 6.45 percent of every employee's earnings who received less than $27,800 a year.

This burdensome tax would undoubtedly persuade many employers that they should not add employees to their work force and that they should seek ways to minimize the manpower that they currently employ. The tax increase would, therefore, add as a disincentive to investment in industrial expansion. This at a time when the U.S. economy is struggling to recover from a worldwide recession and the climate for business investment is already an adverse one.

The proposed employee tax increases will take from each individual a considerably increased proportion of their earnings. The loss of this disposable income will be greatest for that mass of our population with increases in the low and middle ranges. The loss of gross national product will be $4 billion in current dollars. The effect of this loss will be to substantially reduce the rate of growth of spending power in the economy. This, itself, will cause further unemployment.

The net effect of the social security tax raises has been estimated to cause an increase in unemployment of at least 0.2 percent by 1981. This small percentage rise represents the lives and self-respect of hundreds of thousands of Americans who will be thrown out of work. The increased unemployment also represents substantial losses to the Treasury in income taxes and the increased payment of unemployment and welfare benefits. If the increase in unemployment is only 0.2 percent, the dollar loss to the Treasury is over $3 billion or approximately one-third of the increased revenues that will be generated by the social security tax increase. While I support efforts to bolster the sagging Social Security System, I think we all should be aware of this troubling aspect of our reform efforts.

In these remarks I have not yet touched upon the most invidious aspect of the social security tax rate increases. The social security tax is one of the most regressive that this country levies on its citizens.

Essentially what we will achieve by this bill, if it is passed, is to increase the taxes on those who can least afford to pay. I refer to the lower income groups and those with larger families and middle incomes, in order that we may guarantee a very modest standard of living during their later years. In all of this, those taxpayers who can most afford to pay will remain comparatively unscathed.

The social security tax is levied at a flat percentage rate from the first dollar of income up to a ceiling which currently is above the average annual income of less than 80 percent of our people. The increased ceiling on earnings proposed in this bill will increase this percentage. However, the tax changes will still leave a group of taxpayers with the highest incomes in our society who will pay a much smaller percentage of their earnings in social security taxes than those with lower incomes.

Within that group of taxpayers who earn less than the social security ceiling, the percentage of income paid in social security taxes is the same whether the individual is close to the poverty level or in the comfortable middle-income group. This situation would be acceptable if the inequities were redressed by the progressive income tax structure. However, we have before us proposed to achieve an adjustment in the income tax system which would mitigate the regressive social security tax increase encompassed in this bill. Such an adjustment may, indeed, be very difficult to achieve as it has been estimated that even with the present rates more than half of our working population pay more in social security taxes than in income taxes. If social security tax rates are to continue to rise and to be levied at a flat rate for every dollar earned from the first dollar earned, then our taxation system will become progressively more regressive and our efforts to minimize the miseries of poverty in this country will suffer. While I do not believe that we have adequately treated this question today, I trust the Congress will do so in the near future.

I will turn finally to the long-term problems of the Social Security System. The demographic trends in this country have placed a ticking time bomb under the Social Security System as it is currently constituted. During the period immediately following World War II, there was a baby boom which led to a bulge in our population growth in these years. We have already experienced the problems that this population bulge posed as it passed through our school systems, including the current problems of declining enrollment. This same bulge will cause similar problems in our social security systems in the second and subsequent decades of the next century, only 30 years away. The problems caused by increased numbers of people entering the retirement community will be supplemented by a decrease in the number of people entering the work force and paying social security taxes. Nobody can foresee whether the current low fertility rates will persist through the next several decades. However, if we make the reasonable assumption that the fertility rate will not rise then the percentage of our population 65 or over will increase from 10.3 percent in 1974 to about 19 percent in 1985 and about 36 percent in 2050.

If the percentage of population under 65 who work is similar in 2050 to today, this implies that the ratio of social security beneficiaries to working taxpayers in 2050 will be almost four times the present ratio. As a consequence, if the social security benefits continue to be paid from a depleted fund through current revenues, the social security tax burden on the working population of 2050 will be four times higher than the tax burden on our citizens today. Unless we address soon the problems of social security financing posed by the demographic changes in the United States, this is the legacy we will be passing on to our children.

The increased tax provisions in H.R. 9346 will not solve the long-term problem of social security financing in my view. The only option before us in consideration of this bill which acknowledges the long-term problem is the amendment offered by Mr. CONABLE and our Republican colleagues to increase the age at which full social security benefits are paid from 65 to 68. I commend the recognition of the long-term problem embodied in this amendment, but I do not believe that the proposed solution is acceptable. The amendment would renege on a promise of benefits at 65 made to the American people in levying social security taxes from them over the past 30 years.

In conclusion, I would like to reiterate my intense concern for the short-term impact of this bill on our economy and particularly the lower income groups in our country, and my concern that the bill does not adequately address the long-term needs of our Nation. I will vote for this bill, only because I believe that some short-term increase in revenues is necessary to insure the solvency of our Social Security System, and, therefore, the peace of mind and security of our citizens who are dependent upon its bene-

fits. However, I will continue to work to find a permanent solution to the social security financing problem that is fair and equitable for each and every citizent of this Nation. I invite all of you to join me in this endeavor for it surely will not be a simple task.

Mr. WEISS. Mr. Chairman, I am voting for H.R. 9346, the Social Security Financing Amendments of 1977, but I do so reluctantly. I am in favor of increasing revenues and easing the burden caused by recent deficits in the trust funds, but I have reservations about how this bill accomplishes these goals. That is why I voted against the gentleman from Virginia's (Mr. FISHER) amendment, and why I intend to vote for the motion to recommit.

Our social security program enables us to give assistance to people who need and deserve it. But recent deficits in the program's trust funds and the impact of demographic changes evidence a need for structural change. Specifically, social security must be funded in a more progressive manner.

Currently, it relies too heavily on the regressive payroll tax. And while H.R. 9346 proposes changes in the payroll tax and the taxable wage base which are less regressive, these proposals do not go far enough. Better recommendations will be included in the motion to recommit.

The best of these will propose reallocating insurance trust fund taxes to the old age and survivors and disability insurance trust funds and will advocate more general revenue financing of social security. This latter recommendation is especially important because only through General Treasury financing will the social security system become fully progressive.

One of the most puzzling aspects of H.R. 9346 is that, in a time when the President is calling for tax cuts, it contains a tax increase. In fact, the proposed increases may far outweigh any tax cuts in the President's tax reform package. This hardly seems the best way to coordinate Presidential and congressional efforts to improve the economy.

H.R. 9346's other major deficiency is its failure to include all Government employees in the social security system. This was eliminated with the passage of the Fisher amendment.

If the social security system is to operate at maximum efficiency, it must include a provision for universal coverage. Not only would universal coverage help insure against future deficits, it would help improve the fund's short-term solvency and provide millions of State and local government workers with broader retirement insurance than they are now receiving.

By raising an additional $213.6 billion in tax revenues over the next 10 years, H.R. 9346 will provide badly needed money for the social security trust funds. But this is, at best, a temporary solution. Social security's permanent health depends on a more progressive revenue system and universal coverage. Without these two aspects, social security is neither socially just nor financially secure.

The CHAIRMAN. Under the rule, the Chair recognizes the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Chairman, I do not seek recognition.

The CHAIRMAN. 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. EVANS of Colorado, Chairman of the Whole House on the State of the Union, reported that that committee, having had under consideration the bill (H.R. 9346) to amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, to reduce the effect of wage and price fluctuation on the system's benefit structure, to provide coverage under the system for officers and employees of the United States, of the State and local governments, and of nonprofit organizations, to increase the earnings limitation, to eliminate certain gender-based distinctions and provide for a study of proposals to eliminate dependency and sex discrimination from the social security program, and for other purposes, pursuant to House Resolution 839, 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 by 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.

MOTION TO RECOMMIT OFFERED BY MR. CONABLE

Mr. CONABLE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. CONABLE. I am, Mr. Speaker, in its present form.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CONABLE moves to recommit the bill H.R. 9346 to the Committee on Ways and Means with instructions to report back the same forthwith with the following amendments:

Strike out section 104 (beginning on page 127, line 16, and ending on page 131, immediately before line 4).

Page 131, line 5, strike out "105" and insert in lieu thereof "104".

Page 131, strike out the sentence beginning in line 7.

Conform the table of contents on page 117.

* * * * *

Page 169, strike out lines 1 through 5 and insert in lieu thereof the following: "of 1954 (the Federal Insurance Contributions Act) is amended by redesignating sections 3125 and 3126 as sections 3126 and 3127, respectively, and by inserting after section 3124 the following new section:".

Page 169, line 6, strike out "3126" and insert in lieu thereof "3125".

Page 169, in the matter following line 22, strike out "3126", "3127", and "3128" and insert in lieu thereof "3125", "3126", and "3127", respectively.

Page 170, line 4, strike out "3127" and insert in lieu thereof "3126".

Page 170, line 15, strike out "3126" and insert in lieu thereof "3125".

Page 170, line 19, strike out "3127" and insert in lieu thereof "3126".

Page 171, line 5, strike out "3126" and insert in lieu thereof "3125".

Page 171, line 17, strike out "3126" and insert in lieu thereof "3125".

Page 171, lines 21 and 22, strike out "3127 (a)", "3127(b)", and "3127(c)" and insert in lieu thereof "3126(a)", "3126(b)", and "3126 (c)", respectively.

Page 171, line 25, strike out "3127,".

Strike out section 301 (as added by the amendment) and insert in lieu thereof the following:

COVERAGE OF FEDERAL EMPLOYEES

SEC. 301. (a)(1) Section 210(a) of the Social Security Act is amended by striking out paragraphs (5) and (6).

(2)(A) Section 210(l)(1) of such Act is amended to read as follows:

"(1) Except as provided in paragraph (4), the term 'employment' shall include service (other than service performed while on leave without pay) which is performed by an individual as a member of a uniformed service on active duty after December 1956.".

(B) Section 210(o) of such Act is amended by striking out ", notwithstanding the provisions of subsection (a),".

(C) Section 229(a) of such Act is amended by striking out "service as a member of a uniformed service (as defined in section 210 (m)) which was included in the term 'employment' as defined in section 210(a) as a result of the provisions of section 210(l)" and inserting in lieu thereof "service, as a member of a uniformed service, to which the provisions of section 210(l)(1) are applicable".

(b)(1) Section 3121(b) of the Internal Revenue Code of 1954 (relating to definition of employment) is amended by striking out paragraphs (5) and (6).

(2)(A) Section 3121(m)(1) of such Code (relating to service in the uniformed services) is amended to read as follows:

"(1) INCLUSION OF SERVICE.—The term 'employment' shall include service (other than service performed while on leave without pay) which is performed by an individual as a member of a uniformed service on active duty after December 1956.".

(B) Section 3121(p) of such Code (relating to Peace Corps volunteer service) is amended by striking out ", notwithstanding the provisions of subsection (b) of this section,".

(c) The amendments made by this section shall be effective with respect to service performed after December 1981.

(d)(1) As soon as possible after the enactment of this Act, the Secretary of Health, Education, and Welfare in consultation with the Civil Service Commission shall undertake and carry out a detailed study of how best to coordinate the benefits of the civil service retirement system and the benefits of the old-age, survivors, and disability insurance system, with the objective of developing for Federal employees a combined program of retirement, disability, and related benefits which will assure that such employees are no worse off, comparing their benefits under the combined program with the benefits they would receive under the Federal staff retirement systems then in effect, upon their coverage under the old-age, survivors, and disability insurance system pursuant to the amendments made by this section.

(2) Upon the completion of the study under paragraph (1) and in any event no later than January 1, 1980, the Secretary shall submit to the Congress a full and complete report on the results of such study together

with a specific and detailed plan for coordinating the benefits of the civil service retirement system and the benefits of the old-age, survivors, and disability insurance system (along with such comments or recommendations as may be appropriate with respect to other staff retirement systems covering Federal employees). The plan so submitted shall include such financing and benefit provisions and other features as may be necessary to assure that the employees involved will not be placed at a disadvantage by the coordination of the benefits of the systems as compared with their treatment under the Federal staff retirement systems in effect prior to such coordination.

(e) In addition to and along with the study provided for under subsection (d), the Secretary shall carry out a study of how best to coordinate the Medicare program and the program established by the Federal Employees Health Benefits Act, with the objective of developing for Federal employees a combined program of health insurance benefits to accompany the retirement and disability program developed under subsection (d). Such combined program shall include the features necessary to assure that Federal employees are no worse under that program, in terms of benefits, than they were under the Federal Employees Health Benefits Act as theretofore in effect. The study under this subsection shall in general take into account the same aspects of the two health insurance programs and their coordination as those taken into account (with respect to the two retirement and disability systems) under subsection (d); and the report submitted under subsection (d)(2) shall include or be accompanied by a full and complete report on the results of the study under this subsection.

Conform the table of contents (on page 117).

Page 119, line 18, strike out "5.25 percent" and insert in lieu thereof "5.23 percent."

Page 120, line 2, strike out "5.55 percent" and insert in lieu thereof "5.53 percent."

Page 120, line 4, strike out "6.10 percent" and insert in lieu thereof "6.08 percent."

Page 120, lines 16 and 17, strike out "5.25 percent" and insert in lieu thereof "5.23 percent."

Page 120, line 20, strike out "5.55 percent" and insert in lieu thereof "5.53 percent."

Page 120, line 22, strike out "6.10 percent" and insert in lieu thereof "6.08 percent".

Page 121, line 14, strike out "7.90 percent" and insert in lieu thereof "7.87 percent".

Page 121, line 18, strike out "8.30 percent" and insert in lieu thereof "8.27 percent".

Page 121, line 21, strike out "9.15 percent" and insert in lieu thereof "9.12 percent".

Page 125, line 25, strike out "$29,700" and insert in lieu thereof "$27,900".

Beginning on page 125, strike out section 103.

On page 119, line 11, strike out "1977" and insert in lieu thereof "1978".

On page 119, strike out lines 13 to 15 and insert in lieu thereof "(2) with respect to wages received during the calendar year 1979, the rate shall be 5.225 percent and with respect to wages received during the calendar year 1980, the rate shall be 5.50 percent".

On page 119, line 17, strike out "1984" and insert in lieu thereof "1985".

On page 119, line 18, strike out "5.15" and insert in lieu thereof "5.625".

On page 120, line 1, strike out "1985 through 1989" and insert in lieu thereof "1986 through 2010".

On page 120, line 2, strike out "5.45" and insert in lieu thereof "5.70".

On page 120, line 4, strike out "1989" and "6.00" and insert in lieu thereof "2010" and "6.70", respectively.

On page 120, line 10, strike out "1977" and insert in lieu thereof "1978".

On page 120, strike out lines 12 to 14 and insert in lieu thereof "(2) with respect to wages received during the calendar year 1979, the rate shall be 5.225 percent and with respect to wages received during the calendar year 1980, the rate shall be 5.50 percent.".

On page 120, line 16, strike out "1984" and insert in lieu thereof "1985".

On page 120, line 16, strike out "5.15" and insert in lieu thereof "5.625".

On page 120, line 19, strike out "1985 through 1989" and insert in lieu thereof "1986 through 2010".

On page 120, line 20, strike out "5.45" and insert in lieu thereof "5.70".

On page 120, line 22, strike out "1989" and "6.00" and insert in lieu thereof "2010" and "6.70", respectively.

On page 121, line 5, strike out "1978" and insert in lieu thereof "1979".

On page 121, strike out lines 8 to 11, and insert in lieu thereof "in the case of any taxable year beginning after December 31, 1978 and before January 1, 1980, the tax shall be equal to 7.30 percent of the amount of the self-employment income for such taxable year and in the case of any taxable year beginning after December 31, 1979 and before January 1, 1981, the tax shall be equal to 7.55 percent of the amount of self-employment income for such taxable year.".

On page 121, line 13, strike out "1985" and insert in lieu thereof "1986".

On page 121, line 14, strike out "7.70" and insert in lieu thereof "8.10".

On page 121, line 17, strike out "1984, and before January 1, 1990," and insert in lieu thereof "1985, and before January 1, 2011".

Page 121, line 21, strike out "1989" and insert in lieu thereof "2010".

Page 124, line 7, strike out "1.50" and insert in lieu thereof "1.55".

Page 124, line 9, strike out "1.60" and insert in lieu thereof "1.70".

Page 124, line 11, strike out "1.80" and insert in lieu thereof "1.90".

Page 124, line 14 ,strike out "2.20" and insert in lieu thereof "2.30".

Section 1817(a) of the Social Security Act is amended as follows:

"(1) In paragraph (1), by inserting "and before January 1, 1979" after "1965" and by inserting ", and 133⅓ per centum of such taxes on wages reported in calendar year 1979 and 200 per centum of such taxes on wages reported for calendar years after 1979" before the semicolon.

(2) In paragraph (2), by inserting "for taxable years ending before January 1, 1979" after "income" the first time that it occurs and by inserting ", and 133 per centum of such taxes on self-employment income reported for taxable years ending in calendar year 1979 and 200 per centum of such taxes on self-employment income reported for taxable years ending after calendar year 1979" before the period.

Page 122, line 14, strike out "1.45" and insert in lieu thereof "1978".

Page 122, strike out lines 7 to 9 and insert in lieu thereof "(2) with respect to wages received during calendar year 1979, the rate shall be .725 percent, and with respect to wages received during calendar year 1980, the rate shall be .55 percent".

Page 122, line 12, strike out "1.30" and insert in lieu thereof ".675".

Page 122, line 14, strike out "1.45" and insert in lieu thereof ".75".

Page 122, line 20, strike out "1977" and insert in lieu thereof "1978".

Page 122, strike out lines 22 to 24 and insert in lieu thereof "(2) with respect to wages received during calendar year 1979, the rate shall be .725 percent, and with respect to wages received during calendar year 1980, the rate shall be .55 percent.".

Page 123, line 1, strike out "1.30" and insert in lieu thereof ".675".

Page 123, line 4, strike out "1.45" and insert in lieu thereof ".75".

Page 123, line 10, strike out "1978" and insert in lieu thereof "1979".

Page 123, strike out lines 13 to 16 and insert in lieu thereof "(2) in the case of any taxable year beginning after December 31, 1978, and before January 1, 1980, the tax shall be equal to .725 percent of the amount of the self-employment income for such taxable year, and in the case of any taxable year beginning after December 31, 1979, and before January 1, 1981, the tax shall be equal to .55 percent of the amount of the self-employment income for such taxable year".

Page 123, line 19, strike out "1.30" and insert in lieu thereof ".675".

Page 123, line 22, strike out "1.45" and insert in lieu thereof ".75".

Mr. CONABLE (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

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

There was no objection.

The SPEAKER. The gentleman from New York (Mr. CONABLE) is recognized for 5 minutes in support of his motion to recommit.

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

Mr. CONABLE. I yield to the gentleman from Arizona (Mr. RHODES), the distinguished minority leader.

Mr. RHODES. Mr. Speaker, I rise to support the motion to recommit the bill, H.R. 9346, offered by the gentleman from New York (Mr. CONABLE).

Some months ago I joined with my Republican colleagues in offering a 15-point plan to restore the fiscal integrity of the social security system. The intent of our plan was to restore the system to a sound financial footing, to remove discrimination, to eliminate the limitation on income and to keep these payroll taxes paid by American wage earners as low as possible.

Today we are faced with H.R. 9346, a bill supported by the Democratic majority which will result in a tripling of the social security taxes paid by American wage earners and employers. This motion to recommit is our last chance to preserve the integrity of the social security system without placing such an onerous tax burden on the people of this country.

The motion to recommit is not always the easiest way to amend legislation. There are severe limitations placed on what the minority can do under the motion to recommit and the merits are often overlooked on the basis of partisan politics. I appeal to my colleagues, especially on the majority side, to put aside partisan politics and to consider this motion to recommit on its merits.

The motion to recommit would not place State and local employees under the social security system. There is adequate provision in existing law for these employees to join social security on a voluntary basis. I oppose any mandatory inclusion of State and local employees under the social security system.

I urge all my colleagues to support the motion to recommit.

Mr. CONABLE. Mr. Speaker, we have had a rapid march of events here on the floor. I think it is important for the

Members to understand what is being offered by the minority in this motion to recommit. It is, I think, something the Members will want to consider very seriously.

There are three major proposals in the motion to recommit.

First, we do bring Federal civilian employees under social security coverage by January 1, 1982, following a study to assure affected employees they will be at least as well off under the changes as under existing law. We do not bring in State and local employees.

Second, we reallocate taxes from the hospital insurance or medicare trust fund to old-age survivor and disability trust fund, as follows:

In 1979, we reallocate 25 percent of the hospital insurance taxes to OASDI. In 1980, we reallocate 50 percent of the hospital insurance taxes to OASDI. Thereafter, the hospital insurance trust fund would be reimbursed for reallocated revenues from the general funds of the Treasury.

Mr. Speaker, I say to my friends who may be concerned about this that this was the original proposal of one of our distinguished former colleagues, John Byrnes. The hospital insurance trust fund is not an actuarially constituted trust fund. People qualify for medicare on the basis of their coverage, no matter how much they have paid into the system. So I much prefer this type of general treasury contribution to the trust funds over the generalized loaning that is permitted under the committee bill and which our friend, the gentleman from Texas (Mr. PICKLE), tried to strike out yesterday.

This motion to recommit also removes authority from the committee bill for trust funds to borrow generally from the general funds of the Treasury; in other words, the General Treasury will contribute only the reallocated portion of the hospital insurance fund.

Let me give the Members some idea as to what this accomplishes for us in this bill. As we watched this bill proceed in its consideration on the floor of the House, I think many Members have become greatly concerned about the tremendous tax increases that are involved for the working people of this country and for the employers.

This bill, through the transfer to OASDI, would take funds out of the hospital insurance fund. Under this motion to recommit, we would in 1979 transfer $5.6 billion, in 1980 $12.3 billion, in 1981 $16.1 billion, and so forth.

The result of this, may I say to my colleagues who are concerned about the size of the tax increase, is that we will be able to stay with existing law as to both the base and the rate. Existing law involves some increase in both the base and the rate, but what the committee bill does is to go far beyond that.

It seems to me, given the state of unemployment in this country, we would be far better off to avoid increasing the taxes on labor. Reallocation of the hospital insurance taxes will, in short, save us a staggering load on the backs of American labor.

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

Mr. CONABLE. I yield to my friend, the gentleman from Wisconsin.

Mr. STEIGER. Mr. Speaker, I thank my colleague for yielding.

May I say to the House that this motion to recommit is, I think, exceedingly thoughtful in the approach that it takes. Let us recognize that the bill that is before us, as reported by the committee and as amended on the floor, imposes staggering tax burdens upon the American people. It does so because the Committee on Ways and Means was unwilling to deal with the issue of how to handle the hospital trust fund.

So the motion to recommit, by the combination of general revenues put in only that trust fund, gives us a chance to have a balanced, sound, stable social security system, one that does not impose this kind of additional taxes and one which provides far greater equity.

Mr. Speaker, it is a significant improvement upon the bill which comes from the Committee on Ways and Means, and I urge its adoption.

Mr. CONABLE. Mr. Speaker, I call the attention of my colleagues to the summary of this motion to recommit, which is available at the minority desk if anyone wishes to see it.

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

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

Mr. ROUSSELOT. I thank my colleague for yielding. Mr. Speaker, one major point of this motion to recommit is that the social security taxes imposed are less than those in the committee bill because both the rates and wage base schedules are lower?

Mr. CONABLE. Yes, that is the whole idea.

The SPEAKER. The gentleman from Oregon (Mr. ULLMAN) is recognized for 5 minutes in opposition to the motion to recommit.

Mr. ULLMAN. Mr. Speaker, what the minority has done here is to reinstitute the coverage of Federal employees. We had a vote of 386 to 38, by which the Members of this body decided that they did not want the Federal employees covered.

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

Mr. ULLMAN. I yield to the minority leader.

Mr. RHODES. Mr. Speaker, I have asked the gentleman to yield at this point so I may make a correction.

The vote was not just on Federal employees; it was on State and local employees as well.

Mr. ULLMAN. Mr. Speaker, it is true that we did not have a vote just on Federal employees, but I venture to say that was the basis for most of the opposition to the committee bill.

The other thing that the minority has done is this: It has phased the hospital insurance fund out of social security and has gone to general revenue funding for the hospital insurance fund. Well, at some point we are going to have to face up to the health insurance problems in this country, possibly in the next Congress, but now is not the time to commit ourselves to general revenue funding of health costs under medicare.

Therefore, they have done two things: They have eliminated the bulk of the medicare program from the social security financing, and they have included Federal employees. By doing those two things, they are able to adjust the rates in a more favorable manner; but I think all of us here have already agreed that we did not want to solve the problems of the social security system through the inclusion of Federal employees at this time.

Some time in the future I am going to support that proposition, and also at some time in the future, if we solve the health problem overall, we may be able to move toward a separate kind of financing, but not through general revenues.

When we move health costs out of social security, we are going to have to adopt a new revenue component and not dump that cost on the income taxpayers of the country.

Mr. CONABLE. Mr. Speaker, will the gentleman yield for a question?

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

Mr. CONABLE. Mr. Speaker, we are not eliminating the payroll tax for health insurance. We are simply diverting half of it.

The Committee on Ways and Means would still have jurisdiction.

Mr. ULLMAN. Mr. Speaker, I am glad for the correction.

I did not get the recommittal motion until a minute before it was offered. Consequently, I have not had a chance to study it. However, what we are doing is taking 50 percent of the current costs and putting them under general revenues.

Mr. Speaker, this has been a fine debate on the problems of social security. I think that the bill which we have to vote on is a sound one.

Mr. Speaker, I strongly urge the Members to vote down the recommittal motion. We have already, I think, made our determination with respect to coverage of Federal employees. Under the motion to recommit they would try to reimpose that coverage.

Mr. Speaker, let us vote down the recommittal motion, and let us have a good, strong vote for final passage of this very important social security bill.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

Mr. CONABLE. 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 57, nays 363, not voting 14, as follows:

[Roll No. 705]

YEAS—57

Anderson, Ill.	Fenwick	Michel
Badham	Fithian	Pettis
Bafalis	Frenzel	Pritchard
Beard, Tenn.	Gibbons	Rhodes
Bonior	Gonzalez	Robinson
Brown, Mich.	Gradison	Schulze
Burgener	Hagedorn	Stangeland
Clausen, Don H.	Hansen	Stanton
Cleveland	Jeffords	Steiger
Cochran	Johnson, Colo.	Studds
Cohen	Kelly	Symms
Conable	Kemp	Treen
Crane	Ketchum	Vander Jagt
D'Amours	Keys	Weiss
Dornan	Lent	Wiggins
Duncan, Tenn.	Levitas	Wilson, Bob
Erlenborn	McDonald	Wirth
Evans, Colo.	McEwen	Wydler
Evans, Ind.	Marks	
	Martin	

NAYS—363

Abdnor	Daniel, Dan	Hollenbeck
Addabbo	Daniel, R. W.	Holt
Akaka	Danielson	Holtzman
Alexander	Davis	Horton
Allen	de la Garza	Howard
Ambro	Delaney	Hubbard
Ammerman	Dellums	Huckaby
Anderson, Calif.	Dent	Hughes
Andrews, N.C.	Derrick	Hyde
Andrews, N. Dak.	Derwinski	Ichord
Annunzio	Devine	Ireland
Applegate	Dickinson	Jacobs
Archer	Dicks	Jenkins
Armstrong	Diggs	Jenrette
Ashbrook	Dingell	Johnson, Calif.
Ashley	Downey	Jones, N.C.
Aspin	Drinan	Jones, Okla.
Badillo	Duncan, Oreg.	Jones, Tenn.
Baldus	Early	Jordan
Barnard	Eckhardt	Kasten
Baucus	Edgar	Kastenmeier
Bauman	Edwards, Ala.	Kazen
Beard, R.I.	Edwards, Calif.	Kildee
Bedell	Edwards, Okla.	Kindness
Beilenson	Eilberg	Kostmayer
Benjamin	Emery	Krebs
Bennett	English	Krueger
Bevill	Ertel	LaFalce
Biaggi	Evans, Del.	Lagomarsino
Bingham	Evans, Ga.	Latta
Blanchard	Fary	Le Fante
Blouin	Fascell	Leach
Boggs	Findley	Lederer
Boland	Fish	Leggett
Bonker	Fisher	Lehman
Bowen	Flippo	Livingston
Brademas	Flood	Lloyd, Calif.
Breaux	Florio	Lloyd, Tenn.
Breckinridge	Flynt	Long, La.
Brinkley	Foley	Long, Md.
Brodhead	Ford, Mich.	Lott
Brooks	Ford, Tenn.	Lujan
Broomfield	Forsythe	Luken
Brown, Calif.	Fountain	Lundine
Brown, Ohio	Fowler	McClory
Broyhill	Fraser	McCormack
Buchanan	Frey	McDade
Burke, Calif.	Fuqua	McFall
Burke, Fla.	Gammage	McKay
Burke, Mass.	Gaydos	McKinney
Burleson, Tex.	Gephardt	Madigan
Burlison, Mo.	Giaimo	Maguire
Burton, John	Gilman	Mahon
Burton, Phillip	Ginn	Mann
Butler	Glickman	Markey
Byron	Goldwater	Marlenee
Caputo	Goodling	Marriott
Carney	Gore	Mathis
Carr	Grassley	Mattox
Cavanaugh	Gudger	Mazzoli
Cederberg	Guyer	Meeds
Chappell	Hall	Metcalfe
Chisholm	Hamilton	Meyner
Clay	Hammer-schmidt	Mikulski
Coleman	Hanley	Mikva
Collins, Ill.	Hannaford	Milford
Collins, Tex.	Harkin	Miller, Calif.
Conte	Harrington	Miller, Ohio
Conyers	Harris	Mineta
Corcoran	Harsha	Minish
Corman	Hawkins	Mitchell, Md.
Cornell	Heckler	Mitchell, N.Y.
Cornwell	Hefner	Moakley
Cotter	Heftel	Moffett
Coughlin	Hightower	Mollohan
Cunningham	Hillis	Moore
	Holland	Moorhead, Calif.
Moorhead, Pa.	Rinaldo	Steers
Moss	Risenhoover	Stokes
Mottl	Roberts	Stratton
Murphy, Ill.	Rodino	Stump
Murphy, N.Y.	Roe	Taylor
Murphy, Pa.	Rogers	Thompson
Murtha	Roncalio	Thone
Myers, Gary	Rooney	Thornton
Myers, John	Rose	Traxler
Myers, Michael	Rosenthal	Trible
Natcher	Rostenkowski	Tsongas
Neal	Rousselot	Tucker
Nedzi	Roybal	Udall
Nichols	Rudd	Ullman
Nix	Runnels	Van Deerlin
Nolan	Ruppe	Vanik
Nowak	Russo	Vento
O'Brien	Ryan	Volkmer
Oakar	Santini	Waggonner
Oberstar	Sarasin	Walgren
Obey	Satterfield	Walker
Ottinger	Sawyer	Walsh
Panetta	Scheuer	Wampler
Patten	Schroeder	Watkins
Patterson	Sebelius	Waxman
Pattison	Seiberling	Weaver
Pease	Sharp	White
Pepper	Shipley	Whitehurst
Perkins	Shuster	Whitley
Pickle	Sikes	Whitten
Pike	Simon	Wilson, C. H.
Poage	Sisk	Winn
Pressler	Skelton	Wolff
Preyer	Skubitz	Wright
Price	Slack	Wylie
Pursell	Smith, Iowa	Yates
Quayle	Smith, Nebr.	Yatron
Quie	Snyder	Young, Alaska
Quillen	Solarz	Young, Fla.
Rahall	Spellman	Young, Mo.
Railsback	Spence	Young, Tex.
Rangel	St Germain	Zablocki
Regula	Staggers	Zeferetti
Reuss	Stark	
Richmond	Steed	

NOT VOTING—14

AuCoin	Flowers	Stockman
Bolling	Koch	Teague
Carter	McCloskey	Whalen
Clawson, Del	McHugh	Wilson, Tex.
Dodd	Montgomery	

The Clerk announced the following pairs:

Mr. McHugh with Mr. Stockman.
Mr. Montgomery with Mr. Carter.
Mr. Dodd with Mr. Del Clawson.
Mr. AuCoin with Mr. McCloskey.
Mr. Koch with Mr. Flowers.
Mr. Teague with Mr. Charles Wilson of Texas.

Messrs. HEFNER, RUPPE, MOORE, EVANS of Georgia, GUYER, COLLINS of Texas, HUCKABY, FINDLEY, SATTERFIELD, GOODLING, GLICKMAN, ROUSSELOT, and MOORHEAD of California changed their vote from "yea" to "nay."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. WRIGHT). The question is on the passage of the bill.

The question was taken.

Mr. ULLMAN. 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 275, nays 146, not voting 13, as follows:

[Roll No. 706]

YEAS—275

Addabbo	Anderson, Ill.	Baldus
Akaka	Andrews, N.C.	Barnard
Alexander	Annunzio	Baucus
Allen	Applegate	Beard, R.I.
Ambro	Ashley	Bedell
Ammerman	Aspin	Beilenson
Anderson, Calif.	Badillo	Benjamin
	Bafalis	Bevill
Biaggi	Harkin	Patterson
Bingham	Harrington	Pattison
Blanchard	Harris	Pease
Blouin	Hawkins	Pepper
Boggs	Heckler	Perkins
Boland	Hefner	Pressler
Bonker	Heftel	Preyer
Brademas	Hightower	Price
Breckinridge	Hillis	Rahall
Brinkley	Hollenbeck	Rangel
Brooks	Holtzman	Richmond
Brown, Calif.	Howard	Rinaldo
Brown, Mich.	Hubbard	Risenhoover
Broyhill	Hughes	Roberts
Burke, Calif.	Ireland	Robinson
Burke, Mass.	Jenkins	Rodino
Burlison, Mo.	Jenrette	Roe
Burton, Phillip	Johnson, Calif.	Rogers
Butler	Jones, N.C.	Roncalio
Byron	Jones, Tenn.	Rooney
Carney	Jordan	Rose
Cavanaugh	Kastenmeier	Rosenthal
Cederberg	Kelly	Rostenkowski
Chisholm	Keys	Roybal
Clausen, Don H.	Kildee	Ruppe
Clay	Kostmayer	Russo
Collins, Ill.	Krebs	Santini
Conyers	Krueger	Scheuer
Corman	LaFalce	Seiberling
Cornell	Latta	Sharp
Cornwell	Le Fante	Shipley
Cotter	Lederer	Sikes
D'Amours	Leggett	Simon
Daniel, R. W.	Levitas	Sisk
Danielson	Lloyd, Calif.	Skelton
Davis	Long, La.	Skubitz
de la Garza	Long, Md.	Slack
Delaney	Luken	Smith, Iowa
Dellums	McClory	Snyder
Dent	McCloskey	Solarz
Derrick	McCormack	Spellman
Dicks	McFall	St Germain
Diggs	McKay	Staggers
Dingell	Maguire	Stark
Downey	Mann	Steed
Drinan	Markey	Steers
Duncan, Oreg.	Marks	Stokes
Early	Marlenee	Stratton
Eckhardt	Marriott	Studds
Edgar	Martin	Thompson
Edwards, Ala.	Mathis	Thornton
Edwards, Calif.	Mattox	Traxler
Eilberg	Mazzoli	Trible
Emery	Meeds	Tsongas
Ertel	Metcalfe	Tucker
Evans, Colo.	Meyner	Udall
Fary	Mikulski	Ullman
Fascell	Mikva	Van Deerlin
Fenwick	Milford	Vanik
Fisher	Mineta	Vento
Flippo	Minish	Waggonner
Flood	Mitchell, Md.	Walgren
Florio	Mitchell, N.Y.	Walsh
Flynt	Moakley	Wampler
Foley	Moffett	Watkins
Ford, Mich.	Mollohan	Waxman
Ford, Tenn.	Moorhead, Pa.	Weaver
Forsythe	Moss	Weiss
Fountain	Murphy, Ill.	White
Fowler	Murphy, N.Y.	Whitehurst
Fraser	Murphy, Pa.	Whitley
Frey	Murtha	Wilson, Bob
Gammage	Myers, Michael	Wilson, C. H.
Gaydos	Natcher	Wilson, Tex.
Gephardt	Neal	Wolff
Giaimo	Nedzi	Wright
Gilman	Nichols	Wylie
Ginn	Nix	Yates
Glickman	Nolan	Yatron
Gudger	Nowak	Young, Fla.
Hall	Oakar	Young, Mo.
Hamilton	Oberstar	Zablocki
Hanley	Obey	Zeferetti
Hannaford	Ottinger	
	Patten	

NAYS—146

Abdnor	Buchanan	Coughlin
Andrews, N. Dak.	Burgener	Crane
Archer	Burke, Fla.	Cunningham
Armstrong	Burleson, Tex.	Daniel, Dan
Ashbrook	Burton, John	Derwinski
Badham	Caputo	Devine
Bauman	Carr	Dickinson
Beard, Tenn.	Chappell	Duncan, Tenn.
Bennett	Cleveland	Edwards, Okla.
Bonior	Cochran	English
Bowen	Cohen	Erlenborn
Breaux	Coleman	Evans, Del.
Brodhead	Collins, Tex.	Evans, Ga.
Broomfield	Conable	Evans, Ind.
Brown, Ohio	Conte	Findley
	Corcoran	Fish

Fithian	Lent	Reuss
Frenzel	Livingston	Rhodes
Fuqua	Lloyd, Tenn.	Rousselot
Gibbons	Lott	Rudd
Goldwater	Lujan	Runnels
Gonzalez	Lundine	Ryan
Goodling	McDade	Sarasin
Gore	McDonald	Satterfield
Gradison	McEwen	Sawyer
Grassley	McKinney	Schroeder
Guyer	Madigan	Schulze
Hagedorn	Mahon	Sebelius
Hammer-schmidt	Michel	Shuster
	Miller, Calif.	Smith, Nebr.
Hansen	Miller, Ohio	Spence
Harsha	Moore	Stanceland
Holland	Moorhead, Calif.	Stanton
Holt		Steiger
Horton	Mottl	Stump
Huckaby	Myers, Gary	Symms
Hyde	Myers, John	Taylor
Ichord	O'Brien	Teague
Jacobs	Panetta	Thone
Jeffords	Pettis	Treen
Johnson, Colo.	Pickle	Vander Jagt
Jones, Okla.	Pike	Volkmer
Kasten	Poage	Walker
Kazen	Pritchard	Whitten
Kemp	Pursell	Winn
Ketchum	Quayle	Wirth
Kindness	Quie	Wydler
Lagomarsino	Quillen	Young, Alaska
Leach	Railsback	Young, Tex.
Lehman	Regula	

NOT VOTING—13

AuCoin	Dornan	Stockman
Bolling	Flowers	Whalen
Carter	Koch	Wiggins
Clawson, Del	McHugh	
Dodd	Montgomery	

The Clerk announced the following pairs:

On this vote:

Mr. Dodd for, with Mr. Del Clawson against.
Mr. Carter for, with Mr. Dornan against.

Until further notice:

Mr. AuCoin with Mr. Flowers.
Mr. Montgomery with Mr. Stockman.
Mr. McHugh with Mr. Whalen.
Mr. Koch with Mr. Wiggins.

Mrs. FENWICK and Mr. RUSSO changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

TITLE AMENDMENT TO H.R. 9346

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that the title of the bill, H.R. 9346, be amended to read as follows: "A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, to reduce the effect of wage and price fluctuation on the system's benefit structure, to provide for the conduct of studies with respect to coverage under the system for Federal employees and for employees of State and local governments, to increase the earnings limitation, to eliminate certain gender-based distinctions and provide for a study of proposals to eliminate dependency and sex discrimination from the social security program, and for other purposes.".

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

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the gentleman explain to us why all of this is necessary?

Mr. ULLMAN. If the gentleman will yield, this is merely an amendment to the title to take into account the amendments that have been made to the bill.

Mr. ROUSSELOT. The gentleman can assure us that it in no way changes the substance of the bill from what we have passed?

Mr. ULLMAN. That is absolutely correct.

Mr. ROUSSELOT. I appreciate the gentleman's clarification, Mr. Speaker, and I withdraw my reservation of objection.

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

There was no objection.

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on each of the amendments and on the bill just passed, H.R. 9346.

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

There was no objection.

PERMISSION TO CONSIDER HOUSE RESOLUTIONS 851, 852, 853, AND 854 IN THE HOUSE

Mr. BEVILL. Mr. Speaker, I ask unanimous consent that when House Resolutions 851, 852, 853, and 854, disapproving the deferral of certain budget authority, are considered, they each be considered in the House.

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

There was no objection.

DISMISSING THE ELECTION CONTEST OF ALBERT DEHR AGAINST ROBERT L. LEGGETT

Mr. THOMPSON. Mr. Speaker, by direction of the Committee on House Administration I call up a privileged resolution (H. Res. 770), and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 770

Resolved, That the election contest of Albert Dehr, contestant, against Robert L Leggett, contestee, Fourth Congressional District of the State of California, be dismissed.

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. THOMPSON) is recognized for 1 hour.

Mr. THOMPSON. Mr. Speaker, I yield such time as he may consume to my distinguished colleague, the chairman of the ad hoc election panel, the gentleman from New York (Mr. PATTISON).

Mr. PATTISON of New York. Mr. Speaker, before getting into this contest, allow me to go into some background. Eight cases were filed before the Committee on House Administration arising out of elections for seats in the 95th Congress, five from the general election of November 2, 1976, two from primary elections, and one from a subsequent special election.

The U.S. Constitution provides Congress with plenary power over its own elections and the rules of the House give the Committee on House Administration authority and jurisdiction to process these matters.

In order to provide for both an efficient and expeditious handling of these eight cases, the Honorable FRANK THOMPSON, JR., chairman of the full Committee on House Administration, pursuant to the rules of the House and the rules adopted for the Committee on House Administration, designated this and seven other three-member ad hoc panels to deal with these eight separate cases to the point of disposition, subject to the approval of the full committee and ultimately the full House.

This ad hoc panel consists of Mr. JONES of Tennessee, Mr. BURKE of Florida, and myself, as chairman.

A formal notice of contest was filed by Albert Dehr, unsuccessful candidate for a seat in the 95th Congress in the November 1976 general election. Mr. Dehr filed his notice of contest in this case on January 3, 1977. Pursuant to the rules of the House, the case was referred to the committee on House Administration.

Congressman LEGGETT responded on February 8, 1977, and the matter was brought before the ad hoc election panel.

On July 15, the panel heard oral argument, both sides being represented by able counsel. The contestant claimed that Congressman LEGGETT received votes allegedly cast for a write-in candidate.

On July 29, 1977, the panel met again to consider this matter. After carefully considering the legal arguments, examining copies of the ballot inserts and receiving a staff report from committee general counsel, the panel voted unanimously to dismiss the election contest.

I might say, Mr. Speaker, it was clear to the panel that the likelihood of any votes being erroneously cast for Congressman LEGGETT was extremely remote. The contestant was given every opportunity to demonstrate otherwise, but failed to do so.

Finally, on September 21, 1977, the full Committee on House Administration met and voted, again unanimously. to dismiss this contest.

Mr. Speaker, this matter was fully investigated and fairly heard. I urge my colleagues to vote with the committee to dismiss this contest.

Mr. THOMPSON. I yield for the purpose of debate only to the ranking minority member of the panel, the gentleman from Florida (Mr. BURKE).

Mr. BURKE of Florida. Mr. Speaker, I thank the gentleman from New York for yielding.

As the ranking minority member of this ad hoc committee, I would like to concur with a statement my colleague from New York has just given. This matter has been examined fully by the committee. My opinion is that the committee was fair with the attorneys on both sides, and after hearing all the testimony and the probable evidence the committee found no reason that the outcome

of this election should be reversed. I agree with the recommendations of the committee.

Mr. THOMPSON. 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.

DISMISSING THE ELECTION CONTEST OF ELSA DEBRA HILL AND FELIX J. PANASIGUI AGAINST WILLIAM CLAY

Mr. THOMPSON. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 822), and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 822

Resolved, That the election contest of Elsa Debra Hill and Felix J. Panasigui, contestants, against William Clay, contestee, First Congressional District of the State of Missouri, be dismissed.

The CHAIRMAN. The gentleman from New Jersey (Mr. THOMPSON) is recognized for 1 hour.

Mr. THOMPSON. Mr. Speaker, I yield such time as he may consume to my distinguished colleague, the gentleman from California (Mr. VAN DEERLIN), chairman of the ad hoc election panel.

Mr. VAN DEERLIN. Mr. Speaker, this contested election involves the Democratic primary in the First Congressional District of Missouri.

NED PATTISON and BILL FRENZEL also served the ad hoc panel hearing the case.

The Democratic primary for the First Congressional District of Missouri was held on August 3, 1976. There were seven candidates.

Congressman WILLIAM L. CLAY received 29,094 votes. I will skip over the second, third, and fourth finishers, all of whom accepted the official tally.

The fifth highest number of votes cast were for one of the contestants in this action, Felix J. Panasigui. He received 957 votes.

The sixth highest number of votes were for the other contestant, Elsa D. Hill, who received 574.

On August 30, 1976, the contestants Panasigui and Hill filed their notice of contest with the Clerk of the House.

Since that time the contestants have filed numerous documents and pleading with our committee. The allegations contained in those documents raise substantially the same charges that the contestants filed with the St. Louis Board of Election commissioners. They are:

First. That Ms. Hill's and Mr. Panlasigui's names were left off the primary ballot in at least 17 different polling places;

Second. That in a number of instances, the name of Ms. Hill appeared on the ballot in a place other than its designated position;

Third. That illegal votes were cast under the names of registered voters who did not appear at the polls; and

Fourth. That some votes were cast on the machines after the closing of the polls.

A staff report prepared by committee general counsel indicates that the St. Louis board of election commissioners thoroughly investigated the described charges, and found that: "There is no merit in the complaints filed by Mrs. Hill."

The staff report also indicates that the contestants requested that the Public Integrity Section of the Criminal Division of the Justice Department conduct an investigation, and that subsequently an investigation was conducted by the Federal Bureau of Investigation. Attached to the staff report was a letter from Justice stating that: "The matter was closed in the Criminal Division as lacking foundation."

Additionally, committee staff went to St. Louis and met with the board of election commissioners and their counsel. At that meeting the board's investigation was discussed, and supporting documents were provided to staff.

On September 29, 1977, the ad hoc election panel voted, unanimously, to dismiss the election contest.

Finally, on October 20, 1977, the full Committee on House Administration voted, again unanimously, to dismiss this matter.

Mr. Speaker, over the past several weeks, members of the committee and staff have been harassed—even threatened—in connection with this case. Enough of the taxpayers money has been expended on the matter, which clearly has no basis in fact or law.

Mr. Speaker, I urge colleagues to join in supporting the recommendations of the panel and committee, and dismissing this election contest.

Mr. THOMPSON. Mr. Speaker, I thank the gentleman from California.

Mr. Speaker, I yield, for purposes of debate only, such time as he may consume to our distinguished colleague, the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, I thank the chairman for yielding.

I subscribe to the statement of the gentleman from California and hope this resolution will be speedily adopted.

Mr. THOMPSON. 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.

DISMISSING THE ELECTION CONTEST AGAINST W. WYCHE FOWLER, JR.

Mr. THOMPSON. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 825), and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 825

Resolved, That the election contest of Wyman C. Lowe, contestant, against W. Wyche Fowler, Junior, contestee, Fifth Congressional District of the State of Georgia, be dismissed.

The SPEAKER pro tempore. The gentleman from New Jersey is recognized for 1 hour.

Mr. THOMPSON. Mr. Speaker, before yielding to the chairman of the ad hoc panel, I would like to express my appreciation not only to the three panel chairmen who are presenting these election contest matters today, but to all the other members, majority and minority, of the Committee on House Administration who served on these panels.

We think that we have saved a tremendous lot of time, money, and that each and every one of the panel chairmen have done a really outstanding job, as have their colleagues from the minority.

In this case, the panel chairman to whom I yield, is the gentleman from Pennsylvania (Mr. AMMERMAN).

Mr. AMMERMAN. Mr. Speaker, I have been designated by the Honorable FRANK THOMPSON, chairman of the Committee on House Administration, to chair the ad hoc panel investigating the contested election involving the Fifth Congressional District of Georgia.

Also serving with me are the Honorable LUCIEN NEDZI of Michigan, and the Honorable BILL FRENZEL of Minnesota.

By way of background, a special election was held in Atlanta, Ga., on March 15, 1977, to fill the seat vacated by U.N. Ambassador, Andy Young. There were 12 candidates in that election. WYCHE FOWLER ran first with 29,898 votes; John Lewis ran second with 21,531. The contestant in today's case, Wyman Lowe, came in eighth, with 276 votes.

As Mr. FOWLER did not receive a majority, a runoff election was held on April 5, 1977. In that election, Mr. FOWLER defeated Mr. Lewis by 54,378 to 32,732 votes.

On April 15, 1977, Mr. Lowe filed this election contest with the House of Representatives. Since that time, Mr. Lowe has filed numerous documents and pleadings with this committee. Generally, Mr. Lowe alleges three grounds in support of his election contest:

First. That since Mr. FOWLER, who was president of the Atlanta City Council did not resign that seat, he was ineligible to run for Congress;

Second. Mr. Lowe asserts that since he received 36,000 votes in the 1970 Democratic primary against Andy Young and only 276 votes in his 1977 race, there must exist fraud because of the disparity in vote totals; and

Third. That the vote tallys did not properly total and that there were shortages in unused, extra ballots.

The members of the panel have been provided with a staff report prepared by committee general counsel.

In summary, that report indicates that the office of the Atlanta city attorney had ruled on February 16, 1976, that members of the Atlanta City Council did not have to resign to run for other office.

The staff report also concluded that the precedents of the House require a higher degree of proof than a showing that a candidate received substantially fewer votes in a subsequent election.

Additionally, committee staff went to Atlanta and met with the city attorney's

office and Fulton County election officials. It was determined that the allegations of the voting irregularities made by Mr. Lowe were not substantiated. In many instances Mr. Lowe apparently misread the tally sheets and used the congressional vote rather than the total vote cast for Congress and the county commissioner race. The staff was satisfied that the alleged discrepancies were either explained away by examination or normal to the election process.

On October 6, 1977, the ad hoc election panel met and unanimously voted to dismiss the election contest.

Finally, on October 13, the full Committee on House Administration met and voted, again unanimously, to dismiss this case.

Mr. Speaker, I might point to my colleagues that this is the third election contest Mr. Lowe has filed with the House. This contest has no claim to legitimacy—in either fact or law—and I strongly urge my colleagues to promptly dismiss this matter.

Mr. THOMPSON. Mr. Speaker, I yield such time as he may consume to the distinguished minority member of the panel, the gentleman from Minnesota (Mr. FRENZEL), for debate only.

Mr. FRENZEL. Mr. Speaker, I thank the distinguished gentleman from New Jersey for yielding to me.

I support the statement of the distinguished gentleman from Pennsylvania, the task force chairman, and hope that the resolution will be promptly adopted.

Mr. THOMPSON. 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.

CONFERENCE REPORT ON S. 717, FEDERAL MINE SAFETY AND HEALTH AMENDMENTS ACT OF 1977

Mr. PERKINS. Mr. Speaker, I call up the conference report on the Senate bill (S. 717) to promote safety and health in the mining industry, to prevent recurring disasters in the mining industry, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the Senate bill.

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

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of October 3, 1977.)

Mr. PERKINS (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the statement.

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

There was no objection.

The SPEAKER pro tempore. The gentleman from Kentucky (Mr. PERKINS) will be recognized for 30 minutes, and the gentleman from Connecticut (Mr. SARASIN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Speaker, I yield myself 7 minutes.

Mr. Speaker, there is much in this conference report that can and should be applauded. For those of us who are closely identified with attempting to bring safer and more healthful working conditions to our Nation's coal miners, however, this legislation really reflects two chief accomplishments:

First. It affords to metal and nonmetal miners the same health and safety protections that have been available since 1969 to coal miners; and

Second. It draws from the tragic 1976 disaster at the Scotia Coal Mine in eastern Kentucky, which resulted in the needless and outrageous loss of 26 coal miners.

I will leave it to my colleagues to amplify on the protections this legislation will bring to metal and nonmetal miners, and will confine my own brief remarks to the mining I know best—coal mining—and to the lessons of Scotia that are now embodied in this new law.

On June 9, 1977, an experienced coal miner, Mr. Basil Holbrooke of Big Stone Gap, Va., appeared before our committee to testify as to his knowledge of the Scotia disaster. Mr. Holbrooke worked for the Scotia Coal Co. for 7 years. He had the good sense to quit that employment in 1969 because, as he stated to us:

> I was afraid of my own life. I mean there was going to be an explosion, and I knew it. It may take two weeks, three weeks, a year, two years, three years, but it is going to go. It is going and it did happen.

Basil Holbrooke told this to his brother in 1969. Scotia did "blow" in 1976—and his brother was killed in the second of the two explosions that occurred there on those March days.

Basil's testimony was illustrative in several important respects. For example, since the enactment of the landmark Coal Act of 1969, this committee has become increasingly intolerant of the ineptness and insensitivity of the Interior Department's enforcement of the law. Our oversight hearings into every major coal mine disaster since then have pointed the clear finger of complicity to the Interior Department in one or another serious respects. Those who live in the coal communities, and who were given hope by the promise of the 1969 act, have become cynical and despondent over its lack of enforcement. Mr. Holbrooke related this to the Scotia disaster:

> Chairman PERKINS. You once told me that you told the reporters down there that there was the law, but it was not enforced. Is that correct?
>
> Mr. HOLBROOKE. Yes, sir. We have laws. We have got plenty of laws. We have got laws to protect every man that goes in the coal mine, but these laws have got to be carried out. How can you protect people if they are not carried out.
>
> The only way that you can have safety, as I said, the only way that you can have safety is that everyone gets concerned with it. Then you have a good operation.
>
> Chairman PERKINS. When you quit there in 1969, you said that the conditions were such that they were intolerable, and you made the statement that the mine was going to blow sooner or later. Was that because of the inadequacy of the law, or was it because of the inadequacy of the enforcement?
>
> Mr. HOLBROOKE. It was the inadequacy of the enforcement.

Hopefully, this legislation puts an end to inadequate enforcement. One of its most important provisions transfers full enforcement responsibility from Interior to the Labor Department. We have simply given up on Interior. They have forfeited their entitlement to continue in the administration of this law. We have had enough. And our Nation's miners have had enough. Although we recognize that the Labor Department cannot reverse the failure to enforce this law overnight, we are hopeful that it will be better attuned to the safety and health needs of our miners, and not be unduly diverted by production considerations.

With respect to Scotia's widespread reputation as a dangerous coal mine, Basil Holbrooke was not alone in believing it would someday "blow." As our committee noted in our report of October 15, 1976, entitled "Scotia Coal Mine Disaster," Scotia was—

> " . . . known as one of the most dangerous mines in the United States and the most gassy mine in eastern Kentucky. In addition, the Scotia mine had a long and chronic history of federal coal mine health and safety violations. From the record, it is clear that the Scotia mine was a bad mine, a dangerous mine, a mine with a long and chronic history of health and safety violations. It was a mine which in our opinion placed production and profit before the safety and health of its miners. It was a mine which essentially ignored the law.

All of this was known to the Federal authorities involved and also to the community at large. Thus, it could have been reasonably calculated by anyone with even superficial knowledge of the Scotia operation that the mine was dangerous and that it was only a matter of time before it would blow. Yet, it was allowed to continue producing coal without regard for the safety of its miners.

We believed then and believe now that the Interior Department had the authority under the existing law to shut Scotia down based on its prior history of persistent dangerous violations. In order to eliminate any future doubt, however, the conference report contains clear authority for Federal inspectors to deal with a Scotia-type operation. This provision gives authority for an operator to be put on notice of a pattern of violations in the mine which could significantly or substantially contribute to the cause and effect of a mine safety or health hazard. Repeated violations of the same degree of potential hazard could result in the closure of the mine. This provision is directed to the Scotia-type operator. It is intended to give unquestioned authority to the inspector to deal with the reckless operator who operates his mine without regard for the safety or health of his miners. Thus, the conference report draws from the Scotia experience in this respect as well.

Additionally, this new law bears the Scotia stamp in its requirements for mandatory health and safety training and for access to mine rescue teams. Here again, the testimony of Basil Holbrooke was illustrative:

Chairman PERKINS. From all of your experience as a coal miner, which perhaps is as great as any other coal miner in the United States of your age, how do you rationalize the situation that took place there at Scotia?

Mr. HOLBROOKE. I think that some one or some people were lax in their safety, in my honest opinion. When you drop your safety, I don't care what mine it is, or where it is at, when you drop your safety programs, you have not got a coal mine, because you have got a mine that is not safe for the employees. So actually you do not have coal mine. You have something for a man to go in there and harm himself, any person who enters that mine.

Any company, any organization has to have a safety program, and let me put it this way, and men that enter any coal mine, you have to have men as well as company officials to work a safety program.

As our committee's Scotia report summarized:

The company's safety education and training program was a sham, and no one, including the company's safety inspector, could remember the last time a fire or mine evacuation drill had been conducted at the Scotia mine. Nothing more tragically demonstrates Scotia's sham program than the fact that six of the miners who died on March 9th probably could have saved themselves had they received proper training . . .

This new law requires detailed safety and health training and retraining. No more will miners die because they were not taught the basic fundamentals in self-protection.

Yet another lesson of Scotia is reflected in the conference report's requirement that mine rescue teams be available to certain mines in the case of accidents or disasters. Too often in the past, rescue efforts at a disaster site have had to await the delayed presence of a skilled but distant mine rescue team while hope for the safety of the victims has waned with the agonizing passing of each hour.

Mr. Speaker, this legislation also provides broader protection for miners who invoke their safety rights. If miners are to invoke their rights and to enforce the act as we intend, they must be protected from retaliation. In the past, administrative rulings of the Department of the Interior have improperly denied the miner the rights Congress intended. For example, *Baker* v. *North American Coal Co.*, 8 IBMA 164 (1977) held that a miner who refused to work because he had a good faith belief that his life was in danger was not protected from retaliation because the miner had no "intent" to notify the Secretary. This legislation will wipe out such restrictive interpretations of the safety discrimination provision and will insure that they do not recur.

Mr. Speaker, before concluding my remarks I would like to address one aspect of the conference report that seems to be somewhat ambiguous.

Section 103(a) of the conference report provides that authorized representatives of the Secretary or the Secretary of Health, Education, and Welfare shall make frequent inspections and investigations for the purpose of (1) obtaining, utilizing, and disseminating information relating to health and safety conditions, the causes of accidents and the causes of diseases and physical impairments originating in such mines, (2) gathering information with respect to mandatory health or safety standards, (3) determining whether an imminent danger exists, and (4) determining whether there is compliance with the mandatory health or safety standards or with any citation, order, or decision issued under this title or other requirements of this act. The Secretary shall develop guidelines for additional inspections of mines based on criteria including, but not limited to, the hazards found in mines subject to this act, and his experience under this act and other health and safety laws.

In carrying out the requirements of clauses (3) and (4)—concerning imminent dangers or compliance with standards—the Secretary shall make inspections of each underground coal or other mine in its entirety at least four times a year and of each surface coal or other mine in its entirety at least two times a year.

In addition to the regular inspections of each mine in its entirety as specified in section 103(a), section 103(g)(1) provides that whenever a representative of a miner, or a miner at a mine where there is no such representative, has reasonable grounds to believe that a violation or imminent danger exists, such representative or miner shall have a right to obtain an immediate inspection. Further, section 103(i) provides for additional inspections for any mine which liberates excessive quantities of methane or other explosive gases, or where a methane or gas ignition has resulted in death or serious injury, or there exists some other especially hazardous condition.

Section 103(f) provides that a miners' representative authorized by the operator's miners shall be given an opportunity to accompany the inspector during the physical inspection and pre- and post-inspection conferences pursuant to the provisions of subsection (a). Since the conference report reference is limited to the inspections conducted pursuant to section 103(a), and not to those pursuant to section 103(g)(1) or 103(i), the intention of the conference committee is to assure that a representative of the miners shall be entitled to accompany the Federal inspector, including pre- and post-conferences, at no loss of pay only during the four regular inspections of each underground mine and two regular inspections of each surface mine in its entirety, including pre- and post-inspection conferences.

The original section 103(a) of the Federal Coal Mine Health and Safety Act of 1969 provided that—

In carrying out the requirements of clauses (3) and (4) of this subsection in each underground mine, such representatives shall make inspections of the entire mine at least four times a year.

Section 103(a) of the 1969 act did not include the new provisions—

The Secretary shall develop guidelines for additional inspections of mines based on criteria including, but not limited to, the hazards found in mines subject to this act, and his experience under this act and other health and safety laws.

Section 103(h) of the 1969 act provided generally that—

At the commencement of any inspection . . . the authorized representative of the miners at the mine . . . shall be given an opportunity to accompany the authorized representative of the Secretary on such inspection.

Since the conference report does not refer to any inspection, as did section 103(h) of the 1969 act, but, rather to an inspection of any mine pursuant to subsection (a), it is the intent of the committee to require an opportunity to accompany the inspector at no loss of pay only for the regular inspections mandated by subsection (a), and not for the additional inspections otherwise required or permitted by the act. Beyond these requirements regarding no loss of pay, a representative authorized by the miners shall be entitled to accompany inspectors during any other inspection exclusive of the responsibility for payment by the operator.

Also, Mr. Speaker, the Senate bill contained a "general duty" clause generally requiring operators to provide a safe and healthful working place. We did not accept this Senate provision out of recognition that the law already contains explicit health and safety standards and also because we did not want such a vague and general duty clause to possibly become an inspector's vehicle for harassing and unjustifiably intimidating well-intentioned coal operators.

Finally, Mr. Speaker, I would be remiss if I did not take note of the tremendous contributions to the health and safety of our Nation's miners of the gentleman from Pennsylvania (Mr. DENT). Mr. DENT managed the landmark 1969 act and has responded to the legitimate needs of miners and their families during all of his legislative service. This legislation, as well, bears his stamp. Although he was physically unable to participate in the actual conference with the Senate, he was otherwise able to succeed in insuring that the bill fulfilled its potential. He deserves our continued recognition and respect.

Mr. Speaker, this is good legislation for all of our Nation's miners. It accords to metal and nonmetal miners the equivalent protections we have provided for coal miners; and with respect to coal miners, it underscores and secures the ambitious promise of the 1969 act. It truly deserves our unanimous support.

At this time, Mr. Speaker, I will yield time to the distinguished gentleman from Pennsylvania (Mr. GAYDOS), who conducted the hearings on the metallic and nonmetallic parts of this legislation. I know that the gentleman from Pennsylvania (Mr. GAYDOS) did a most thorough job, and he is prepared to answer any questions on the metallic and nonmetallic features. I think we will all understand better the provisions of the Federal Mine Safety and Health Act after the gentleman's presentation.

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

Mr. GAYDOS. Mr. Speaker, I would like first to express my sincere appreciation to—

The gentleman from Kentucky (Mr. PERKINS), the chairman of the full Committee on Education and Labor, for his dedication to upgrading the protections afforded all miners;

The gentleman from Pennsylvania (Mr. DENT), the chairman of the Subcommittee on Labor Standards, who has always been instrumental in improving safety and health conditions for miners;

The members of the Subcommittee on Compensation, Health, and Safety for their support of this legislation: AUSTIN MURPHY, ROBERT CORNELL, LEO ZEFERETTI, JOSEPH LE FANTE, MICHAEL MYERS, GEORGE MILLER, RONALD SARASIN, and JOHN BUCHANAN; and

Senator WILLIAMS and the other Senate conferees for their commitment to improving the safety and health of our Nation's miners.

I am pleased to report that the conferees on S. 717, the Federal Mine Safety and Health Amendments Act of 1977, have reached an agreement that is embodied in the conference report now under consideration. This legislation will go a long way toward improving the safety and health conditions in this Nation's mines.

Mining is recognized as one of this country's most hazardous occupations, and with the increased emphasis on the production of our natural resources, it is important that legislation be enacted now to provide improved safety and health conditions for our miners.

The conference substitute, while combining the best features of both the Senate and House bills, retains the salient provisions of the bill that passed the House in July. It provides, as did the House bill:

First. For joining all miners, both coal and noncoal, under one legislative act;

Second. For transferring the administrative and mine enforcement functions from the Department of Interior to the Department of Labor; and

Third. For upgrading the protections afforded metal and nonmetal miners.

The conference substitute also retains the provision that was included in the House bill which insures that existing and new standards applicable to metal and nonmetallic mines remain separate from existing and new standards applicable to coal mines.

The conference substitute contains numerous provisions which, in the opinion of the conferees, will result in a vastly improved national commitment to the safety and health of more than 487,000 miners, and which provisions I have hereinafter set forth.

STANDARDS-SETTING

The conference substitute modifies the standards-setting procedure of the 1969 Federal Coal Mine Health and Safety Act, which has served as the basis for the legislation now being considered. The substitute eliminates lengthy delays in existing standards-setting procedures by establishing strict statutory timetables to govern each step of the process. In other words, once the standards-setting process begins, it is regulated within a specific statutory time frame. For example, this bill limits advisory committee consideration of proposed standards to 180 days and it further provides that a requested hearing on any standard proposal must commence within 60 days of notice. These timetables should facilitate more expeditious promulgation of standards.

The conference substitute also addresses the problems associated with existing procedures for promulgating health standards. Unlike the Coal Act, the conference substitute vests the authority to develop all safety and health standards in the Secretary of Labor. This assignment of authority to one Secretary will eliminate the confusion and delay that sometimes result from the dual-agency promulgation roles (of Interior and HEW) required by the current Coal Act.

The conferees recognize the health expertise of the Secretary of HEW and the conference substitute thereby authorizes him, through NIOSH, to prepare criteria documents to be used in the development of health standards. To eliminate delay in the health standards-setting process, the conference substitute requires the Secretary of Labor to act on a NIOSH recommendation that is accompanied by appropriate criteria within 60 days of receipt.

In situations of grave danger to miners, the conference substitute authorizes the Secretary of Labor to issue emergency temporary standards without first going through the statutory standards-setting process. This provision should allow the Secretary to react quickly to grave dangers which threaten miners before those dangers manifest themselves in serious or fatal injuries or illnesses. A 9-month time limitation on emergency temporary standards insures operator participation in the promulgation procedure that results in the issuance of a final, permanent standard.

ADMINISTRATIVE REVIEW OF NOTICES, ORDERS, AND PENALTY PROPOSALS

The conference substitute effectuates several changes in the administrative review procedures that should expedite the handling of civil penalty matters, thereby increasing the efficiency of civil penalties as enforcement mechanisms.

The conference substitute provides for an independent Federal Mine Safety and Health Review Commission. This Commission is assigned all administrative review responsibilities and is also authorized to assess civil penalties. The objective in establishing this Commission is to separate the administrative review functions from the enforcement functions, which are retained as functions of the Secretary. This separation is important in providing administrative adjudication which preserves due process and instills confidence in the program. This separation is also important because it obviates the need for de novo review of matters in the courts, which has been a source of great delay.

The conference substitute imposes strict time limitations on each step of the procedures for administrative review and penalty assessment. The failure of an aggrieved party to exercise his right to contest an order on a penalty proposal within the statutorily imposed time limitations will render the administrative determination at that stage the final agency action, which is reviewable and enforceable in the courts. Concurrently, because uncontested agency determinations do become final agency actions, the time limitations have the effect of shifting the burden of seeking review from the Secretary to the aggrieved party.

Additionally, the conference substitute authorizes the courts to enforce routinely agency determinations that are not appealed within the statutory time limitations. This should keep penalty matters moving more expeditiously and should increase the usefulness or civil penalties as enforcement tools.

SAFETY AND HEALTH TRAINING

The conference substitute requires each operator to have a Secretary-approved safety and health training program. This program must provide:

No less than 40 hours of training for new underground miners who have had no previous underground work experience;

No less than 24 hours of training for new surface miners who have had no previous surface work experience; and

No less than 8 hours of annual retraining for all miners.

Any miner reassigned to a new task must be provided with training in the safety and health aspects of his new assignment if such miner has had no work experience at the new task.

The conference substitute further requires that safety and health training be provided at the expense of the operator and during normal working hours. Miners are to be paid their normal rate of compensation for time spent in training, and new miners are to be paid their beginning wage rate. If such training is given away from the mine, miners are to be compensated for their expenses.

Under the provisions of the conference substitute, operators are to certify that each miner received the requisite training. Training certificates are to be provided to each miner and a copy of each certificate is to be maintained at the mine. When a miner leaves an operator's employ, the training certificate is to be provided to the miner.

MINER PARTICIPATION IN INSPECTIONS

The conference substitute expands the concept of miners' participation in inspections by authorizing miners' representatives to participate not only in the actual inspection of a mine, but also in any pre- or post-inspection conferences held at that mine. The presence of such representatives at an opening conference aids miners in understanding the concerns of the inspector, and attendance at the closing conference enables miners to be apprised more fully of the inspection results.

The conference substitute additionally authorizes the Secretary's representative to permit more than one miner representative to participate in an inspection and in inspection-related conferences. However, it provides that just one such representative of miners, who is also an employee of the operator, is to be paid

by the operator for his participation in the inspection and conferences.

JUDICIAL REVIEW OF ANY STANDARD

The conference substitute authorizes any person who may be adversely affected by any promulgated standard to seek review of the standard in the U.S. Court of Appeals. This provision requires that all actions for review be commenced within 60 days of final promulgation of the standard. It further provides that objections not raised in administrative proceedings may not be considered by the court except for good cause. Because this review procedure is the only mechanism for contesting the validity of a standard, such standards shall not be subject to collateral attack in enforcement proceedings.

PENALTIES

In addition to those penalties currently authorized under the Coal Act, the conference substitute:

Authorizes the issuance of a discretionary penalty, of not more than $1,000 per day, for any violation that remains unabated beyond the abatement period; and

Provides a criminal sanction, of not more than $1,000 or 6 months imprisonment, or both, for persons convicted of giving advance notice of any inspection.

WITHDRAWAL ORDERS

In addition to the withdrawal orders authorized by existing law, the conference substitute authorizes the Secretary to issue a withdrawal order based on the existence of a pattern of violations of standards that could "significantly or substantially contribute to the cause and effect of a mine safety and health hazard."

PROTECTION FROM IMMINENT DANGER

The conference substitute authorizes miners or their representatives to make written requests for inspections based on suspected violations of standards or conditions of imminent danger. The substitute requires the Secretary to notify the operator of a mine or his agent forthwith if the complaint indicates that an imminent danger exists. Otherwise, miners might continue to work in an imminently dangerous situation until the Secretary is able to inspect the mine pursuant to the request. While this provision, in fact, gives the operators the opportunity to abate such dangerous conditions, its sole purpose is to protect the health and safety of miners.

PROTECTION OF MINERS AGAINST DISCRIMINATION

The conference substitute expands the coverage of those presently protected against discriminatory actions under the Coal Act to include applicants for employment.

Additionally, to protect miners from the adverse and chilling effect of loss of employment while discrimination charges are being investigated, the conference substitute provides that if the Secretary determines that any such charge was not brought frivolously, the Secretary may seek temporary reinstatement of the complaining miner pending final outcome of the investigation.

INSPECTIONS OF SURFACE MINES

Because of the significant number of injuries and deaths occurring in surface mines, the conference substitute mandates a minimum of two inspections annually of all such surface mines.

CONCLUSIONS

Mr. Speaker, the conference substitute contains numerous other provisions which, in the opinion of the conferees, will result in a vastly improved national commitment to the safety and health of this Nation's 487,000 miners.

I commend the conference report to the House and urge Members to give it their full support.

Mr. PERKINS. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. ZEFERETTI).

Mr. ZEFERETTI. Mr. Speaker, I rise in support of the conference report on S. 717, the Federal Mine Safety and Health Amendments Act of 1977. The issues addressed by this conference report were the focal points of hearings conducted earlier this year by the Subcommittee on Compensation, Health and Safety, of which I am a member, and I fully support the agreement reached by the conferees on this report.

This legislation will go a long way toward improving the safety and health conditions in this Nation's mines. Mining is recognized as one of this country's most hazardous occupations, and with the increased emphasis on the production of our natural resources, it is important that legislation be enacted now to provide improved safety and health conditions for our miners.

The conference substitute, while combining the best features of both the Senate and House bills, retains the salient provisions of the bill that passed the House in July and will result in vastly improved safety and health standards to thousands of miners.

I urge all Members to give it their full support.

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

Mr. Speaker, I rise in support of the conference report on mine safety. During the last 5 years, I have supported strong Federal legislation in combination with the States to assure employee health and safety in the work place. I believe this conference report is most effective in assuring health and safety in the working environment of miners.

The Committee on Education and Labor has been studying the mine safety problem for the last two Congresses. Last Congress we reported and passed a bill that offered additional protections to our Nation's metal and nonmetallic miners. The conference report today offers additional protection to our metal and nonmetallic miners and to our coal miners as well.

During House consideration of the mine safety legislation earlier this year, I offered a substitute to the committee bill which would have retained two separate acts, the Metal and Nonmetallic Mine Safety Act and the Federal Coal Mine Health and Safety Act, but the substitute would have substantially upgraded the Metal and Nonmetallic Mine Safety Act in a manner similar to the conference report under consideration. The House rejected my substitute, choosing to combine metal and nonmetal into the existing Coal Mine Health and Safety Act. I accept the judgment of the House in that regard, and the conference report reflects that determination. The House bill, although combining the two, did not substantially strengthen either the Coal Act or the Metal and Nonmetallic Act as my substitute did. The work of the other body did provide for upgrading the enforcement provisions of both coal and noncoal in a manner similar to my substitute. The result of the conference conforms to my view that the metal and nonmetallic miners need additional protections, and, although combining coal and noncoal, keeps the standards as to each separate. The effect of the conference conforms to my dedication to support legislation I think most effective in assuring health and safety in the work place.

Let me emphasize a few of the points of interest from the conference and the report. First, the "general duty" clause in the Senate bill, not contained in the House bill, was eliminated. During House consideration of the Mine Safety Act, in the substitute I offered was a provision for a general duty clause. However, my substitute addressed only the metal and nonmetallic mines. I felt this was necessary since our hearings revealed that mandatory standards for metal and nonmetallic mines were not as prolific as standards for coal mines. It was further alleged that there were many "permissive" or advisory standards floating around which had not been made mandatory as to metal and nonmetal mines. For those reasons, I thought it best to cover metal and nonmetal mines under a general duty clause in order to adequately protect the miners in those mines.

On the other hand, it is readily apparent from reading the coal act, and its interim standards, that coal mines are well covered by mandatory standards. It appears there is absolutely no necessity for a general duty clause that would be applicable to coal mines. Since the bill that emerged from conference combined coal and noncoal into one act, the conferees took into consideration the abundance of standards regulating coal mines and found a general duty clause would not further the interests of health and safety, but may result in some mischief. From my own point of view, I also felt that the general duty clause in the context of the Coal Act, with its mandatory penalties, may not be in the best interest of the hardrock miners either. For the first time, noncoal mines will be subject to mandatory civil penalties, and the imposition of the general duty clause, which would have allowed the issuance of citations and assessment of civil penalties based on a violation of that clause, may have detracted from the sometimes successful attempts to achieve voluntary compliance and created too much of an adversary relationship. In my mind, the intent of the legislation should be to offer protection to the workers, not to

create an unduly heavy burden on the operators. Further, miners are protected by the imminent danger withdrawal order, which can be issued even if the imminent danger does not result from a violation of a mandatory health or safety standard. With this protection, it appears the general duty clause becomes redundant. The conference acted wisely in eliminating the general duty clause considering the circumstances.

Secondly, the standard-setting process is greatly improved by the conference report. Of particular interest is the conferees' recognition of the value of cross-examination in the development of standards. Under the Metal and Nonmetallic Act, the right of cross-examination was expressly recognized. Our hearings revealed at least one instance where the right to cross-examination in the development of standards for trona mines prevented what could have been a dangerous standard for underground trona miners. Although the bill that emerged from conference adopted the Coal Act's standard-setting procedure which does not expressly require cross-examination in the standard-setting process, the conferees were convinced of the value of cross-examination. Accordingly, it is my understanding that the conferees' intent was that the Secretary was to permit cross-examination so that a definitive hearing record could be developed. I might even say that it is the intent of the conference that cross-examination is preferred, but that such preference is not to be construed as a means to delay the standard-setting process. In this regard, the Secretary is directed to exercise discretion so that the law and the standard-setting process will be reconciled in the interests of the health and safety of the miners.

Thirdly, I find that the conference report puts heavy emphasis on health standards and training. Both these issues have been relatively ignored for years. As a matter of fact, under the Metal and Nonmetallic Act, health was completely forgotten and NIOSH had no authority to assist in development of health standards. The emphasis on health must not be underestimated, for we are discovering more and more dangers in the environment of the work place. The authority and the emphasis are in the conference report. It is a great improvement.

Fourth, the conference report contains a new type of withdrawal order based on a pattern of violations. This new enforcement authority was included as a result of the investigations the committee conducted into the cause of the Scotia Coal Mine explosion in 1976. This authority will enable MSHA to close mines in which inspectors find a pattern of consistent serious violations of the standards set by this act.

Fifth, in proposing and assessing civil penalties, the conference report conforms to the House bill which provided that six criteria shall be considered. Therefore, in proposing civil penalties, the Secretary must consider: First, the gravity of the violation; second, the good faith of the person charged; third, the history of previous violations; fourth, the size of the business being charged; fifth, the negligence of the operator; and sixth, the effect on the operator's ability to continue in business. The Senate bill had eliminated the last two criteria, but the conference reinstated them. I believe that since we are now bringing the metal and nonmetallic miners under coverage of mandatory civil penalties for the first time, that the last two criteria are essential. Many of the metal and nonmetallic operations are small businesses. They need to be evaluated on that basis, as well as on the basis as to whether they were negligent or not.

Sixth, the conference report provides for the transfer of enforcement from the Department of the Interior to the Department of Labor under a new Assistant Secretary for Mine Safety and Health. The concept of worker safety and health programs in one Department is not an unrealistic concept, but it should be emphasized that mine safety will be separate from OSHA. The upgrading of mine safety and health enforcement to the Assistant Secretary level, no matter where located, is an improvement that registers no dissent. As there is no doubt that the Labor Department's main concern will be the worker, labor's complaint that the Department of the Interior was more production oriented than safety conscious, resulting in a conflict of missions, will be alleviated. The fact that the Steelworkers and the United Mine Workers personally feel they would get more protection from the Department of Labor is compelling reason for the transfer, since these are the workers who must work at the hazardous occupation of mining.

It has been argued that research will be disrupted and fragmented if the transfer takes place, but it is not beyond comprehension that the Department of the Interior and the Bureau of Mines can cooperate with the Department of Labor in developing technical expertise to provide for greater production of resources along with better safety methods. There is no reason why effective research within Interior cannot continue and there is no reason the two Departments should not cooperate as effectively as the Department of the Interior claims the Bureau of Mines and MESA have in the past. It is the conferees' intention that they do so.

By supporting the transfer, I do not cast any aspersions upon the Department of the Interior or MESA. The statistics supplied show that fatalities and disabling injuries in mines have shown an encouraging downward trend. As I have previously stated, that is to the Department of Interior's and MESA's credit, and I continue to hope that that trend will accelerate when the transfer takes place.

Finally, there has been some representations that possibly mine safety will become mixed with OSHA or enforcement and research funds will be diverted into general industry safety. However, in supporting the transfer, I expect, as the conference report indicates separate administration from OSHA, a continuing emphasis on safety and health for miners, no organizational or policy changes by the Department outside the confines of the legislation, and no redistribution of MSHA resources to OSHA general industry. Since all of us are aware of the highly dangerous conditions of working in the mines, there can, in good conscience, be no lessening of concern of the welfare of our Nation's miners. I believe the Department of Labor will carry out our expectations in the manner we have expressed.

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

Mr. SARASIN. I yield to the gentleman from Minnesota.

Mr. QUIE. Mr. Speaker, I support the conference report on mine safety.

For two Congresses we have been debating mine safety legislation. During the 94th Congress on a bill to amend the Metal and Nonmetallic Act of 1966, I offered an amendment that would have retained the enforcement of mine safety in the Department of the Interior. The House rejected that amendment, and I accept the judgment of the House in that regard.

The conference report before us today transfers enforcement from the Department of the Interior to the Department of Labor. It has been alleged that the Department of the Interior was caught in a "conflict of missions" in both enforcing mine safety and of finding efficient ways of meeting the need and demands for production of energy and mineral resources. Although I am skeptical of that reasoning, it is clear that the Department of Labor has been the traditional agency entrusted with the responsibility for overseeing the welfare, safety, and health of our Nation's work force. Since both the major unions representing employees who work in our Nation's mines, the United Mine Workers and the Steelworkers, regard the Department of Labor with considerably more credibility than they do the Department of the Interior, and since those representatives of workers feel that the transfer is in the best interests of the miners, I am supporting the transfers at this time.

The conference report is a strong piece of legislation. It brings metal and nonmetallic operators under the provisions of the Federal Coal Mine Health and Safety Act and repeals the Metal and Nonmetallic Act. It is apparent that these new provisions of law as they affect noncoal mines will be a strong dose for some of the smaller operators. It is hoped that the Department of Labor will make every effort to acquaint them with the new provisions of the law as quickly as possible.

I am pleased that an amendment I offered in committee, which was accepted, is retained in the conference report, namely that standards promulgated under this bill would be applicable to metal and nonmetallic mines or to coal mines respectively. I direct the attention

of the House to page 64 of the statement of managers which states:

The Senate bill and the House amendment contained substantially similar provisions concerning the carryover of existing safety and health standards under the Metal and Coal Acts as standards applicable to metal and nonmetallic mines and coal mines respectively under this bill. The Senate bill used the term defined in the Coal Act, "mandatory health or safety standards"; the House amendment referred only to "standards". The Senate bill stated that such standards be applicable until modified, amended or revoked under the provisions of this bill. The House amendment more clearly specified that new standards promulgated under this bill be applicable to metal mines or to coal mines.

The conference substitute conforms to the House amendment, with a technical amendment to include the defined term, "mandatory health or safety standards."

Therefore, it is clear that although the two laws are merged into one, the Secretary, in promulgating standards, is to promulgate standards applicable to metal and nonmetallic mines or to coal mines, respectively.

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

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

Mr. BUCHANAN. Mr. Speaker, I rise in support of the conference report on mine safety. During the consideration of this legislation before our committee, I endorsed strong legislation to insure a safe and healthful working environment in our Nation's mines. This conference report represents such strong legislation.

The conference report implements the will of the House by bringing metal and nonmetallic mining and milling under the jurisdiction of the Federal Coal Mine Health and Safety Act of 1969. In doing so, it repeals the Metal and Nonmetallic Mine Safety Act of 1966.

The conference report further complies with the will of the House by transferring the enforcement of mine safety from the Department of the Interior to the Department of Labor under a new Assistant Secretary for Mine Safety and Health. This transfer resolves the alleged conflict in the Department of the Interior between its mission of maximizing production and protecting the well-being of the Nation's miners. The transfer places the protection of miners in the same Department which is responsible for the health and safety of most American workers.

In combining metal and nonmetallic mining with coal mining in a single statute, the conference report retains the amendment offered by Mr. QUIE in committee which requires that standards promulgated be applied separately and respectively to metal and nonmetallic mines or to coal mines. This seems to be an appropriate accommodation to those who were concerned about the combination of the two acts.

Over the years there has been much attention quite rightly focused on the harsh safety statistics in mining, but there has been too little attention directed to the potentially dangerous health conditions existing in many noncoal mines, and even in coal mines. During committee markup I offered an amendment, which was accepted, which would direct the Secretary of Health, Education, and Welfare to determine whether toxic materials or harmful physical agents found in mines are potentially toxic at concentrations in which they are used or found in mines and to present such determinations to the Secretary of Labor, together with all pertinent criteria and a proposed standard. The reported bill directed that research be made and standards prepared to protect miners from dangers and health hazards in terms of exposure to toxic or carcinogenic substances about which not enough is known presently to provide for concerned enforcement of health standards.

The conference report strengthened the provisions for the health of miners and health standards. I invite the attention of the House to page 41 of the conference report in the statement of managers:

The Senate bill required that in setting standards dealing with toxic substances and harmful physical agents, the Secretary establish a standard, based on the best available scientific and other data, which would adequately assure that no miner would suffer material impairment of health or functional capacity even if exposed to the regulated substance or hazard regularly for the period of his working life. The Senate bill further provided that when practicable, the standard be expressed in terms of objective criteria or performance desired. The House amendment contained no such provision.

The Senate bill and the House amendment contained provisions requiring the Secretary of Health, Education, and Welfare, within 18 months in the Senate bill, and 3 years in the House amendment, and on a continuing basis thereafter, to determine whether toxic materials or harmful agents found in mines are potentially toxic in concentrations found in the mines, and to transmit such information to the Secretary. The Senate bill required that thereafter, the Secretary of HEW shall forward proposed standards and appropriate criteria to the Secretary, as developed, and that, as received, the Secretary shall within 60 days, either propose health standards pursuant to the rulemaking procedure or publish his determination not to do so. The House amendment required the HEW Secretary to submit proposed standards and criteria to the Secretary at the time he submitted the toxic substance list. The House version compelled the Secretary to publish such recommended standards upon receipt.

In both regards, the conference substitute conformed to the Senate bill, which had a better defined emphasis on health. The conference report also requires the use of labels, personal protective equipment or technological procedures be used where appropriate and further provides for medical monitoring of miner exposures. Additionally, periodic medical exams are required at the operator's expense where a miner is exposed to toxic materials, and encourages participation in medical program. The conference substitute, consistent with the House bill, does not provide for variances to health standards.

Further, in its concern for the health of miners, the conference substitute speeds up the issuance of the standards-setting process and even provides for emergency temporary standards.

This emphasis on health plus the retention of the essential safety approach of the House version makes this conference report one which should be acceptable to the House and I urge its support.

Mr. SARASIN. Mr. Speaker, I yield back the balance of my time.

Mr. PERKINS. Mr. Speaker, we have no further requests for time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. WRIGHT). The question is on the conference report.

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

Mr. ROUSSELOT. 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 376, nays 35, answered "present" 1, not voting 22, as follows:

[Roll No. 707]

YEAS—376

Addabbo	Cederberg	Flippo
Akaka	Chappell	Flood
Allen	Chisholm	Florio
Ambro	Clay	Flynt
Ammerman	Cleveland	Foley
Anderson, Calif.	Cochran	Ford, Mich.
	Cohen	Ford, Tenn.
Anderson, Ill.	Coleman	Forsythe
Andrews, N. Dak.	Conable	Fountain
	Conte	Fowler
Annunzio	Conyers	Fraser
Armstrong	Corcoran	Frenzel
Ashley	Corman	Frey
Aspin	Cornell	Fuqua
Badham	Cornwell	Gammage
Badillo	Cotter	Gaydos
Baldus	Coughlin	Giaimo
Barnard	Cunningham	Gibbons
Baucus	D'Amours	Gilman
Beard, R.I.	Daniel, Dan	Ginn
Beard, Tenn.	Daniel, R. W.	Glickman
Bedell	Danielson	Goldwater
Bellenson	Davis	Gonzalez
Benjamin	de la Garza	Goodling
Bennett	Delaney	Gore
Bevill	Dellums	Gradison
Biaggi	Dent	Grassley
Bingham	Derrick	Guyer
Blanchard	Derwinski	Hagedorn
Blouin	Dickinson	Hall
Boggs	Dicks	Hamilton
Boland	Diggs	Hammer-schmidt
Bonior	Dingell	
Bonker	Dornan	Hanley
Bowen	Downey	Hannaford
Brademas	Drinan	Harkin
Breaux	Duncan, Oreg.	Harrington
Breckinridge	Duncan, Tenn.	Harris
Brinkley	Early	Harsha
Brodhead	Eckhardt	Hawkins
Brooks	Edgar	Heckler
Broomfield	Edwards, Ala.	Heftel
Brown, Calif.	Edwards, Calif.	Hightower
Brown, Mich.	Ellberg	Hillis
Brown, Ohio	Emery	Holland
Buchanan	English	Hollenbeck
Burgener	Erlenborn	Holtzman
Burke, Calif.	Ertel	Horton
Burke, Fla.	Evans, Colo.	Howard
Burke, Mass.	Evans, Del.	Hubbard
Burlison, Mo.	Evans, Ga.	Huckaby
Burton, John	Evans, Ind.	Hughes
Burton, Phillip	Fary	Hyde
Butler	Fascell	Ichord
Byron	Fenwick	Ireland
Caputo	Findley	Jacobs
Carney	Fish	Jeffords
Carr	Fisher	Jenkins
Cavanaugh	Fithian	Jenrette

Johnson, Calif.	Moore	Shipley
Johnson, Colo.	Moorhead, Calif.	Shuster
Jones, N.C.	Moorhead, Pa.	Sikes
Jones, Okla.	Moss	Simon
Jones, Tenn.	Mottl	Sisk
Jordan	Murphy, Ill.	Skelton
Kasten	Murphy, N.Y.	Skubitz
Kastenmeier	Murphy, Pa.	Slack
Kazen	Murtha	Smith, Iowa
Kemp	Myers, Gary	Smith, Nebr.
Ketchum	Myers, John	Snyder
Keys	Myers, Michael	Solarz
Kildee	Natcher	Spellman
Kindness	Neal	Spence
Kostmayer	Nedzi	St Germain
Krebs	Nichols	Staggers
Krueger	Nix	Stanton
LaFalce	Nolan	Stark
Lagomarsino	Nowak	Steed
Latta	O'Brien	Steers
Le Fante	Oakar	Steiger
Leach	Oberstar	Stockman
Lederer	Obey	Stokes
Leggett	Ottinger	Stratton
Lehman	Panetta	Studds
Levitas	Patten	Taylor
Livingston	Patterson	Thompson
Lloyd, Calif.	Pattison	Thone
Lloyd, Tenn.	Pease	Thornton
Long, La.	Pepper	Traxler
Long, Md.	Perkins	Treen
Lott	Pettis	Trible
Lujan	Pickle	Tsongas
Luken	Pike	Tucker
Lundine	Pressler	Udall
McCory	Price	Ullman
McCloskey	Pritchard	Van Deerlin
McCormack	Quie	Vander Jagt
McDade	Quillen	Vanik
McEwen	Rahall	Vento
McFall	Railsback	Volkmer
McKay	Rangel	Waggonner
McKinney	Regula	Walgren
Madigan	Reuss	Walker
Maguire	Richmond	Walsh
Mahon	Rinaldo	Wampler
Mann	Risenhoover	Watkins
Markey	Robinson	Waxman
Marks	Rodino	Weaver
Marlenee	Roe	Weiss
Marriott	Rogers	White
Mathis	Roncalio	Whitehurst
Mattox	Rooney	Whitley
Meeds	Rosenthal	Whitten
Metcalfe	Rostenkowski	Wilson, Bob
Meyner	Roybal	Wilson, Tex.
Michel	Runnels	Winn
Mikulski	Ruppe	Wirth
Mikva	Russo	Wolff
Milford	Ryan	Wright
Miller, Calif.	Sarasin	Wydler
Mineta	Sawyer	Wylie
Minish	Scheuer	Yates
Mitchell, Md.	Schroeder	Yatron
Mitchell, N.Y.	Schulze	Young, Fla.
Moakley	Seiberling	Zablocki
Moffett	Sharp	Zeferetti
Mollohan		

NAYS—35

Abdnor	Gudger	Roberts
Andrews, N.C.	Hansen	Rose
Archer	Hefner	Rousselot
Ashbrook	Holt	Rudd
Bauman	Kelly	Santini
Broyhill	McDonald	Satterfield
Burleson, Tex.	Martin	Sebelius
Collins, Tex.	Miller, Ohio	Stangeland
Crane	Poage	Stump
Devine	Preyer	Symms
Edwards, Okla.	Quayle	Young, Mo.
Gephardt	Rhodes	

ANSWERED "PRESENT"—1

Bafalis

NOT VOTING—22

Alexander	Collins, Ill.	Pursell
Applegate	Dodd	Teague
AuCoin	Flowers	Whalen
Bolling	Koch	Wiggins
Carter	Lent	Wilson, C. H.
Clausen, Don H.	McHugh	Young, Alaska
Clawson, Del	Mazzoli	Young, Tex.
	Montgomery	

The Clerk announced the following pairs:

Mr. McHugh with Mr. Young of Alaska.
Mr. Teague with Mr. Carter.
Mr. Montgomery with Mr. Pursell.
Mr. AuCoin with Mr. Wiggins.
Mr. Koch with Mr. Lent.
Mr. Dodd with Mr. Whalen.
Mr. Applegate with Mr. Del Clawson.
Mr. Flowers with Mr. Don H. Clausen.
Mr. Charles H. Wilson of California with Mrs. Collins of Illinois.
Mr. Alexander with Mr. Mazzoli.

Messrs. YOUNG of Missouri, GUDGER, HEFNER, MARTIN, PREYER, BROYHILL, ROSE, and ROBERTS, changed their vote from "yea" to "nay."

Mr. SCHEUER changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GAYDOS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report just agreed to.

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

There was no objection.

DIRECTING THE CLERK TO MAKE CORRECTIONS IN THE ENROLLMENT OF S. 717

Mr. GAYDOS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate concurrent resolution (S. Con. Res. 57) to correct the enrollment of the Senate bill S. 717 to promote safety and health in the mining industry, to prevent recurring disasters in the mining industry, and for other purposes.

The Clerk read the title of the Senate concurrent resolution.

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

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, I wonder if the gentleman would explain why this unanimous-consent request is required.

Mr. GAYDOS. Will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. When the report was printed, there were several conforming changes that were required, which were of a technical nature. The corrections have been made.

Mr. ROUSSELOT. Does the gentleman mean we have been considering and voting on an imperfect bill?

Mr. GAYDOS. Voting on a bill that was not perfected as far as technical requirements were concerned.

Mr. ROUSSELOT. Shocking!

Mr. GAYDOS. Well, that happens now and then.

Mr. ROUSSELOT. Oh, it does?

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

Mr. ROUSSELOT. I am delighted to yield to my distinguished colleague from Connecticut, where there are a number of coal mines.

Mr. SARASIN. I would just like to assure the gentleman from California that this is an essential change. There is no essential move and no great change in the bill. We are not trying to do anything to the gentleman.

Mr. ROUSSELOT. The gentleman is not doing it to me because I do not have coal mines in my district. I am just like my former colleague from Hawaii, Patsy Mink, who used to be a great authority on coal mines.

But, the gentleman can now assure me that there are absolutely no substantial changes as a result of the unanimous-consent request of the gentleman from Pennsylvania in the substance of the bill?

Mr. SARASIN. That is correct.

Mr. ROUSSELOT. I appreciate knowing that my two colleagues can assure me of that.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 57

Resolved by the Senate (the House of Representatives concurring), That the Secretary of the Senate is authorized and directed, in the enrollment of the bill (S. 717) to promote safety and health in the mining industry, to prevent recurring disasters in the mining industry, and for other purposes, to make the following corrections:

(1) In section 101(a) of the Federal Coal Mine Health and Safety Act of 1969, as amended by section 201 of the bill, insert "this section and in accordance with" after "in" the second time it appears.

(2) In section 101(c) of the Federal Coal Mine Health and Safety Act of 1969, as amended by section 201 of the bill, strike "health or".

(3) In section 104(h) of the Federal Coal Mine Health and Safety Act of 1969, as amended by section 201 of the bill, strike "subsections (b), (c), or (d)" and substitute "this section".

(4) In the fourth sentence of section 109(d) of the Federal Coal Mine Health and Safety Act of 1969, as amended by section 201 of the bill, strike "case," and substitute "case".

(5) In section 110(d) of the Federal Coal Mine Health and Safety Act of 1969, as amended by section 201 of the bill, insert "and section 107" immediately after "section 104".

(6) In section 115(c) of the Federal Coal Mine Health and Safety Act of 1969, as amended by section 201 of the bill, strike "(g)" and substitute "(f)".

(7) In section 202(e) of the Federal Coal Mine Health and Safety Act of 1969, as amended by section 202(a) of the bill, strike "means" and substitute "mean".

(8) In section 301(b)(1) of the bill, strike "or other".

(9) In section 301(b)(2) of the bill, strike "under section 101 of the Federal Mine Safety and Health Act of 1977.".

(10)(A) In section 302(a) of the bill, strike "Amendments", and (B) strike "Mining Enforcement and Safety" and substitute "Mine Safety and Health".

(11) In section 303(a)(5) of the bill, strike "last" and substitute "first".

(12) In section 305 of the bill, strike "Health and Safety" and substitute "Safety and Health".

Mr. GAYDOS (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the Senate concurrent resolution be dispensed with and that it be printed in the RECORD.

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

There was no objection.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 1139, NATIONAL SCHOOL LUNCH AND CHILD NUTRITION AMENDMENTS OF 1977

Mr. PERKINS. Mr. Speaker, I call up the conference report on the bill (H.R. 1139) to amend the National School Lunch Act and the Child Nutrition Act of 1966 to revise and extend the summer food service program for children, to revise the nonfood assistance program, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

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

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of October 14, 1977.)

Mr. PERKINS (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the statement.

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

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman assure us we will have full and complete discussion on the free lunch program?

Mr. PERKINS. If the gentleman will yield, I can assure the gentleman from California that that will be the case.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

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

There was no objection.

The SPEAKER pro tempore. The gentleman from Kentucky (Mr. PERKINS) will be recognized for 30 minutes, and the gentleman from Minnesota (Mr. QUIE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Kentucky (Mr. PERKINS).

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

Mr. PERKINS. Mr. Speaker, the conference report on H.R. 1139 is a balanced piece of legislation which was hammered out in conference and has the support of all the conferees, both Senate and House Members and Republicans and Democrats. I believe that it is a sound bill making a number of needed improvements in our Federal feeding programs.

The six major provisions of the conference report are the following:

First, the summer food service program for children is extended for 3 fiscal years and the requirements for both sponsors and vendors are tightened up and include the imposition of criminal penalties for any fraudulent conduct.

Second, the commodity distribution program is made more responsive to the needs of children by giving local schools the right to refuse up to 20 percent of the commodities offered to them and by requiring the States and the Department of Agriculture to listen to the advice of local schools on the types of commodities their children will consume. The program is also amended by requiring an analysis of Kansas' experience with cash in lieu of commodities and by permitting the funding of no more than 10 local pilot projects using cash in lieu of commodities.

Third, the food service equipment program is amended by continuing for 3 years the reservation of one-third of the funds to expand the program to "no program schools" and to schools without the facilities to prepare and cook hot meals or to receive hot meals. A priority on the use of nonreserved funds is also established in order to first provide assistance to those schools without the facilities to prepare and cook hot meals on site and to kitchens operated by schools.

Fourth, the so-called "competitive foods" section is amended to require the Secretary of Agriculture to approve the particular foods which can be offered by local schools at the same time and place of the operation of their school lunch program. Presently, the States and local school districts have sole discretion in deciding which competitive foods can be offered.

Fifth, a new nutrition education program is established for 3 fiscal years. This program will provide funds for nutrition education to be offered throughout the country for all students in elementary and secondary schools and in other institutions.

Sixth, miscellaneous improvements are also made by eliminating an extra payment for milk, by increasing the funds for State administration, by increasing the reimbursements for breakfasts in especially needy schools and by cutting back on unnecessary paper work in determining children eligible for free and reduced price meals.

Mr. Speaker, I would now like to go into some more detail on these provisions of the conference report for the information of the Members.

SUMMER FOOD SERVICE PROGRAM

As you may recall, when H.R. 1139 was before the House on May 18, I pointed out that the committee had found, during its oversight hearings, evidence of numerous abuses in the summer food service program—abuses such as inedible food, overordering of meals, unsuitable meal sites, and substantial waste. We felt that the viability of the program was at stake, and that it was imperative to enact strong corrective legislation immediately to prevent such abuse in future summers. Although legislation was too late to have a bearing on the summer program in 1977, the Department of Agriculture took the opportunity to effect substantial improvements in the 1977 program through modification of its regulations, and it is to be highly commended for this action.

The need for revision of the summer lunch program led the committee to consider other aspects of child feeding which were in need of improvement or correction—namely, commodity donations, plate waste, food service equipment, State administrative expenses, and the breakfast program, all of which eventually became part of H.R. 1139, but the primary concern, and the impetus for action, was the need to eliminate the abuses in the summer program which had been revealed, and which had resulted in misuse of program funds for private gain.

Concerning the summer program, the conference report basically sustains the anti-fraud provisions which the House approved in May. We have tightened up the eligibility requirements for sponsors as well as vendors, insured high quality offerings to children by means of food and facilities inspection requirements, and set criminal penalties for fraud and embezzlement. We have also adjusted the State administrative cost structure and the advanced payment provision so that they will be in compliance with sound management policy.

The conference report encourages sponsorship by well-qualified service institutions and public and private schools, and retains the House provision which requires the Secretary of Agriculture and the States to seek eligible institutions located in rural areas as sponsors of a summer program.

The conference report adopts the provision to authorize the summer program for 3 fiscal years—through 1980. The House bill contained a 2-year authorization only. But there is no question about the intention of the Committee on Education and Labor—we will be looking at the quality of the program and the effect of this legislation upon the performance of sponsors and vendors long before the expiration date of the legislation and will have no hesitation in making additional changes if it appears to be necessary to do so.

COMPETITIVE FOODS AND NUTRITION EDUCATION

The conference committee dealt with two provisions, namely, the competitive food service amendment, and the nutrition education amendment, in a manner that is thoroughly consistent. One provision tends to be reinforcing to the other. Both provisions are designed to upgrade children's dietary habits and food intake.

First, the competitive food provision, as adopted by the conference, amends existing law by requiring the Secretary of Agriculture to approve competitive

foods that may be offered at the time and place of the service of school lunch. Public Law 91–248 enacted May 14, 1970, gave to the Secretary of Agriculture the power to issue regulations relating to the "service of food in participating schools and service institutions in competition with the programs" authorized under the Child Nutrition Act and the School Lunch Act. Public Law 92–433, enacted September 26, 1972, curtailed the Secretary's authority to regulate, as follows:

Such regulations shall not prohibit the sale of competitive foods in food service facilities or areas during the time of service of food under this Act or the National School Lunch Act if the proceeds from the sales of such foods will inure to the benefit of the schools or of organizations of students approved by the schools.

Thus, a school could approve a competitive food service making available offerings which could make no contribution to the child's nutrition, and which would be undermining the National School Lunch program.

I have received communications from a number of segments of the scientific and medical community, as I am sure my colleagues have, including physicians, dentists, nutritionists, dietitians, and public health workers, urging that Federal regulations again be mandated for competitive foods, in the interest of protecting children's health, including dental health. While it is true that a few States and localities have been able to prohibit the encroachment of vending machines and counter sales of junk foods, for example, in West Virginia, the State board of education has prohibited the sale of candy, soft drinks, chewing gum, and popsicles, what is needed is the force and effect of the Secretary's regulatory power. The Department has assured the conferees that their intent is to make certain that the foods available do make a "positive nutritional contribution in terms of their overall impact of children's diets and dietary habits."

Second, the nutrition education amendment provides for grants to State education agencies, at the rate of 50 cents for each child enrolled in schools and institutions, to undertake a variety of educational endeavors aimed at providing students with instruction on the nutritional value of foods and the relationship between food and health. This program goes hand in hand with the provision regulating competitive food service. It would be totally inconsistent to provide nutrition education on the one hand, and to permit on the other hand, the sale of food offerings which were totally contrary to the teachings of nutrition education.

In its report to the Congress entitled, the National School Lunch Program—Is It Working?, dated July 26, 1977, the General Accounting Office expressed the need to upgrade nutrition education, as follows:

. . . it may be desirable to shift the emphasis on nutrition education from conceiving it as a passive, abstract discipline to a viable, active part of preventive health. We believe nutrition education needs to deal with current food trends. It needs to identify food as more than a mere composite of RDA nutrients. Improved nutrition education involves disseminating appropriate knowledge on extenders, saturated fats, fibers, preservatives, and other food constituents present in today's market. Associating diet practices with day-to-day health is felt to be more relevant for school children, who made aware of health problems in their environment, may see direct application of nutrition instruction in their daily lives.

The conference report confirms that the Congress and the Federal Government must play a dominant role in fostering a wide dissemination of information now available on the relationship between food and obesity, heart and vascular disease, tooth decay, and other costly health problems. Nutrition education is, in fact, a bargain, compared to the costs incurred because of ignorance of proper dietary needs, and resulting health problems.

The nutrition education program was a 5-year entitlement in the Senate bill. Thus, a State would become entitled to a grant of funds in the amount of 50 cents multiplied by the number of children enrolled in its schools and institutions.

The conference report provides for a 2–year entitlement program, and one additional year for which funds would have to be appropriated. I feel this is a fair compromise for the adoption of a new and important program which is intended to improve children's health through knowledge and understanding. If effectively carried out, nutrition education will alter children's eating patterns and we would hope at the same time, widen participation in the school lunch program, cut the waste of food, and lower the unit cost of providing meals.

For the purpose of the legislative history in interpreting the provisions for the new program, I would like to mention that in calculating its coverage we consulted with the Congressional Budget Office which, using data found in the "Projection of Educational Statistics to School Year 1985–86" published by the Center for Educational Statistics of the Department of Health, Education, and Welfare, estimated that for fiscal year 1978 there would be the following number of eligible children: 49,021,000 children in school grades kindergarten through twelth grade; 2,003,000 children in independent nursery schools and kindergartens; and 1,300,000 children in other educational institutions. This would give us a total of 52,400,000 children enrolled in schools and educational institutions who could be participating in the program.

COMMODITIES PROGRAM

A number of significant amendments were adopted by the conference committee that will greatly impact the commodities program. First, the "stand-by" authority for the Secretary of Agriculture to purchase commodities for the child nutrition programs and title VII of the Older Americans Act is extended for 5 additional years. The conference committee agreed that this authority should be continued in order to cover any unusual situations that might arise in agricultural marketing which would cause the level of commodity support per meal to fall below the mandated level for the nutrition programs.

Second, several amendments were adopted to alleviate many of the operational problems that have been associated with the program in the past. These amendments reflect those recommendations that were included in the General Accounting Office's evaluation of the program and testimony presented to both the House and Senate committees during their respective hearings on the program last spring.

Third, the conference report adopts two studies which will be designed to obtain information on the most effective and efficient means of operating the commodities program. The first amendment directs the Secretary of Agriculture to conduct pilot projects in local schools in order to study the effect of part or all cash payments in lieu of the delivery of federally donated commodities. The second study is limited to a comparison of one of the States that receives donated foods with the State of Kansas, which is the only State presently receiving cash in lieu of commodities. Both the local pilot projects and the State study will assess the administrative feasibility and nutritional impact of a cash system versus the donated commodities system.

EQUIPMENT PROGRAM

The amendments to the food service equipment assistance program accomplish two principal objectives. First, the conference committee extends the reservation of funds for 3 years in order to facilitate the expansion of the school lunch program to "no program schools" and also to schools without the facilities to prepare and cook hot meals and to receive hot meals. There are approximately 13,000 schools with an enrollment exceeding 2 million children that are presently without a food service program. The conference committee feels that the 3-year extension will provide adequate time and funding to enable these target schools to purchase the equipment that is necessary to carry out a food service program. The conference committee's second objective is to encourage the onsite preparation of meals. The amendments to the unreserved funds gives priority in the apportionment of these funds to schools without the facilities to prepare or cook hot meals, a kitchen operated by local schools, and schools having antiquated or poorly functioning equipment. The conference committee believes that the onsite preparation of meals not only enhances the taste but also insures the nutritional value of the school meals. Therefore, the committee feels that these amendments will effectively encourage a number of schools to prepare their meals onsite.

MISCELLANEOUS

The conference report on H.R. 1139 is a well-balanced forward-looking document, which aims to assist States and

localities to provide the best possible nutrition, especially to needy children, but in fact to all children. The improvement in the summer program alone is expected to be widespread, but we have also taken steps to encourage especially needy schools to have a breakfast program by indexing their increased rates of reimbursement, have eliminated a very troublesome provision in the special milk program which made it impossible for schools to conceal the identity of needy children who received additional milk, have increased State administrative expenses under a new allocation formula, and have required development of State staffing standards, in addition to controlling competitive foods, and instituting the nutrition education program.

I urge all Members of the House to adopt the conference report on H.R. 1139.

Ms. HOLTZMAN. Mr. Speaker, will the gentleman yield?

Mr. PERKINS. I yield to the distinguished gentlewoman from New York (Ms. HOLTZMAN).

Ms. HOLTZMAN. Mr. Speaker, I thank the distinguished chairman of the committee for yielding.

Mr. Speaker, I would like to ask the chairman of the committee and the chairman of the conference committee two questions regarding State administrative expenses.

The first question has to do with interpreting the present law's provisions regarding the expenditure of unused State administrative funds appropriated under section 7 of the Child Nutrition Act for the purpose of administration in the summer feeding program. If I understand it correctly, the Department of Agriculture now has on hand approximately $630,000 in funds returned to it in fiscal year 1977 by States which could not use these funds for the administration of the school lunch program, the school breakfast program, and the child care feeding program. The Department would like to reallocate the unused funds from these programs to the States for the purpose of paying for the administration of last summer's summer food service program for children. I would like to know whether the chairman of the committee would interpret this action as permissible under the present law.

The second question I have has to do with the conference report before us today. I would like to know whether the intention of the conferees was to the effect that States could transfer any unused funds in their own entitlement from the newly increased allotment for the administration of the regular school lunch program under section 7 of the Child Nutrition Act as amended by H.R. 1139 to pay for the administration of the summer feeding program.

Mr. PERKINS. Mr. Speaker, let me first make an observation which I think is very important.

The gentlewoman from New York (Ms. HOLTZMAN), in the early days of our hearings on the summer feeding program, called to our attention fraud that was being committed in certain sections of this country and suggested that the committee take immediate action. At that time I had called this matter to the attention of the General Accounting Office and gave it some information that I had received in connection with fraud.

However, the gentlewoman from New York (Ms. HOLTZMAN) was the Member who really brought this issue to the forefront, and she is responsible for many of the improvements in this legislation, trying to eliminate these fly-by-night operations seeking to defraud the U.S. Government. I want to say that the gentlewoman is entitled to most of the credit in that area.

Mr. Speaker, my answers to the Congresswoman's questions are affirmative in both instances. I do believe that it would be permissible under the present law, namely, section 7 of the Child Nutrition Act, for the Department to use funds returned to it by the States for reallocation to States to pay for the administration of their summer feeding program during fiscal year 1977.

I also believe that the conference report before us would permit a particular State to shift unused funds earmarked for paying for the costs of the administration of the school lunch, school breakfast, and child care feeding programs to paying for additional costs of the summer feeding program within that particular State. These funds, of course, should only be shifted by the State after all of the regular programs; for example, school lunch, school breakfast, child care—have been assured the best administration possible.

I do, however, have reservations under the conference report before us about the Department in future years reallocating funds between States to use them for paying for any increased costs of the summer program within other States. Although I believe that, if a State required additional funding for the administration of its summer feeding program, that State should have some flexibility in transferring any of its unused State administrative funds for the additional administrative costs of its summer feeding program, I do not believe that under H.R. 1139 one State's administrative funds should be used to cover the additional costs of another State's summer program. My primary concern is that the States that do not have comprehensive summer feeding programs may be discouraged from expanding their programs if their administrative funds are being transferred to those States that already have well-established programs.

Ms. HOLTZMAN. Mr. Speaker, will the gentleman yield?

Mr. PERKINS. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Speaker, I want to tell the gentleman that I am deeply honored by his remarks; and I must add that the gentleman himself, the very distinguished chairman from Kentucky, and his committee have responded with great alacrity and with great concern on this issue.

Mr. Speaker, I am proud to have worked with the chairman on this matter.

Mr. PERKINS. Mr. Speaker, it was a great pleasure for me to work with the gentlewoman from New York (Ms. HOLTZMAN) because she wanted to see this program survive, grow, and be prosperous insofar as the welfare of the children of the country is concerned. We knew that if we did not make some corrections, there was a possibility that the program could go down the drain.

Again, Mr. Speaker, I wish to compliment the gentlewoman from New York (Ms. HOLTZMAN).

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

Mr. PERKINS. I yield to the gentleman from Wisconsin.

Mr. CORNELL. Mr. Speaker, I thank the gentleman for yielding.

I noted in the course of the gentleman's statement that he mentioned that in the conference report the special milk program was eliminated and the funds for that would be allocated in future programs.

I was wondering whether the gentleman would explain why this action was taken.

Mr. PERKINS. Mr. Speaker, the gentleman is correct that the conference report contains a provision of the Senate bill which proposes to eliminate the second free milk for needy children. The Senate was quite insistent on this provision as was the Department of Agriculture and, therefore, the House conferees felt that we had to accept it.

I would like to assure the gentleman, though, that if there are any grave difficulties with this provision, the committee will review its effects thoroughly within the next 6 months. And, if changes are necessary, we will make those changes. The committee must vote out by next May 15 another school lunch bill since several of the programs are expiring, and this bill will give us the opportunity to correct any inequities we may find resulting from this provision.

I would, though, like to point out in defense of the Senate's position and of the position of the Department of Agriculture the following reasons for their supporting this amendment.

First, present practice has led to a public identification of poor children. The way things operate now needy children receive free milk as part of their regular school lunches and breakfasts. But then they also receive a second free half pint of milk on their lunch trays or they receive it during the course of the school day even if no other students in the building are given the opportunity for a second milk. This, of course, means that needy children are clearly identified in front of all of their classmates. This violates the spirit of the National School Lunch Act which forbids the overt identification of needy children in any of these programs.

Second, for the same reasons, namely, having to give needy children milk when

other children do not receive milk, over 4,000 schools have dropped out of the special milk program entirely. This, of course, penalizes both needy and nonneedy children since none of those children in those 4,000 schools will now have milk available to them. The Department of Agriculture tells us that more schools are also thinking of dropping out.

Third, under the Senate bill there was a trade-off of the cost savings from this amendment to the funding of a new nutrition education program. And, the Department of Agriculture and some of the House conferees accepted the Senate's new nutrition education program with the understanding that overall it would not increase the budget for the school lunch program since there was this trade-off of funds.

For all of these reasons, Mr. Speaker, the House conferees accepted this Senate amendment regarding the milk program. But, again, I would like to assure my colleague that the committee stands ready to examine the effects of this provision to determine if remedial action is necessary next year.

Again, as I stated to the gentleman from Wisconsin, Mr. CORNELL, we will do our best to work this situation out next year. He is a member of the committee and has worked untiringly to make this the best bill possible. I certainly wish to congratulate the distinguished gentleman.

Mr. CORNELL. I thank the chairman, and I want to assure him, of course, that we in Wisconsin are well aware, without any further education, of the nutritional value of milk.

Mr. PERKINS. I am sure of that. I well understand the gentleman's position, and I am a deep believer in making sure that we get our school lunch milk.

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

Mr. PERKINS. I yield to the gentleman from Minnesota. I want to state that no one has been more devoted and considerate than has the gentleman from Minnesota in trying to fashion a workable program and the best program possible for the schoolchildren of this country.

I yield to the gentleman.

Mr. QUIE. I thank the gentleman for yielding.

This is the one part, I would say to the chairman, that gave me real reservations, because I voted against receding to the Senate on this issue.

I am concerned. It has been raised by Earl Teppley, the assistant director of the school lunch program in Minnesota, that many children who are eligible for the free lunch in fact bring a lunch from home. If this Senate provision is read strictly, or even literally, then such children would be denied even one free milk under the special milk program. I do not think this was the intent of the conferees of the House or the Senate. My hope is that the Department of Agriculture will frame its regulation so as to avoid it.

I would like, then, to ask the chairman if he agrees with me that a person who does bring a lunch from home and qualifies for a free milk should be able to receive it.

Mr. PERKINS. I wholeheartedly agree with the distinguished gentleman from Minnesota, Mr. QUIE's statement. We never intended anywhere along the line to deny any child in the lunchroom from receiving the milk that the child was entitled to. I would certainly think that if the Department had a regulation that they issued to that effect, it would be issued contrary to the law and contrary to the intention of this Congress. Not only that, but it would do great harm and violence to the schoolchildren of this country, and I cannot visualize the Department going that far in construing the Senate language.

Mr. QUIE. Secondly, I will say to the chairman I decided not to raise a strong objection here so that this legislation can go through. I want to take a look at it and see what kind of harm we might be causing, because I do not see that there is anything wrong with providing the second half pint of milk, as we did before, to those receiving class A lunches. However, we do have legislation coming up early next year. Is it the chairman's contention that we can take up the special milk program again then to make any corrections that we find we need to make to correct any mistakes that we have made in this legislation?

Mr. PERKINS. It is the chairman's intention, along with the cooperation of the distinguished gentleman from Minnesota, to bring legislation up early next year on other expiring feeding programs and at that time to give thorough consideration to the entire milk program, and make sure that we do not let this milk program slide backward.

To my way of thinking a child needs milk, and the bones of that child need milk, and I want to do everything possible to make sure we have a sound milk program.

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

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

Mr. BLOUIN. I would like to thank the chairman, first of all, for the commitment he made with regard to the milk program and his promise to take another look at it next year and also to compliment the gentleman for his leadership throughout the conference committee. It is an enjoyable experience to work with him on a conference.

I compliment the fine product that we were able to come up with. I support it.

Mr. PERKINS. Mr. Speaker, let me respond by saying there is no way that the committee can overlook the milk program when we have such individuals on the committee as those who presently constitute it, such as the gentleman from Iowa (Mr. BLOUIN). He and the gentleman from Wisconsin and many others have been out in the forefront. Maybe they had another motive in mind—the farmers—but these Members first had in mind taking care of the schoolchildren of this country. We will certainly get this worked out, I am very sure, to their satisfaction next year.

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

Mr. PERKINS. I yield to the gentleman from New York (Mr. WEISS).

Mr. WEISS. Mr. Speaker, I thank the gentleman from Kentucky for yielding. At the outset I compliment the distinguished chairman of the Education and Labor Committee for the fine leadership he has given the committee and the House in providing for the well-being of the schoolchildren throughout this country. We all owe him a debt of gratitude.

I also join with him in the fine words he expressed and the appreciation he expressed for the gentlewoman from New York (Ms. HOLTZMAN).

Mr. Speaker, the bill now before us, H.R. 1139, as reported by the conference committee, is an excellent bill and one which I am proud to support. Changes contained in this bill reflect a growing awareness of the need to facilitate program administration, thereby improving program operation and expanding participation in all the child nutrition programs.

Several provisions facilitate improved program administration. The amount of State administrative expense funding has been increased, so that sufficient funds are available to State agencies to fully and effectively administer the school food and child care food programs. At the same time, the Secretary is charged with the responsibility of developing reasonable State staffing standards to insure that sufficient staff is available to administer these programs. And State agencies are required to submit a plan each year to the Secretary, detailing the plans for utilization of State administrative moneys. Increased funding, staffing patterns, and State blueprints for expenditures, are all geared to improving program administration with the end result of increased program participation. We expect the Secretary to develop reasonable staffing standards to insure that proper attention is paid to each program covered by State administrative funds—school breakfast, school lunch and child care feeding. Only by careful monitoring by the Secretary, and aggressive action by the States, will these child nutrition programs reach the congressional goal of meeting more effectively the nutritional needs of our children.

The summer food program has been substantially amended, and thereby improved. Specific criteria have been provided to assist State agencies in approving sponsors and vendors. Thus, a sponsor entitled to participate is one which has adequate administrative and financial capabilities and has not been deficient in prior program operation. Vendors must register with the State agencies, disclosing any past history with the program, to enable States and sponsors to judge the capabilities of vendors with whom they enter into contracts.

Emphasis has been placed on State administration. State agencies are required to provide technical assistance to

sponsors in applying for and conducting the program, as well as encouraging self-preparation of meals by sponsors. Specific efforts must be made by the Secretary and the State to encourage rural participation, and again, technical assistance in applying—and conducting—the program is required. The detailed management and administration plans, required to be submitted to the Secretary, will enable the Department of Agriculture to effectively monitor program operation, and to improve program participation by insuring the statute and the regulations are fully complied with.

Provisions in contracts for food service include a requirement for food quality and safety standards, and meals provided by a food service management company must be periodically inspected to assure compliance with local health standards. To assist States in this responsibility, up to 1 percent in additional program funds may be used for State and local health department inspections and meal quality testing. These provisions should improve the quality of meals provided by food service management companies, and thereby improve consumption and participation, minimizing program abuse in this area.

At the same time, self-preparation by sponsors is actively encouraged. In addition to the development of model meal specifications by the Secretary, and encouragement by the State agency of self-preparation, sponsors which self-prepare meals are entitled to a higher percentage of advance funding. All sponsors are entitled to receive advance funds by June 1, July 15, and August 15, to facilitate program operation. For those sponsors contracting with a food service management company, the amount equals 50 percent of the amount needed during the month in which the payment is made, while a sponsor which self-prepares meals is entitled to receive 65 percent. Advance funding is an important adjunct to effective sponsor operation. State agencies must take necessary steps to provide these funds to sponsors on a timely basis, as required by the statute, as well as provide additional reimbursement earned within 75 days after a valid claim is received. Too often have programs been unable to operate because of delayed advance funding, and too often have good sponsors been unable to continue because of slow reimbursement. These provisions, fully adhered to, should facilitate smooth program operation and expanded participation.

All in all, the summer food program will be substantially strengthened as a result of the conference committee's work, and clear-cut lines of administrative responsibilities should result in expanded participation.

The conference committee has also taken steps to improve participation in the school breakfast program, in furtherance of the 1975 requirement to expand the school breakfast program to all needy schools. In recognition of the increasing cost of preparing nutritious school breakfasts, the committee has increased the reimbursement rate for those schools designated as especially needy. At the same time, the bill requires each State to formulate criteria which entitle schools to receive the higher especially needy rate of reimbursement. These criteria are to be included in the State plan of child nutrition operations required under section 11 of the National School Lunch Act, and are subject to approval by the Secretary. The more realistic rates of reimbursement will provide an important incentive to schools, enabling them to participate in the school breakfast program. And the inclusion of the State's criteria for especially needy rates of reimbursement in the State plans will enable the Secretary of Agriculture to carefully monitor State efforts at program expansion. These two provisions are useful tools to facilitate the required participation of all needy schools in the school breakfast program.

Mr. PERKINS. Mr. Speaker, let me in response state that the gentleman from New York, as I recall, sat by the side of the gentlewoman from New York. He was very much interested and did everything in his power to see that we wrote the best bill and the best possible piece of legislation to eliminate the corruption that had taken place in many areas of the country, and the gentleman made a great contribution.

Mr. WEISS. I thank the chairman.

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

Mr. PERKINS. I yield to the gentleman from Wisconsin (Mr. STEIGER), my former colleague and great friend.

Mr. STEIGER. Mr. Speaker, I appreciate the chairman's yielding.

I regret exceedingly that I was not on the conference at least on this occasion. Perhaps I could have helped my friend, the gentleman from Minnesota. I am amazed at what has been done insofar as the milk program is concerned. The gentleman understands of course that I have some interest in that, given my own constituency.

Can I clarify with the gentleman from Kentucky what his intention is? This severely disrupts the existing program. I recognize, given the Department of Agriculture's letter, the reason that some changes were necessary. What is the gentleman going to deal with next year, that might necessarily include the gentleman from Wisconsin (Mr. BOB CORNELL) and the gentleman from Vermont (Mr. JIM JEFFORDS) and the gentleman from Minnesota (Mr. QUIE) and others, to handle this issue? What is it that we have a shot at next year that might correct what I think otherwise is a very serious mistake?

Mr. PERKINS. Let me state to my distinguished former colleague on the committee, that perhaps if he had not moved on to the Ways and Means Committee, this legislation would not have been in this condition. Maybe we would have kept the second pint of milk without any problems. But notwithstanding, I feel that without identifying the schoolchild there is a way to work this situation out.

Under mandatory regulations now, we take that second pint of milk, perhaps not during the regular noon meal, but in an off period, and look up that child and set that milk down before him. That is embarrassing to all of us. We can overcome any problems with eliminating that second milk next year when we deal with the WIC program and the child care program, but both of which expire next year.

There is no earthly reason why with the assistance of the people that come before our committee and if they will spend a half hour or so that we cannot find some way to work this out without identifying this particular child.

Mr. STEIGER. Mr. Speaker, if the gentleman will yield further, and I am grateful for these comments, the gentleman may be sure, and I will be back.

I must say, given what has happened, I would be constrained to vote against the conference report if it comes to a vote.

I very much appreciate the commitment of the gentleman from Kentucky that we will have a chance to vote on this again next year. I appreciate that assurance.

Mr. PERKINS. Mr. Speaker, let me say we very much appreciate the help of the gentleman from Wisconsin.

Mr. MILLER of California. Mr. Speaker, will the gentleman yield?

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

Mr. MILLER of California. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to lend my support to the conference report and I want to compliment the chairman of the committee for the gentleman's work and also to the members of the minority on the committee for their work in putting together a program that I think was conceived in chaos and in allegations of corruption and a program that has resulted in something we can hold our heads high and be proud of. I think we have reached that balance where we can expand participation and at the same time dramatically increase the use of Federal funds in these programs. I wholeheartedly endorse the conference report.

Mr. Speaker, the conference committee has reported out a child nutrition bill, H.R. 1139, that demonstrates our continuing concern for improving child nutrition program administration and participation.

In recognition of the fact that State agencies must play an active role in administering and improving program operation, the conference bill increases the level of State administrative expense funding available. State educational agencies will receive an amount equal to 1 percent of program expenditures in fiscal year 1978, and up to 1½ percent in fiscal year 1979 and 1980, to enable them to conduct the school feeding and child care feeding programs. This increase will enable State agencies to take aggresive steps to improve program participation in these areas. To insure this goal, the Secretary has been directed to develop State staffing standards, so that sufficient

personnel for planning and administration are available. We do not expect the Secretary to establish a universal staffing standard, but we do expect to see staffing standards related to program size and need developed, and enforced. Only in this way may we be assured that the moneys available are being well utilized in improved and expanded program operation. The State plans for utilization of administrative funds, required by the conference bill, must be scrutinized by the Secretary, to insure that realistic staff allocations are made to improve and expand each child nutrition program.

A very important tool has been made available to State agencies and to schools to bring about the much-needed and mandated effort to expand the school breakfast program to all needy schools, such as the schools in which 25 percent or more of the children qualify for free or reduced-price meals. Each State agency must develop criteria by which schools qualify for higher reimbursement rates as being especially needy. These criteria, which of course must be reasonably related to a positive expansion effort, must be approved by the Secretary of Agriculture and included in the State's plan of child nutrition operations. Each school meeting the established criteria shall receive especially needy reimbursement for each free breakfast served. The reimbursement rate has been initially established at 10 cents over the basic national average payment. At the same time, the Secretary will calculate semiannually the impact of the rise in the Consumer Price Index on the current 45-cent reimbursement rate. When the differential of such calculations exceeed 10 cents, the especially needy schools will be entitled to receive the higher rate of reimbursement. This long-needed adjustment in especially needy reimbursement rates is another indication of our commitment to expand the school breakfast program to all needy schools. Those schools which cannot prepare and serve nutritious breakfasts because of high costs are now insured reliable and adequate funding and should be actively encouraged to participate in the program. We expect the Secretary to monitor the State definitions of especially needy so that only those definitions are approved which reasonably reflect the needs of expanding this program to all needy schools as expeditiously as possible.

The conference bill restores to the Secretary his authority to regulate the sale of competitive foods during school meal times. This authority is limited to foods which are approved by the Secretary, but is clearly broad enough to allow regulations limiting or prohibiting the sale of non-nutritious foods at the same time school meals are being served. We encourage the Secretary to effectively exercise this authority to further the goals of the act, providing nutritious meals to children, and thereby reducing plate waste.

The conference bill provides for many improvements in the administration of the summer food program, aimed at reducing abuse and encouraging expanded participation. Any eligible sponsor is entitled to participate in the program if it has adequate administrative and financial capabilities and a clean record in past program operation. In addition, eligible sponsors must provide a year-round service to the community, unless eligible children would not otherwise be served. The Secretary should provide guidelines for what constitutes community service to assist sponsors and State agencies in meeting the legislative requirements.

Food service management companies desiring to participate in the program will be required to register with the State agency, and a central record will be maintained by USDA of such registrations. This provision will enable States and sponsors to obtain information about such companies' past performance in the program, prior to entering into contracts, improving meal service and program operation.

State responsibilities have been clearly defined, with the goal of encouraging aggressive and effective program expansion and administration. To enable the Secretary to monitor State agency actions in this area, the State plan of summer food program management and administration requires specific, detailed information as to how the State's responsibilities will be carried out. This type of detailed plan is necessary, as a blueprint for the State agency, as a monitoring tool for the Secretary, and as an informational guide for the interested public. Effective program operation necessitates detailed planning and good monitoring. The State plan provides an excellent management tool to accomplish these purposes. The Secretary will be able to anticipate problems related to overly lax or overly stringent State administration.

A provision of the State plan requires that the State agencies provide aggrieved sponsors with a fair hearing and timely decision. This provision is an important one; it allows sponsors who believe that they have been unfairly denied program participation, or incorrect reimbursement, to appeal their denial to an impartial authority. It is to be hoped that the Secretary will publish standards for the fair hearing procedures so that sponsors in each State are assured of uniform treatment of their grievances, just as in the supplemental feeding program for women, infants, and children.

Substantial attention has been paid throughout this bill to improving the quality of meals served in the child nutrition programs. Technical assistance with regard to self-preparation and menu planning in the summer food program, solicitation from educational agencies on their needs for commodities, technical assistance on use of commodities in school meal programs, and the provision for nutrition education are all indicative of the committee's concern with improving program benefits and participation. The committee is to be commended for its work on this bill, and I urge every Member to accept the conference report.

Mr. PERKINS. Mr. Speaker, let me respond to the distinguished gentleman from California (Mr. MILLER).

There is not a more persevering Member in the Congress on any subject matter. This conference report that we have brought before the House today is the work of the entire Committee on Education and Labor, with members like the Congressman from California (Mr. MILLER) who contributed. The minority contributed. It is the work of the entire committee. I think it is a well thought out conference report.

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

Mr. PERKINS. I yield to the gentleman from New York (Mr. ZEFERETTI).

Mr. ZEFERETTI. Mr. Speaker, I thank the gentleman for yielding.

I, too, would like to join in strong support of the conference report and join in the words of compliment to the gentleman from Kentucky for the gentleman's leadership.

Also, I would like to mention the fact that we saw a program which the gentlewoman from New York exposed, with the type of confusion and type of abuse and the things that were going on in New York toward the program. We saw a tightening up of those abuses. We saw work going toward the resolving of some of the abuses.

More importantly, collectively as a unit in our committee, we put aside our differences. We worked together with the minority and the majority to produce this type of bill.

I think from this day forward, anyway, we can eliminate that type of abuse from ever happening again.

Mr. PERKINS. Mr. Speaker, I want to thank the gentleman from New York. The gentleman certainly made an important observation, that we worked collectively to make sure that these abuses were eliminated in order to have a better program. We were all interested in this to the extent that we knew if we did not correct these abuses, as has been pointed out here today by the gentleman from New York and others, that we would have trouble expanding the program in the future, and we have made a coordinated effort to clean up the people who have tried to profiteer and drag this program down.

Mr. QUIE. Mr. Speaker, I support the conference report on H.R. 1139, the National School Lunch and Child Nutrition Amendments of 1977. I think it represents a constructive compromise of differing House and Senate versions of the bill, which except in a few but fairly critical ways did not differ significantly.

At the outset I would like to say that neither bill contained specific limitations I would like to have seen on participation in the summer feeding program—limitations designed to insure that the number of participants does not exceed the number of needy children in a particular area which is being served. However, both bills greatly tightened administrative

controls over this program, and there already is evidence from the final tally of approved payments in New York City for this last summer that improved administration has dramatically cut down on phantom participants and other forms of fraud. Incidentally, I understand that legal counsel in the Department of Agriculture has raised an issue of whether excess State administrative funds provided by other sections of these two acts could be used to bolster State administration of this program. I think Congress intended this to be possible and to continue to be possible under these amendments. The alternatives to adequate State administration are an uncontrolled program or abdication of State responsibility in favor of Federal administration. These alternatives are almost equally undesirable.

One of the very good things in this conference report is that it adopts the Senate's scheme of setting priorities for choosing sponsors when more than one sponsor applies to serve an area eligible to receive the summer feeding program, but it moves public and nonpublic schools into the category of first preference, along with organizations which have proven to be good sponsors in the past. Our experience, gained through both extensive hearings and field investigations, is that the problems with this program tend to be very few when schools are the sponsors, and even fewer when schools both sponsor the program and prepare the meals.

Both bills contained what I considered to be unfair and too limited provisions restricting the use of equipment funds. The provisions would make it difficult to use the funds for equipment in schools which heat up preplated frozen meals rather than prepare and serve hot food on the premises or serve hot food prepared in a central kitchen and transported to the schools. I say these provisions were unfair and too restrictive because, while there have been some problems with quality control in preplated frozen meals—again, largely in New York City—our committee had testimony from the District of Columbia and other sources that preplated frozen meals can be an alternative in which the food is of high quality, very nutritious, attractive, and liked by the students. It is a less expensive operation, whether the meals are prepared and frozen in a central school system kitchen or purchased from a commercial source. But the real point is that for many inner-city public and private nonprofit schools this is the only feasible method of food service, and these schools should not be discriminated against in the distribution of equipment funds. Fortunately, the conference report adopts the less restrictive House language and the statement of managers makes it very clear that no such discrimination is intended. It merely affords a priority for equipment to prepare and serve, or receive, hot meals on the premises, without making alternative methods impossible to utilize.

The Senate bill contained three provisions which particularly troubled me and I would like to discuss the conference report treatment of those.

As I mentioned in my colloquy with Chairman PERKINS, one was the removal of a provision of the special milk program which assured, in effect, service of two half-pints of milk to children from families whose low income qualified the children for both a free lunch and a free milk. The proponents of this claimed that the "duplication" of milk service was unnecessary and costly. But I voted against receding to the Senate on this issue. I do not consider the service of a pint of milk to a needy child to be excessive. Milk is still the best and most natural food known, except for a very few persons whose bodies cannot chemically tolerate lactose. A full pint of milk for a child who probably is a nutritional risk does not seem to be unwarranted.

Moreover, as Earl Tepely, our State assistant director of the school lunch program in Minnesota pointed out to me, many children who are eligible for a free lunch, in fact, bring a lunch from home. If the Senate provision is read strictly, or even just literally, such children will be denied even one free milk under the special milk program. I do not think this result was intended by the conferees or by the Senate, and I hope the Department of Agriculture can frame its regulations so as to avoid it—and I hope Chairman PERKINS and others will cooperate with me in avoiding such a result. I appreciate the chairman's assurances, but it shows the peril of acceeding too quickly to provisions which may not have been very well thought out.

Second, the Senate bill completely repealed the second sentence of section 10 of the Child Nutrition Act which prohibited the Secretary, from banning or otherwise controlling competitive food service—that is, service which competes with the subsidized school lunch including the a la carte line of the school cafeteria—if the profits of it innure to the benefit of the school—which includes the school lunch account—or to an organization of students approved by the school. This sentence, added in 1973, put control of the competitive food service squarely where the control of school administration belongs—with State and local educational agencies. Had the school lunch program been administered by HEW instead of Agriculture the authority asserted by regulation by the Secretary of Agriculture prior to 1973 would have been contrary to a provision of the General Education Provisions Act which prohibits Federal control of the administration of schools. Prior to the 1973 amendment which inserted this sentence—which applied to regulations under both the School Lunch and Child Nutrition Acts—the Secretary not only dictated the foods which could be served in a competitive service, but he gave the school lunch program a monopoly. I sponsored the 1973 amendment when I discovered that student organizations could not sell fresh fruit around the time or near the premises where the school lunch was served.

Admittedly, an indeterminate number of school systems—despite authority at both State and local levels to control the kinds of foods served competitively, or even to completely prohibit a competitive service—permitted the sale of foods such as candy bars and carbonated beverages which many physicians, nutritionists, and parents regarded as being inappropriate, or so-called "junk foods." But I personally did not regard this as sufficient reason for the assertion of one of the most damaging and democratically untenable doctrines of our times: "Washington knows best!"

Nevertheless, with the assistance of my colleague from Michigan, Mr. FORD, the Senate position was essentially rejected by an amendment to the 1973 language giving the Secretary authority to control the kinds of foods sold competitively but not to give the school lunch program a monopoly. The conference report provision is accompanied by a statement of the managers adopting the Department of Agriculture's own interpretation that this is a limited power to be used sparingly to encourage the sound nutrition and nutritional habits of school children. I expect that understanding to be adhered to strictly and in good faith.

Finally, I am happy to come back to this House with a 3-year nutrition education program but not pleased that it contains an automatic entitlement for the first 2 years. I finally agreed to this entitlement provision because the bill overall is a good one and compromise is the essence of the conference procedure. But I must sound the warning raised too late in the Senate from both sides of the aisle: It is imperative that this Congress insures the integrity of its new budget control legislation and procedures. Uncontrollable expenditures not subject effectively to the regular appropriations process—for whatever worthy purpose—cannot be permitted to proliferate. A very large portion of the Federal budget is now beyond the control of either the Congress or the executive branch. An uncontrolled and uncontrollable Federal budget is one of the greatest economic disasters which could befall our people and our Nation. This one item for nutrition education, probably not exceeding $27.7 million for each of 2 years, after which the normal authorization-appropriation process is restored, is not large as such things go. But it goes very much in the wrong direction and I regret that the Senate conferees so obdurately insisted upon it. I must say that the Department of Agriculture's spokesman at the conference, on behalf of the Department and the administration, fought hard and long and, in my mind, persuasively, against this provision.

There are some other provisions which may need clarification. One is an amendment I offered to the nutrition education section which requires States to provide at least one-half the administrative funds for that program. That means cash, rather than "in kind" contributions. Customarily, when we intend that matching can in part be made up of "in kind" contributions we spell that out in the language of the statute. Here we were dealing only with administrative costs in terms of cash outlays.

Second, in the same vein, the administrative costs which may be reimbursed

and must be matched are State costs, not local administrative expenditures, and it is not the intention that such expenditures be used as part of the State administrative costs.

Finally, I am concerned that with a program such as nutrition education being commenced so late in the first year on an entitlement basis that someone in the Department may rule that unused funds can be carried over into the next year, with the result that when added to the second year of funding there may be a pool of funds much larger than required to plan and set in operation a good program. The temptation then is to spend the funds hurriedly and wastefully near the end of the second year. That has happened before in other programs. But here there is no authority for a carryover of funds specifically for this program. Had we intended one we would have expressly written it into the statute in the manner we did for State administrative funds for fiscal 1978 for general program purposes under the two acts. I want to see an effective and successful nutrition education program, but this end is not promoted by hasty and unnecessary expenditures.

As I say, overall I think we have reached a good compromise and have brought from it a good bill. It contains many important technical and substantive amendments to the two acts which have for the most part been outlined in detail by Chairman PERKINS. I think, however, that it is time we incorporated all these programs into a single Child Nutrition Act which would be far easier to understand and administer, and I hope the administration will encourage such an effort next year.

Even with the reservations I have expressed, I strongly support and urge adoption of the conference report.

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

Mr. Speaker, I certainly want to commend the chairman and the other Members of the committee for the bill and for the conference report, with one exception. Because of that exception, I must say I will vote against the conference report.

I am deeply concerned, as has already been expressed, at the elimination of the mandatory special milk program.

I do so because it is difficult for me to see, to understand, the reasons which have been utilized to do away with this program. If it is as horrible as would seem to be indicated, and all of these schools were having this problem, why is it that in the 3 years I have been here—and I have listened to most of the testimony—not a single objection was raised to this program during the committee hearings? Then, all of a sudden this bomb is dropped on us that the program is being done away with because they say it is creating real problems of stigma.

It is difficult for me to understand how that could come about when not one single witness brought it to our attention. We had witnesses from all categories, including schools, nutrition experts, and so forth. All of a sudden it is done away with. I cannot see that. It is hard for me to understand that.

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

Mr. JEFFORDS. I certainly will yield to the distinguished chairman.

Mr. PERKINS. First, let me say to my distinguished colleague that it has been a problem for quite a period of time. The Department of Agriculture has made public statements, or at least they have conveyed to me information that schools were dropping out of the program entirely because of the milk program. They were dropping out of the milk program because they were identifying this program with the needy child. They were cutting off their noses to spite their faces, and I regret that the schools took this attitude and dropped out of the milk program.

With 4,000 schools having dropped out of the public milk program entirely, we are depriving all the children of milk. For that reason, this provision was dropped this year for further study. I think that we will come up with a solution for this extra half pint of milk next year. I do not think there is any doubt about that, and I think the gentleman from Vermont can make a contribution.

Mr. JEFFORDS. I would like to point out that the letter is very indefinite. It says 4,000 schools have dropped out. However, the majority have come back in. We do not know why the rest did not come back in or why the majority have come back in, which indicates that the problem must have been resolved, or there must be some solution to it. We do not know if the majority is 3,999 or 2,001.

My point is that it was never really serious enough to be brought up in committee, even if it was brought to the attention of the chairman. At least, from my discussion with other Members, I do not know whether it was brought to the attention of the committee, but at least in the time I have been here it was not. I appreciate very much the chairman's comments.

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

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

Mr. SIMON. I have just done some quick calculating. I have the letter from Carol Tucker Foreman. It suggests, if the statistics are correct, that we are talking about roughly 3 percent of the total milk program, talking about a relatively small amount in which we have some problems with identification of poor children, and problems that are severe enough that Senator MCGOVERN, who sponsored the original milk program, moved to do away with it.

I think that there are enough who feel as the gentleman does, and as I do and as the chairman does, that if we see that there is a need for some modification and a renewal of the program, we can move there very, very rapidly. But, as the gentleman knows, conference committees are compromises. This is something that was not discussed on the House side, but the reasons established on the Senate side seemed to be substantial enough that we had to give serious consideration to it, particularly since it came from Senator MCGOVERN and was unanimous on the Senate side, from Senator DOLE and all the others, and from the Department of Agriculture.

Mr. JEFFORDS. That brings me to my next point. This trade-off, which to me is a false trade-off, as apparently the trade-off was made in committee, reduces the cost of the program by some $31 million. First, it must be significant.

Thirty-one million dollars worth of milk means a lot of milk. It is hard for me to understand how the reduction in consumption of $31 million in milk by needy children somehow is going to provide them additional nutrition.

Secondly, with a surplus situation we have now, the fact that we do not buy it in the school milk program means it will wind up in the storehouse. It will not save any money.

So to me, it is a false trade-off. Further, on the same point, recently this body passed the Agricultural Act of 1977 and in that act we accepted a responsibility to our Nation's dairy farmers. To suddenly remove this sizable fluid market would seem to me to run contrary to everything else we are attempting to do. The potential loss in fluid sales runs over $30 million. This loss will have to be absorbed and it will be the Commodity Credit Corporation that picks up the slack. At this time the CCC does not need this kind of help. On October 1 the stocks in the CCC were as follows:

	Million pounds
Cheese	69.7
Butter	162.2
Milk powder	634.0

This Congress, the U.S. Department of Agriculture and other agencies having an influence on programs such as the special milk program should not be discouraging program use. Rather, we should all be doing our part to make such programs grow.

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

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

Mr. PERKINS. I thank the gentleman for yielding.

Mr. Speaker, we have been working on this school lunch program, and it is the largest feeding program in the world. Many Members in this Congress and I have been working on this for a quarter of a century. It has been the policy all through the years, even with the concept of a free and reduced price lunch, that, when we have made those lunches available, we try to work out ways not to identify that child to embarrass him. And that is what this all boils down to here. I do not say that we have the answer today. I think we can work it out. But if schools are dropped out of the program and deprive all of the children the milk, we are going to have more milk stored up in the warehouses until we find a solution. We are going to find a solution today in all of the regular programs. They all get one-half pint of milk. We are talking about the extra half pint for the reduced price for the free-lunch kids,

going around at 10 o'clock in the day, looking them up at recess or in the classroom, and dropping off one-half pint of milk, at a different hour from the time of having them go to the lunchroom at 10 o'clock or at 2 o'clock, separate from the regular school lunch, youngsters from the regular program. That is the reason they have been identified. It has been embarrassing to the youngsters. That is the reason many schools have dropped out of the program, which deprives the children in the regular school lunch program of their milk. This is the issue, and this is the issue the gentleman from Vermont can help us correct next year. We are going to bring it up.

Mr. JEFFORDS. Mr. Speaker, I think the way to make the changes is to study the problem and determine whether or not there is a cause and effect relationship, not to come through with a decision that takes everybody by surprise. First we should establish: Is there a problem?

It is very difficult for me to follow that reasoning. It seems to me that we are going at it backwards.

Second, the economy of this is totally false. We are saying we are saving something, and we are not. The taxpayers are going to pay for it one way or another. I would rather have it go to needy children rather than a storehouse.

Third, it seems to me that we have something the kids want—it is nutritious—and we are going to take it away from them, in the hopes they will use something else.

This great Nation of ours which should be capable of adequately nourishing the bodies of every individual is presently falling far short of that mark. About 1 in every 4 people are nutritionally deprived. It would seem to me that a program such as the special milk program is an excellent avenue to pursue in overcoming this deficiency. As I understand the arguments presented to the Senate, there were primarily two reasons for this proposed change, namely, the inability of school personnel, particularly at the secondary level to administer the program and the discrimination factor of having these nutritionally deprived children identified by their peers. It would seem to me that with the USDA and educational community expertise that these problems could be overcome.

For these reasons I will vote no in protest to what I believe is a step backward in providing good food to our children.

Mr. BLOUIN. Mr. Speaker, I take great pleasure in rising in support of H.R. 1139. The conference committee has reported a bill which contains needed improvements in several child nutrition programs.

The summer food program, a major portion of this bill, has been substantially revamped, making it stronger and less open to abuse. At the same time program operation has been improved, to insure that all eligible children are given the opportunity to participate. Thus, the bill provides that all eligible sponsors are entitled to conduct the program. To reduce program abuse, eligible sponsors are specifically defined as those with adequate administrative and financial capabilities; sponsors which have not been seriously deficient in past program operations; and sponsors which provide a year-round community service. In an important effort to expand participation, the Secretary and State agencies are required to actively seek eligible sponsors in rural areas, and to provide them with assistance in applying to participate. This provision will insure that attention is focused on expanding benefits for children in rural areas, where program participation has been low.

To facilitate program administration, at the same time insuring that all eligible children have an opportunity to participate, the bill provides for an order of priorities to be applied when sponsors compete to serve the same children or areas. Those sponsors which have previously administered successful summer food programs will be given first priority when choosing between competing sponsors. Encouraging continued participation by experienced sponsors is beneficial both to program administrators and to children.

Emphasis throughout the summer food program changes has been focused on encouraging sponsors to self-prepare meals. Thus, the State agencies are charged with responsibility to develop model meal specifications, with help from the Secretary. States are required to include in their State plans of operations the methods they will use to encourage and expand the use of self-preparation by sponsors. Technical assistance from the States must be made available to encourage expanded participation by sponsors, and to increase capability for self-preparation.

These provisions, together with ones specifically related to curbing abuse by food service management companies, the requirement of a reimbursement study which will result in more equitable food service and administrative cost reimbursements, earlier time frames for publication of regulations and instructions, and clearly delineated Federal, State, and sponsor responsibilities should go far to improve program performance and participation.

Concern with improving the quality of foods available in school meals program was evidenced in several ways. The conference bill extends the benefits of nonfood assistance reserved funds to those schools which are without the facilities to prepare and cook or receive hot meals. This provision will enable schools in districts which have central kitchens to obtain funds to enable them to purchase equipment to cook and receive meals prepared in the central kitchen. We intend to encourage the utilization of self-prepared meals in the school feeding programs to the maximum extent possible.

Thus, procedures which allow local educational agencies to report to the State agencies as to the type of commodities and the requirement that the Secretary provide technical assistance as to the use of commodities in the school feeding programs should also be geared to encouraging self-preparation and better utilization of those commodities made available by the Secretary.

The conference bill takes necessary steps to bring about the expansion of the school breakfast program to all needy schools as required in Public Law 94–105. First, each State will be required to establish criteria by which a school may be determined to be eligible for additional reimbursement for breakfasts. These criteria, subject to the approval of the Secretary, must be included in the State plans of child nutrition operations. Any school meeting these eligibility criteria will be eigible for a higher rate of reimbursement, as being "especially needy," enabling it to meet the costs of providing nutritious breakfasts for children.

The reimbursement rate for schools in "severe need" has been adjusted to reflect increasing costs. Currently, no school may receive more than 45 cents for breakfast. This "especially needy" rate has not changed since 1972, although the cost of preparing meals has increased substantially. The conference bill establishes an initial rate of 10 cents higher than the national average payment for free breakfasts. At the same time, the Department is required to adjust semiannually the 45 cents figure in accordance with the Consumer Price Index. At such time as the semiannual readjustments result in a differential higher than 10 cents above national average payment, the higher "indexed" differential will be applied. We are hopeful that the establishment of reasonable criteria by which schools are determined eligible for especially needy reimbursement, and the provision of sufficient funding for such especially needy schools, will bring about the mandated expansion effort by the Secretary and the States. Implementation of this section will create an incentive for schools in which a significant percentage of children are eligible for free or reduced-price meals to participate in the school breakfast program, so that the school breakfast program is made available in all needy schools.

The conference committee's concern for better program operation, expanded participation, and better nutrition runs throughout the bill. Because of this concern, the committee has returned to the Secretary his authority to issue regulations concerning the sale of competitive foods which do not meet the Secretary's approval. Judicious use of this authority will result in the issuance of regulations which limit the sale of empty-calorie junk foods during school meal times, thereby decreasing plate waste, and encouraging the eating of a nutritious lunch. At the same time, such regulations will assist in the process of nutrition education, by focusing on nutritious snacks and meals. We encourage the Secretary to use this authority wisely, and in furtherance of the congressional goals of improving child nutrition through the school meals program.

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

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken.

Mr. ROUSSELOT. 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 386, nays 17, answered "present" 1, not voting 30, as follows:

[Roll No. 708]

YEAS—386

Abdnor	Daniel, Dan	Heckler
Addabbo	Daniel, R. W.	Hefner
Akaka	Danielson	Heftel
Allen	Davis	Hightower
Ambro	de la Garza	Hillis
Ammerman	Delaney	Hollenbeck
Anderson, Calif.	Dellums	Holt
	Dent	Holtzman
Anderson, Ill.	Derrick	Horton
Andrews, N.C.	Derwinski	Hubbard
Andrews, N. Dak.	Dickinson	Huckaby
	Dicks	Hughes
Annunzio	Diggs	Hyde
Applegate	Dingell	Ichord
Archer	Dornan	Ireland
Armstrong	Downey	Jacobs
Ashbrook	Drinan	Jenkins
Ashley	Duncan, Oreg.	Jenrette
Aspin	Duncan, Tenn.	Johnson, Calif.
Badillo	Early	Johnson, Colo.
Bafalis	Eckhardt	Jones, N.C.
Baldus	Edgar	Jones, Okla.
Barnard	Edwards, Ala.	Jones, Tenn.
Baucus	Edwards, Calif.	Jordan
Bauman	Edwards, Okla.	Kasten
Beard, R.I.	Eilberg	Kastenmeier
Bedell	Emery	Kazen
Bellenson	English	Kelly
Benjamin	Erlenborn	Kemp
Bennett	Ertel	Ketchum
Bevill	Evans, Colo.	Keys
Biaggi	Evans, Del.	Kildee
Bingham	Evans, Ga.	Kindness
Blanchard	Evans, Ind.	Kostmayer
Blouin	Fary	Krebs
Boggs	Fascell	Krueger
Boland	Fenwick	LaFalce
Bonior	Findley	Lagomarsino
Bowen	Fish	Latta
Brademas	Fisher	Le Fante
Breaux	Fithian	Leach
Breckinridge	Flippo	Lederer
Brinkley	Flood	Leggett
Brodhead	Florio	Lehman
Brooks	Flynt	Levitas
Broomfield	Foley	Livingston
Brown, Mich.	Ford, Mich.	Lloyd, Calif.
Brown, Ohio	Ford, Tenn.	Lloyd, Tenn.
Broyhill	Forsythe	Long, La.
Buchanan	Fountain	Long, Md.
Burke, Calif.	Fowler	Lott
Burke, Fla.	Fraser	Luken
Burke, Mass.	Frenzel	Lundine
Burleson, Tex.	Fuqua	McClory
Burlison, Mo.	Gammage	McCloskey
Burton, John	Gaydos	McCormack
Burton, Phillip	Gephardt	McDade
Butler	Giaimo	McFall
Byron	Gibbons	McHugh
Caputo	Gilman	McKay
Carney	Ginn	McKinney
Carr	Glickman	Madigan
Cavanaugh	Gonzalez	Maguire
Cederberg	Goodling	Mahon
Chappell	Gore	Mann
Chisholm	Gradison	Markey
Clay	Grassley	Marks
Cleveland	Gudger	Marlenee
Cochran	Guyer	Martin
Cohen	Hagedorn	Mathis
Coleman	Hall	Mattox
Collins, Ill.	Hamilton	Meeds
Conable	Hammer-schmidt	Metcalfe
Conte		Meyner
Conyers	Hanley	Michel
Corcoran	Hannaford	Mikulski
Corman	Harkin	Mikva
Cornwell	Harrington	Milford
Cotter	Harris	Miller, Calif.
Cunningham	Harsha	Mineta
D'Amours	Hawkins	Minish
Mitchell, Md.	Richmond	Stockman
Mitchell, N.Y.	Rinaldo	Stokes
Moakley	Risenhoover	Stratton
Moffett	Roberts	Studds
Mollohan	Robinson	Stump
Moore	Rodino	Taylor
Moorhead, Calif.	Roe	Thompson
	Rogers	Thone
Moorhead, Pa.	Roncalio	Thornton
Moss	Rooney	Traxler
Murphy, Ill.	Rose	Treen
Murphy, N.Y.	Rosenthal	Trible
Murphy, Pa.	Rostenkowski	Tsongas
Murtha	Roybal	Tucker
Myers, Gary	Rudd	Udall
Myers, John	Runnels	Ullman
Myers, Michael	Ruppe	Van Deerlin
Natcher	Russo	Vander Jagt
Neal	Ryan	Vanik
Nedzi	Santini	Vento
Nichols	Sarasin	Volkmer
Nix	Satterfield	Waggonner
Nolan	Sawyer	Walgren
Nowak	Scheuer	Walker
O'Brien	Schroeder	Walsh
Oakar	Schulze	Wampler
Oberstar	Sebelius	Watkins
Ottinger	Seiberling	Waxman
Panetta	Sharp	Weaver
Patten	Shipley	Weiss
Patterson	Sikes	White
Pattison	Simon	Whitehurst
Pease	Sisk	Whitley
Pepper	Skelton	Whitten
Perkins	Skubitz	Wilson, C. H.
Pettis	Slack	Wilson, Tex.
Pickle	Smith, Iowa	Winn
Pike	Smith, Nebr.	Wirth
Poage	Snyder	Wolff
Pressler	Solarz	Wright
Preyer	Spellman	Wydler
Price	Spence	Wylie
Pritchard	St Germain	Yates
Quillen	Staggers	Yatron
Rahall	Stangeland	Young, Alaska
Rangel	Stanton	Young, Fla.
Regula	Stark	Young, Mo.
Reuss	Steed	Zablocki
Rhodes	Steers	Zeferetti

NAYS—17

Badham	Hansen	Obey
Beard, Tenn.	Jeffords	Quayle
Collins, Tex.	McDonald	Shuster
Cornell	McEwen	Steiger
Crane	Miller, Ohio	Symms
Devine	Motti	

ANSWERED "PRESENT"—1

Rousselot

NOT VOTING—30

Alexander	Dodd	Montgomery
AuCoin	Flowers	Pursell
Boiling	Frey	Quie
Bonker	Goldwater	Railsback
Brown, Calif.	Holland	Teague
Burgener	Howard	Whalen
Carter	Koch	Wiggins
Clausen, Don H.	Lent	Wilson, Bob
	Lujan	Young, Tex.
Clawson, Del	Marriott	
Coughlin	Mazzoli	

The Clerk announced the following pairs:

On this vote:

Mr. Quie for, with Mr. Rousselot against.

Until further notice:

Mr. AuCoin with Mr. Burgener.
Mr. Koch with Mr. Bob Wilson.
Mr. Dodd with Mr. Lent.
Mr. Montgomery with Mr. Marriott.
Mr. Teague with Mr. Carter.
Mr. Howard with Mr. Lujan.
Mr. Mazzoli with Mr. Don H. Clausen.
Mr. Alexander with Mr. Goldwater.
Mr. Flowers with Mr. Railsback.
Mr. Brown of California with Mr. Whalen.
Mr. Holland with Mr. Frey.
Mr. Pursell with Mr. Del Clawson.
Mr. Coughlin with Mr. Wiggins.

Mr. ROUSSELOT. Mr. Speaker, I have a live pair with the gentleman from Minnesota, Mr. QUIE. If he were present, he would vote "aye." I voted "no." I withdraw my vote and vote "present."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on H.R. 1139, just agreed to.

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

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 6805, ESTABLISHING AN AGENCY FOR CONSUMER PROTECTION

Mr. SISK, from the Committee on Rules, submitted a privileged report (Rept. 95–770) on the resolution (H. Res. 872) providing for consideration of the bill (H.R. 6805) to establish an Agency for Consumer Protection in order to secure within the Federal Government effective protection and representation of the interests of consumers, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR RADIO AND TELEVISION COVERAGE OF HOUSE PROCEEDINGS

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 866 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 866

Resolved, That it is the purpose of this resolution to provide for a system for closed circuit viewing of the proceedings of the House and to provide for the orderly development of a system for audio and visual broadcasting thereof.

ESTABLISHMENT OF CLOSED CIRCUIT SYSTEM

SEC. 2. The Speaker shall devise and implement a system subject to his direction and control for closed circuit viewing of floor proceedings of the House of Representatives in the offices of all Members and committees and in such other places in the Capitol and the House Office Buildings as he deems appropriate. Such system may include other telecommunications functions as he deems appropriate.

STUDY OF BROADCASTING

SEC. 3. The Committee on Rules shall conduct a study of all alternative methods of providing complete and unedited audio and visual broadcasting of the proceedings of the House of Representatives. The committee shall report its findings and recommendations as soon as practicable but not later than February 15, 1978.

ESTABLISHMENT OF BROADCASTING SYSTEM

SEC. 4. (a) As soon as practicable after receipt of the report of the committee, the Speaker shall devise and implement a system subject to his direction and control for complete and unedited audio and visual broadcasting and recording of the proceedings of

the House of Representatives. He shall provide for the distribution of such broadcasts and recordings thereof to news media and the storage of audio and video recordings of the proceedings.

(b) (1) All television and radio broadcasting stations, networks, services, and systems (including cable systems) which are accredited to the House Radio and Television Correspondents' Galleries, and all radio and television correspondents who are accredited to the Radio and Television Correspondents' Galleries shall be provided access to the live coverage of the House of Representatives.

(2) No coverage made available under this resolution nor any recording thereof shall be used for any political purpose.

(3) Coverage made available under this resolution shall not be broadcast with commercial sponsorship except as part of bona fide news programs and public affairs documentary programs. No part of such coverage or any recording thereof shall be used in any commercial advertisement.

AUTHORITY TO DELEGATE

SEC. 5. The Speaker may delegate any of his responsibilities under this resolution to such legislative entity as he deems appropriate.

The SPEAKER pro tempore. The gentleman from California (Mr. SISK) is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 866 provides for radio and television coverage of House floor proceedings. It is a resolution that many of us in this House have looked forward to for some time.

The history of this resolution stretches back over more than three decades. Our colleague from Florida, Mr. PEPPER, then a member of the other body, introduced a joint resolution in 1944 to provide for broadcasting of both House and Senate floor proceedings. The Joint Committee on the Organization of the Congress heard testimony on the matter in 1965. During hearings on the Legislative Reorganization Act of 1970, which I had the privilege to chair, the issue was considered at some length, and provisions for broadcasting of committee hearings were included in the Act.

In the 93d Congress, the Joint Committee on Congressional Operations undertook a 2-year study of the broadcasting question. Extensive investigation and hearings led the joint committee to issue a report in October 1974 strongly recommending the idea. In that same year, Chairman JACK BROOKS and other House members of the joint committee introduced a resolution to implement the report's recommendations.

The resolution was reintroduced in the 94th Congress by Mr. BROOKS and over 100 cosponsors. The Committee on Rules held 2 days of hearings on the resolution and referred it to an Ad Hoc Subcommittee on Broadcasting. The subcommittee undertook an extensive study of the question and reported out House Resolution 875. This resolution provided for broadcasting of House floor proceedings by utilizing a network pool concept. The resolution, unfortunately, was referred back to subcommittee by the full Committee on Rules and no further action on broadcasting was undertaken in the last Congress.

The prospects for broadcasting improved considerably in this Congress when the Speaker provided for a 90-day test of closed circuit coverage of House floor proceedings. The Select Committee on Congressional Operations and the Architect's Office were asked to conduct the test, which began on March 15 and concluded on September 15 of this year. The select committee reported on the test and recommended that a permanent broadcasting system be installed. Chairman BROOKS and the members of the select committee as well as the Architect and his staff should be commended for the excellent service they provided in conducting the test.

On October 6, 1977, House Resolution 821 was introduced. The Committee on Rules held hearings on the resolution on October 13 and 19. A markup session was conducted on October 25 when an amendment in the nature of a substitute was adopted. A clean resolution, House Resolution 866, was subsequently introduced and ordered reported on October 26, 1977.

The intent of House Resolution 866 is substantially the same as the earlier resolution. Both resolutions provide for broadcasting of House floor proceedings and both would vest all authority for devising and implementing the system with the Speaker.

House Resolution 866 provides for the establishment of a closed circuit system for viewing floor proceedings in the offices of all Members and committees and in other places in the House Office Buildings and the Capitol. Again, the Speaker is vested with all authority to devise and implement the system.

This provision was included in the resolution to insure that the Speaker would be able to undertake installation of the cabling for the closed circuit system during the upcoming recess. Testimony by both Mr. BROOKS and Mr. CLEVELAND at the Rules Committe hearing on October 13 indicated that this was the prime reason for taking a broadcast resolution to the floor at this time since it would be impossible from a technical standpoint to make the broadcast coverage available to the public until sometime in the second session of this Congress.

The resolution also requires the Committee on Rules to conduct a study of all possible alternatives for providing broadcasting and to report their findings no later than February 15, 1978. The committee believed that the study was necessary to assure that the Speaker received as much information as possible on all alternatives for broadcasting before he made a decision on which system to choose. At this time, two alternatives—providing for broadcasting by a network pool arrangment and by in-house system—have been analyzed in depth, but other possible alternatives have not been investigated extensively. Such alternatives might include a system operated by the Public Broadcasting System or by a commission on broadcasting established by the House.

As soon as practicable after receipt of the report of the Committee on Rules, the Speaker would devise and implement a system subject to his direction and control for the complete and unedited recordings of all the proceedings of the House. The Speaker shall provide for distribution of the broadcastings and recordings to the public and the news media. All of the television and radio broadcasting stations, networks, services, systems, and individual correspondents which are accredited to the House Radio and Television Correspondents' Gallery will have access to the live coverage of the House.

The resolution prohibits the use of any of the coverage for political or commercial advertising purposes.

Under the resolution, the Speaker may delegate any of his responsibility for broadcasting to any legislative entity he deems appropriate.

The resolution does not provide for a permanent change in the Rules of the House as did House Resolution 821. The Committee on Rules made this change to allow more time to evaluate a broadcast system before a permanent change in the rules was made. The resolution would provide for broadcasting for the rest of this Congress, and at the adoption of the rules for the next Congress, the change in the rules could be made.

Mr. Speaker, in the last few years, the broadcast media have become the principal source of information on public affairs for most Americans. No other medium of communication in history has transmitted ideas, viewpoints, and facts to so many people simultaneously, so graphically and so convincingly. According to published surveys, our people have more faith in the information they get from the broadcast media than from any other source, and they go to this source more frequently and for longer periods of time than to any other.

Moreover, a majority of the American people appear to favor televising Congress. A Roper poll conducted in July 1975 indicates that 53 percent of a national sampling want overall television coverage of Congress and an additional 15 percent favor partial television coverage of major congressional events.

A majority of the Members of the House have indicated their support for the broadcast coverage of floor proceedings. A poll conducted by Congressman PEPPER in the last Congress indicated that 68.7 percent of House Members favored broadcasting.

Mr. Speaker, broadcasting of House floor proceedings will allow the people of this country to be better informed about the actions of their elected representatives. The whole basis of our democratic system of government is predicated on an informed electorate. We would do well to remember the words of James Madison when he wrote:

> A popular government, without popular information or the means of acquiring it, is but a prologue to a farce or a tragedy, or perhaps both.

Those words are as true today as when they were written.

Mr. Speaker, I urge my colleagues to adopt House Resolution 866 providing for the broadcast coverage of the floor proceedings of the House.

Mr. Speaker, with that, I reserve the balance of my time.

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

Mr. Speaker, I realize that compared to the social security amendments we just debated and voted on, perhaps Members feel this pales by comparison; but like the social security amendments, the result of this resolution will live with this body for a long, long time. We are talking about the broadcasting of the House floor proceedings.

Now, it would not happen immediately as a result of this resolution, but I think we should all understand at the beginning that this resolution is, in effect, saying that we are going to have audio and video coverage of House floor proceedings sometime, probably beginning next year. So, there should not be any misunderstanding about what this resolution would do.

I would like to say that it is a privilege to share this time with the gentleman from California (Mr. SISK) who is, I think, a recognized authority on this subject. He has spent a great deal of time working on trying to decide the best way to televise and record House floor proceedings.

I would also like to commend the gentleman from Texas (Mr. BROOKS) and the Committee on Government Operations for the time that they have spent on this. It has been very helpful.

This particular resolution is a privileged resolution. There will not be an opportunity for amendments to be offered, and there is some objection to that. Ordinarily, I am very uncomfortable with this type of proceeding. I would rather it had come to the floor under a straight open rule, but I think that when the Members see what is in this particular resolution, they will understand and agree, probably, in this instance that it was the way it could best be handled.

Here is the purpose of the resolution. It is threefold:

No. 1, to establish a closed circuit system for viewing the proceedings on the House floor. In other words, allowing the Speaker to go ahead and take action to devise and implement a system to have the activities on the House floor available in the Cannon and Longworth Buildings, committee rooms, and in the Capitol. The Speaker needs the authority in order to accomplish this and to begin on it right away, so that when we come back here in January or sometime in February, certainly, we can have that closed circuit television system all over the Capitol area. There is indication that the Speaker wanted it and that the Members wanted it.

Second, it would direct the Rules Committee to conduct a study into alternative methods of providing broadcast coverage of House floor action. Mr. SISK and the subcommittee did a lot of work on this. The results of their study were that we should have, as I understand it, a network and PBS pool which would provide this coverage. The pool would bear the cost for providing this coverage unedited to the public, to the Archives, and for the use of the networks.

The Brooks committee came up with the recommendation that we should just say, "We want this broadcast coverage, and here, Mr. Speaker, you go do it." I do not think it is fair to the Speaker, not to have a little more guideline about how it is going to be done. I ask the question, at least for now, do we want to pay the initial cost which may be $1 million or so and have it under the control of the House? There is some concern that the House itself would have control of the proceedings.

There were some members of the Rules Committee, and some testimony before the Rules Committee, that we should not go in that direction. There were other alternatives, and frankly the one that I prefer now is to say,

> Let us have it, but only turn it over to public broadcasting so that it can be used for educational purposes.

Perhaps they might want to do as they have done in Florida, condense what happened on the floor on any particular day to a 30-minute program which would show what happened.

But, there would be a greater opportunity for showing both sides of the debate. I worry—and I know some other Members worry—about the fact that this televised coverage would be available to the networks.

They have only limited time in each day's broadcasts to show what might have happened in debate in Congress on a particular issue. The temptation is certainly going to be great to show only one side of the debate or perhaps the most fiery and flamboyant speaker.

Perhaps some other Member on the floor of the House would have a very calm, low-key, lackluster, legalistic argument, which would be the basis of the real issue. Maybe we cannot deal with the fairness of the issue I am raising in this body. It gets into the first amendment question.

So the result of all this was that we said,

> Let us have the Committee on Rules look at these questions further, give us until the 15th of February to consider the alternatives and make some recommendations to the Speaker.

And then we would be back, in effect, where we would be right now, with the Speaker giving further consideration after study by the Committee on Rules.

There will be some cost as a result of this resolution. There is an estimate of $500,000 for the cameras and associated equipment for providing the closed circuit coverage. To wire the three office buildings and the Capitol for receiving broadcast coverage the report includes a figure of $345,000.

In conclusion, Mr. Speaker, I want to say that, as for myself, I hope this resolution will be adopted. I would like for us to have this broadcast coverage, but I think we should do it after some more study and after we are very well satisfied that all of the alternatives have been explored and we know exactly what we are getting into.

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

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

Mr. MICHEL. I thank the gentleman for yielding.

Mr. Speaker, I want to commend the gentleman for his statement. I must confess that I have the same concerns that the gentleman has expressed here. When we discussed the funding of public broadcasting, for example, in our appropriations subcommittee, we always had a line of questioning concerned with what is considered educational or cultural material versus those areas which appear to be purely political.

We always have attempted to insulate our public broadcasts from political influence or dominance of any kind as our public stations should be used primarily for the purpose of educating the general public and for the cultural advancement of the people.

I am glad to see the gentleman has so carefully pointed up here today that we should analyze any possible dangers in allowing the networks picking and choosing what they consider important in our daily sessions. I think that is why we are having a test period. But I realize we have come to that juncture where we are going to have to accept this as a matter of our daily lives and only hope that the networks and the news media will exercise good judgement and attempt to show fairly both sides of each issue.

Mr. LOTT. Mr. Speaker, I appreciate the gentleman's comments.

Under the resolution, no live coverage made available can be used for any political purpose, nor can it be used with commercial sponsorship except as part of bona fide news programs and public affairs documentary programs.

I would like to have a little explanation or a definition as to what is "political purpose." I think I could conjure up some situation where a Member might get access to the results of these broadcasts and maintain it is not for political purposes, when, in fact, it would be. Would he be able to use it maybe 65 days before an election in some way? Maybe not. Maybe I am just probing in the dark for some possibility, but I think it is an important possibility which should be explored, to make sure this is not used for political purposes.

Mr. MICHEL. Mr. Speaker, if the gentleman will yield further, I can think of a situation where a chairman of a committee or a ranking minority Member is managing time on a bill, and there are a certain number of Members on the subcommittee who will wish to speak. With broadcasting I think there is going to be much more of a inclination to make absolutely sure that there is time allocated to every member of that subcommittee.

Because, frankly, if each is not given his "air time" on a piece of legislation, there is going to be some kind of mistaken inference that he was not as interested as he should be in the business of the day because he was not allocated a certain proportion of the time.

There are all kinds of ramifications to this issue, and there can be Members who, frankly, may be hurt. We have heard this argument on the floor many times: When are you going to allocate time to some Members other than the

committee members, who have preempted all the time?

How do we take care of this kind of situation? We have to move very carefully. This can cut both ways, and it cuts across both sides of the aisle.

Mr. Speaker, I think the committee would be well served to really look at all of the alternatives very carefully, lest any one of the Members of this House be hurt in some fashion by whatever "broadcast time" he does or does not get.

Mr. LOTT. Mr. Speaker, I thank the gentleman again for his comments, because they are very pertinent.

I am not sure the Committee on Rules or any subcommittee would be able to deal with that problem and find a solution to it. That is a genuine risk we take when we start allowing the broadcasting of these House floor proceedings, and, of course, the gentleman from Texas and the gentleman from California looked at this and concluded: Well, that is just a risk we have to take.

This is a problem, and we have to recognize that Members will take advantage of every opportunity to be heard and to be seen as they appear before these microphones and cameras. I am sure that at least initially there is going to be perhaps some grandstanding. Maybe that is just one of the additional problems we will have, but at least it may be important in order to show the public what does happen here.

Mr. Speaker, I want to make one other point. The alternative from the Committee on Rules, in my opinion, was whether or not we were going to move forward with the broadcasting of these House floor proceedings right now or whether we were going to pass this resolution, which will give us a little more time and one more opportunity to review the alternatives and see if there are some protections we can provide or perhaps some limitations we should insist upon.

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

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

Mr. MICHEL. Mr. Speaker, I want to applaud the gentleman from Mississippi (Mr. LOTT) for the kind of statement he has made here today, and I commend the committee, too, for the manner in which we have proceeded, taking this one step at a time. I think this question has grave implications, far beyond the gentleman's service and my own service in this body, and we would do well to proceed very cautiously.

Mr. LOTT. Mr. Speaker, I appreciate the gentleman's making these points, because I am sure he is one of the Members who is going to benefit from this live broadcast coverage.

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

Mr. ANDERSON of Illinois. Mr. Speaker, I want to make clear at the outset that I supported sending this resolution to the floor under an open rule. But it was the will of a majority of the Rules Committee to report this as a privileged resolution, and I accept that decision and support the adoption of House Resolution 866. During our markup on the original resolution we considered, House Resolution 821, introduced by the gentleman from Texas (Mr. BROOKS), the gentleman from California, (Mr. SISK), and others, I offered a substitute which, among other things, would have expressed the sense of the House that broadcast coverage should be carried by a network pool. The gentleman from Mississippi (Mr. LOTT) offered an alternative approach, expressing the sense of the House that the Public Broadcasting Service should be invited to provide the coverage. Those two amendments failed.

At that point, the gentleman from Mississippi (Mr. LOTT) offered the substitute which is before us today as House Resolution 866, which had been developed by him and the gentleman from California (Mr. SISK), in the spirit of bipartisan compromise. It is not every thing that many of us may have wanted, but I think it represents an historic and reasonable beginning.

Last March 15, when the closed-circuit broadcast test began, I offered a resolution as a question of privilege, directing the Rules Committee to evaluate the test and report to the House its findings and recommendations, including a recommendation as to whether this broadcast coverage should be made available to the public. This resolution fulfills that mandate. The Rules Committee has recommended, in this resolution, that as soon as possible after next February 15, the Speaker shall devise and implement a system for the broadcast coverage of all our proceedings and make that coverage available to the public and the news media. Thus, by adopting this resolution, the House will have the first real opportunity to go on record in favor of permitting the American people to view and listen to our debates on their television sets and radios.

Mr. Speaker, I do not think anyone will question my credentials as a strong advocate of broadcasting our proceedings. I testified in favor of this before the Joint Committee on Congressional Operations in the 93d Congress. I served on the Ad Hoc Subcommittee on Broadcasting in the last Congress and joined in sponsoring that subcommittee's resolution providing for broadcast coverage by a network pool arrangement. And, in this Congress I have introduced a House broadcast rule with some 30 cosponsors, and have joined with Congressman SISK on his broadcast resolution.

Every poll I have seen indicates that the public strongly favors this and a majority of the Members of this body favor this. The question is no longer whether we should go public with broadcast coverage; as the Select Committee on Congressional Operations pointed out in its report of September 27, "Televising the House," and I quote,

> Television coverage of House proceedings—complete, uninterrupted, unedited—is inevitable: a large majority of the general public desires it, and a substantial majority of Members of the House support it.

That report goes on to state,

> It is also desirable, both as a source of public understanding of the process and product of representative government and as a means of improving the operation of that process in the House.

I want to commend the select committee, and particularly the chairman (Mr. BROOKS) and the ranking minority member (Mr. CLEVELAND), on the work they have done on this over the years, and with this year's broadcast test, and on their dedication to making broadcast coverage a reality.

As Members of this body may be aware, there is a basic difference in the approach recommended by the select committee and that recommended by our Ad Hoc Subcommittee on Broadcasting in the last Congress. The select committee has recommended House operation and control of the broadcast system; our ad hoc subcommittee had recommended that coverage be provided by a network pool arrangement and made available to all U.S. broadcast stations, networks, services, and systems.

The resolution before us today does not commit the House or the Speaker to one means of coverage or another, nor did the resolution introduced by Chairman BROOKS. We all recognize that this decision must ultimately be made by the Speaker. What this resolution does do is to authorize and direct the Speaker to complete the closed-circuit broadcast system to all House offices as soon as possible.

In the meantime, the Rules Committee is directed to study the various alternatives for providing coverage and report its findings and recommendations to the House no later than February 15, 1978. As soon thereafter as possible, the Speaker shall devise and implement a system for broadcast coverage and make this available to the public and news media. I think it is important to note that the Speaker will in no way be bound to accept the recommendations of the Rules Committee, anymore than he will be bound to accept the recommendations of the select committee. But, it was our feeling in the Rules Committee that we should fully explore the various options available—in-House, network pool, and public broadcasting—lay these out before the House and the Speaker, and give him the benefit of our best judgment based on our study.

It would also be my hope that the Rules Committee could then develop and report a House broadcast rule providing guidelines for broadcasting our proceedings, without in any way impairing the right of the Speaker to choose the best means for coverage as he sees fit, or, for that matter, of changing to another method later on if he thinks it is advisable.

In conclusion, I think this is a good compromise resolution which incorporates the best of the select committee's original resolution while at the same time providing a means whereby the Speaker will have the fullest range of available options to choose from next February 15. I consider the vote on this resolution today to be a historic landmark for the House that will bring us into the modern media age. I urge its adoption.

Mr. Speaker, I listened with great interest to the colloquy that just took place

between the distinguished minority whip and my friend, the gentleman from Mississippi (Mr. LOTT), a member of the Committee on Rules.

One of the highlights of this matter that is, I think, a concern of many Members of this body is that somehow, even after this 90-day-or-longer test that we have now had of visual recording of the activities of this body, this is going to subject us to certain hazards and certain dangers and indignities that are not now inflicted upon us.

I could not help but remember, as I thought along those lines, that a few years ago we had a couple of Members of this body, both of whom are now departed—and so I do not think I am breaching the etiquette of the House by referring to them—who were somewhat elderly, and when it became a little late in the afternoon, after a long and arduous session, they would tend to doze as they sat here in seats located very close to the front of the Chamber.

On one occasion a certain newspaper in a front page article called attention to these two gentlemen and the fact that they were somewhat somnolent in their habits. It was obviously an article that caused them some embarrassment.

But we would never think, under the first amendment, of course, of trying to dictate to the gentlemen who sit in the Press Gallery and who represent the print media as to what they should write. I am sure that sometimes they demonstrate favoritism—or at least we all feel that way—toward one Member or another. And then there may be some Member who is on a subcommittee and has given a particularly stirring speech, but his immortal prose is not suitably recorded in the morning editions the following day, and some other Member's remarks are chosen instead.

Those are the hazards that we run when we dedicate ourselves, as we certainly do in this Chamber, to the ideals of freedom of speech and press and recognize the fact that we are under the constant scrutiny of the public.

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

Mr. ANDERSON of Illinois. I yield to the gentleman from Illinois.

Mr. ANNUNZIO. Mr. Speaker, I thank the gentleman for yielding.

I was interested in the gentleman's remarks about elderly gentlemen dozing off.

I wanted to state to my good friend that even the young Members, with the bad air in this Chamber, on occasion doze off, too. The air is not the best, and some of the speeches that we have to listen to are like a kind of Nytol medicine.

Mr. ANDERSON of Illinois. Mr. Speaker, I hope the gentleman does not have reference to the remarks that I am currently making now in the well.

Mr. Speaker, I did not intend to point the finger at any particular group of Members in this body.

In conclusion, Mr. Speaker, I am going to support this resolution. I do pay tribute not only to the gentleman from California (Mr. SISK) and the gentleman from Mississippi (Mr. LOTT), who arranged the compromise that has been reported for us today; but I pay tribute to my good friend, the gentleman from Texas (Mr. BROOKS), the distinguished chairman of the Committee on Government Operations, and also of the Select Committee on Congressional Operations. I think he and his counterpart on that committee, the gentleman from New Hampshire (Mr. CLEVELAND), are to be commended for the work that they have done in arranging for the broadcast test which has further convinced many Members of this House that the time has indeed come to begin, on a continuous basis, the gavel-to-gavel coverage, audio and video, of the proceedings of this House.

Again, Mr. Speaker, I urge the adoption of the resolution.

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

Mr. ANDERSON of Illinois. I yield to the gentleman from Indiana.

Mr. QUAYLE. Mr. Speaker, I would just like to compliment the gentleman on his remarks, and I would like to associate myself with his remarks.

I would like to say that we are in the electronic age now. We have been debating in a spirit of openness in committees, in the House, and in the Government in general.

I think this is a step forward; and as the gentleman has said, the time has come for this coverage.

Mr. Speaker, I am sure that there are all sorts of fears that can be projected. Those fears can be raised in print as well as through the electronic media. I just do not think they are warranted or that what is feared will happen.

Mr. ANDERSON of Illinois. Mr. Speaker, I appreciate the contribution of the gentleman from Indiana (Mr. QUAYLE).

Mr. SISK. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, let me say this, that the achievement of getting to the floor today is due to many people who worked hard, many Members of the House; and I particularly want to pay tribute to my colleague, the gentleman from Texas (Mr. BROOKS), chairman of the Committee on Congressional Operations, for the great work that he and his committee did.

I well remember the testimony that some of us were able to give before that committee a number of years ago on this very subject; and it is certainly a privilege for me now to yield 5 minutes to the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Speaker, I thank the gentleman for his kind remarks.

Mr. Speaker, the resolution brought to the floor today by the Committee on Rules, House Resolution 866, provides the necessary authority for the Speaker to devise and implement a plan for both closed-circuit and broadcast coverage of House proceedings by radio and television.

House Resolution 866 is a substitute for House Resolution 821 which was designed to implement the recommendations of the House Select Committee on Congressional Operations. Those recommendations were based on 5 years of continuing study by the committee and 90 days of live testing of television coverage of the House.

The pending resolution, I am pleased to acknowledge, utilizes much of the language of House Resolution 821 and in all significant respects will accomplish almost precisely what we intended to be done in our select committee report and in House Resolution 821.

For example:

The resolution authorizes the Speaker to implement a closed-circuit system effective immediately.

The resolution provides that the Rules Committee shall continue to study various options for broadcasting House proceedings and report their recommendations by February 15—a provision permitted in any event.

The resolution authorizes the Speaker to implement a system for broadcast coverage, both live and recorded, to be made available to the news media as soon as practicable after February 15.

What this all comes down to is this. The Speaker has endorsed this proposal for broadcasting. If he continues to subscribe to this view, he will be able to move ahead promptly.

In describing the road ahead to live and recorded broadcast coverage of the House and, as soon thereafter as possible findings and recommendations approved unanimously by the seven members of the select committee:

First, the test has demonstrated both the technical feasibility of broadcast coverage of daily House sessions and the value—as an information source for the House and the general public—of providing such coverage.

Second, broadcast coverage should include both television and radio and it should consist, first, of a complete closed-circuit system for the information of Members, committees, and officers of the House and, as soon thereafter as possible, of full access to the public by means of live feeds for commercial and public broadcasters and the provision of audio and video recordings.

Third, in establishing such a broadcast system, the House should make certain that it will be compatible, from a technical viewpoint, with a longer range communications system designed to meet our future needs for data transmission.

Fourth, the report estimates that total costs of installing a basic closed-circuit system, including public access to the system, would be approximately $845,000. This would be a one-time capital expense, operating costs would be minimal.

Fifth, management and operation of a broadcast system should be the responsibility of the House directly; the report recommends that responsibility be placed with the Speaker, that the Architect of the Capitol be authorized to develop and operate the system, and that arrangements be made by the Speaker with the Library of Congress or some other legislative body for recording, distributing, and storing the broadcasts.

Sixth, in the operation of the broadcast system, the report proposes:

That advanced, color minicameras be used to provide a broadcast quality picture;

That the cameras be remotely controlled and focus exclusively on the offi-

cial action taking place on the House floor;

That coverage be complete from the opening gavel to the close of daily legislative business, with the Speaker authorized to decide whether or not to include special orders.

Those are the highlights of the report. They are entirely consistent with the views expressed by a substantial majority of our colleagues who participated in the select committee's detailed survey of Members' views and preferences.

It is important to distinguish between the terms of the resolution and the more detailed recommendations of the select committee.

The resolution is a bare bones one.

It simply directs the Speaker to develop a system for broadcasting and recording the daily proceedings of the House, to make that coverage available to the news media and the public, and to provide for storage of the recordings.

It authorizes him to delegate those responsibilities.

It requires the coverage to be complete and unedited.

And it prohibits the use of broadcast coverage for political purposes and for advertising purposes.

Otherwise, the resolution would not tie the Speaker's hands. It does not impose on him a specific method of implementation or a rigid timetable. In determining how he should proceed, the Speaker would have a wide range of options.

He would be free to delegate any or all of his responsibilities to any of a number of different legislative entities, which means any committee, commission or other organization within the legislative branch of the Government.

He would be free to determine the components and capabilities of a broadcast system.

And he would be authorized to use his best judgment in deciding when to expand the present system, when to resume broadcasting, and when to make it available to the public.

We believe the select committee's recommendations are reasonable, responsible, and practical.

They were approved unanimously by all seven members of the committee.

They are soundly based on more than 6 years of study, hearings, experimentation, and actual broadcast experience.

They correspond, in every significant respect, with the views expressed by a majority of Members responding to the relevant questions in the select committee's survey.

We believe, in other words, that we have demonstrated that a broadcast system such as we have recommended can work effectively in the interests both of the House itself and of the general public.

PRINCIPAL FINDINGS

On the basis of live and recorded television coverage, via closed-circuit, of 90 legislative days of House proceedings and of previous congressional studies, the select committee finds that:

First. In terms of demonstrating the feasibility of broadcast coverage of House proceedings, both live and recorded, providing both closed-circuit and public access to the broadcasts, and doing so at a reasonable cost measured by anticipated institutional and public benefits, the test of broadcast coverage has been successful. Despite minor problems with the lighting and sound systems in the House Chamber and the outdated electronic equipment in the Rayburn Building—all of which can readily be corrected—the test has shown that neither technical nor policy considerations stand in the way of early development of a permanent system for broadcasting House proceedings.

Second. Member interest in the test and in the future of broadcast coverage has been extensive. During the test, 121 Members [1] with offices in the Rayburn Building arranged to have their personal television sets—none were supplied to Members by the select committee or the Architect for the purposes of the test—connected to the master antenna system, and most received the test broadcasts regularly. This represents approximately 72 percent of Members [1] potentially capable of receiving the broadcasts. In addition, more than 150 Members responded to the select committee's detailed questionnaire soliciting their views and indicated in their replies to individual questions and in often extensive added comments the desire to make broadcast coverage as widely available and as useful as possible both for institutional and public purposes.

Third. Television coverage of House proceedings—complete, uninterrupted, unedited—is inevitable: A large majority of the general public desires it, and a substantial majority of Members of the House support it. It is also desirable, both as a source of public understanding of the process and product of representative government and as a means of improving the operation of that process in the House.

Fourth. Television coverage of House proceedings can serve as a valuable information resource for Members and staff in carrying out their respective functions in the legislative process.

Fifth. When focused exclusively on the official action in the House Chamber—the Members and officials of the House actively participating in the debate and other proceedings of the body—television coverage can provide the most accurate possible record of House proceedings.

Sixth. Similarly, television coverage of House proceedings, when made available to the general public either live by the electronic media or by means of audio and video recordings, can substantially contribute to public understanding of the issues being considered by the House and of the process by which legislation is enacted.

Seventh. A substantial majority of the more than 150 Members who responded to the select committee's questionnaire seeking their views on the present test and their preferences for future television coverage expressed a strong desire for continued closed-circuit broadcasting of floor proceedings; Members whose offices in the Rayburn Building enabled them to receive the broadcasts directly indicated they generally made considerable use of the broadcasts; Members in the Cannon and Longworth Buildings frequently urged that those buildings be wired to receive the broadcasts at the earliest possible time.

Eighth. A majority of Member respondents also indicated either a desire or a willingness to provide for regular public access to broadcast coverage of House proceedings, though individual Members recommended a variety of conditions.

Ninth. A similar majority of Members expressing a judgment desired that broadcast coverage, both closed circuit and public, include the complete daily proceedings of the House and not be limited to special events or selected portions or periods.

Tenth. Utilizing advanced state-of-the-art minicameras, similar to those tested by the select committee and the Architect, television coverage of the House can be provided unobtrusively, without the need for significant reconstruction of the Chamber, additional personnel, greatly enhanced or otherwise intrusive lighting, bulky equipment, and in a manner which fully protects the decorum and integrity of the House. All but one Member responding to the select committee's questionnaire reported they were seldom conscious of the fact that debate was being televised and were neither inconvenienced nor inhibited by the presence of live TV cameras in the House.

Eleventh. The same type of advanced minicamera makes it possible to obtain a broadcast quality—if not studio quality—picture, suitable both for closed-circuit and public broadcast purposes, without substantial increases in lighting levels or other changes in the environment of the House Chamber.

Twelfth. Appropriately positioned (one camera on each side of the Speaker's rostrum below the press gallery and one camera over the main entrance to the Chamber facing the Speaker's rostrum), a total of three television cameras is adequate to cover the entire area of the House floor. Computer-assisted programing of the cameras can provide approximately 70 preset "shots" (including split-screen pictures) which will cover all positions of the House floor from which Members engage in debate or other official action takes place. This will permit remotely controlled and virtually automatic operation of the cameras and assure uninterrupted coverage of the official debate and proceedings—an objective endorsed by a large majority of Members responding to the select committee's questionnaire.

Thirteenth. Focusing on the official action in the House Chamber, as described above, is essential in order to provide complete, uninterrupted and accurate television coverage of House proceedings.

[1] This figure has been constantly changing as additional Members arranged for the necessary connections to be made right up to the time of committee approval of this report. At least 10 committee installations have also been made.

Removing the cameras from the Members participating in debate in order to pan the Chamber and the galleries for color or reaction shots would not only interrupt the continuous coverage of official proceedings, but would distract viewers from the official business of the House without providing anything in its place of comparable value. Visual interest—to the extent it is a valid objective of a system designed to communicate accurately the official proceedings of an institution—would, however, be maximized by several factors: Limitations on the length of time individual Members may speak in the House, the use of a split-screen technique to capture both parts of a colloquy between Members, the computer programable preset camera positions which can quickly and smoothly shift among a wide variety of shots to obtain those which, at any moment, most effectively communicate the action on the floor.

Fourteenth. The operation, management, and supervision of a system of television coverage of House proceedings should be a responsibility of the House itself and should not be delegated or contracted out to groups outside the Congress. Television must communicate what the House does and how the House does it. The substance and procedure of House floor action should not be dominated or unduly influenced by the medium through which that action reaches the public. As a means of protecting the integrity of the House as a legislative institution, therefore, the House should accept its management responsibility. A substantial majority of Members responding to the select committee's questionnaire subscribed to this view and selected either the Speaker or a committee, officer, or other organization of the House as the preferred locus of operating responsibility. Only 18 of 150 Members preferred that a network pool provide the coverage.

Fifteenth. Conversely, House management of a television system need not and should not imply in any way the imposition of editorial control or any form of censorship of the content of televised coverage of House proceedings. A system which provides complete coverage of the daily legislative business of the House and which permits broadcasters either to take live feeds of such coverage or use recordings of the coverage would, by its nature, allow untrammeled exercise of editorial judgment by the users. Complete and unedited coverage of daily legislative activity—and the consequent editorial freedom of broadcasters to use all or any part of the coverage, as their judgment dictates—would only be enhanced by assuring that cameras at all times were focused on the Members and officials actively participating in official floor action.

Sixteenth. In developing a permanent system for broadcast coverage of House proceedings, two basic options for the closed-circuit portion are available: First, a one-way distribution system to carry televised proceedings in a single direction over a cable system similar to that in the Rayburn Building which would embrace the House side of the Capitol Building and Members' offices and committee suites in the Cannon and Longworth Buildings; and second, a system designed to accommodate the future needs of the Congress for the two-way distribution of information (both television and data transmission) between all buildings in the Capitol Hill complex. The two options need not be mutually exclusive so long as the system concept for the latter is established and cabling is installed that will accommodate anticipated future requirements and expansion. The Architect estimates the cost of the one-way system, including replacement of headend equipment (distribution control equipment) in the Rayburn Building, would be $130,000; an additional $197,000 would be required to develop the two-way system in the House. For either system, the cost of television cameras and associated equipment is estimated at $715,000.[2] Conservatively amortized, these capital costs would obligate the House to substantially less than $200,000 a year. Operating and maintenance costs would be minimal. Responses to the select committee's questionnaire revealed widespread interest among Members in a variety of additional applications within the House of television and related communications technology.

Seventeenth. In addition to demonstrating the feasibility of basic broadcast coverage of the House, the test also established the feasibility and desirability of transmitting, simultaneously, supplementary information which would enhance the intelligibility and utility of the broadcasts. Such information includes: yea and nay votes as they are tallied (a feature incorporated in the broadcasts during the test), identification of Members speaking, the title of the bill being debated, a summary of an amendment being considered, the time remaining for debate under the rule, a synopsis of motions as they are offered, and so forth. A substantial majority of the Members surveyed advocated the inclusion of such information in the broadcasts.

Eighteenth. The recording, reproduction, and distribution of broadcast coverage on audio and video tape for public use and archival purposes would be an essential part of a comprehensive House broadcast system. As an integral part of the overall system, this function could be performed within the House or assigned to a unit of the Library of Congress. Members surveyed by the select committee generally preferred that such tapes be available to all, that costs of duplicating tapes be paid by the users, and that production and distribution of the tapes be a responsibility of the House.

Nineteenth. In addition to live and recorded broadcast coverage of House proceedings, a House broadcast system should include an archival and reference facility for the storage and viewing of recordings. Such a facility should be available to Members and employees of the Congress and to the general public at convenient times and places and be operated under regulations approved by the Speaker.

Twentieth. The purposes for which broadcast coverage of House proceedings would be authorized, that is, meeting the informational needs of the House and the general public, could be compromised by allowing totally unrestricted use of the coverage. Substantial majorities of the Members surveyed by the select committee approved the imposition of prohibitions against the use of live or recorded coverage for commercial advertising and political purposes.

RECOMMENDATIONS

Based on its findings—summarized above and described at greater length in the body of this report—the select committee recommends that:

First. The Speaker, under his present authority, extend the present test of television coverage of House proceedings through the end of the first session of the 95th Congress so as to assure continued reception of the broadcasts by Members and staffs presently using this service.

Second. The House adopt a resolution, prior to the adjournment of the first session of the 95th Congress, authorizing the establishment of a permanent system of television and radio coverage of the daily proceedings of the House of Representatives, including the following specific provisions:

That television and radio coverage of the daily legislative business of the House be complete, continuous, and unedited, subject only to the invoking of rule XXIX or to the adoption of a specific resolution by the House;

That such coverage be made available to Members, officers and committees throughout the House on a closed-circuit basis;

That such coverage be made available to the general public at the earliest feasible time both live, through those broadcast stations, networks, services and systems which are accredited by the House Radio-TV Gallery, and by means of recordings;

That responsibility for the implementation of broadcast coverage be vested in the Speaker who may delegate all or any part of the operating responsibility to such officer, committee, or other entity of the Congress as may be appropriate; and

That the use of broadcast coverage, live or recorded, for political purposes or as part of a commercial advertisement or, except as part of bona fide news and public affairs documentary programs,

[2] Cost estimates prepared by the Select Committee staff differ in some respects from those of the Architect. The Select Committee staff recommends improving the present signal distribution system in the Rayburn Building and approximately doubling the Architect's estimate of the number of tap-offs (receptacles for receiving signals) in all three House Office Buildings and the House side of the Capitol at an increased cost of about $200,000. The staff also believes the Architect's cost estimates for cameras (five) and associated equipment could be reduced by about $200,000 by eliminating one camera and certain nonessential ancillary equipment. The bases on which both sets of cost estimates were prepared are included in detail in Chapter VII and Appendixes C and D of this report.

with commercial sponsorship, be prohibited.

Third. Appropriate provisions of the resolution described above be incorporated in the Rules of the House of Representatives.

Fourth. The Speaker request to the Architect of the Capitol to assume responsibility for the development and day-to-day operation of the House broadcast system utilizing remotely controlled and computer programable cameras.

Fifth. The Architect be authorized and directed to begin immediately the procurement of equipment and supplies and the installation of communications lines and associated equipment necessary to improve closed-circuit broadcast reception in the Rayburn Building and to extend such reception to the offices of Members, committees and officers of the House in the Cannon and Longworth Buildings and the House side of the Capitol Building so that a completely functioning system will be in place as close as possible to the convening of the second session of the 95th Congress.

Sixth. The Architect be authorized and directed, in completing the closed-circuit broadcast system, to prepare plans in cooperation with the House Information Systems and other interested groups in the House and Senate, for the development of a two-way distributional communications system designed to meet future congressional information and data transmission needs, including closed-circuit broadcasting, and to assure that the communications lines and associated equipment installed for closed-circuit broadcast purposes be capable of accommodating the requirement of such two-way system.

Seventh. As soon as practicable following the extension of the closed-circuit House broadcast system throughout the House, but no later than the beginning of the 96th Congress, the Speaker or his designee authorize radio and television broadcast stations, networks, and systems accredited by the House Radio-TV Correspondents Gallery to obtain and use broadcast coverage of House proceedings, both live and recorded, subject only to the conditions stipulated in such authorizing resolution as the House may adopt.

Eighth. The Speaker or his designee arrange with an appropriate entity of the House or with the Library of Congress for the recording, reproduction and distribution to the general public by means of audio and video tapes, of the broadcast coverage of House proceedings under such regulation—which should include the establishment of such fees as may be required to cover all costs of reproducing and distributing tape recordings—as the Speaker may approve, and that distribution of such recordings be authorized to begin at such time as public broadcast coverage becomes available.

Ninth. The Speaker or his designee arrange with an appropriate House entity, or the Library of Congress to store, for archival and reference purposes, recordings of broadcast coverage of House proceedings, and to make such recordings available for viewing at convenient times and places by Members and employees of the Congress and the general public under regulations approved by the Speaker.

Tenth. Permanent broadcast coverage of the House be conducted in such a way as to assure uninterrupted focusing of cameras on those Members and officials of the House actively participating in the debates or other official action in the House Chamber and to obtain a complete and accurate record of the official proceedings.

Eleventh. The Architect in cooperation with the Select Committee on Congressional Operations continue the development and implementation of means of providing as an integral part of broadcast coverages such supplementary information as was initiated during the test including identification of Members speaking during debate, and summaries or synopses of pending bills, amendments and motions so as to improve the intelligibility and informational value of broadcast coverage for viewers.

Mr. LOTT. Mr. Speaker, I yield 4 minutes to the gentleman from New Hampshire (Mr. CLEVELAND).

Mr. CLEVELAND. Mr. Speaker, I wish to be associated with the remarks of the distinguished gentleman from Texas (Mr. BROOKS) with whom I have enjoyed serving on the Select Committee on Congressional Operations. I would also like to be associated with the remarks of the distinguished gentleman from Illinois (Mr. ANDERSON) and thank him for his kind remarks in regard to the efforts of our committee and many members of the Committee on Rules to bring this historic occasion to its present state of fruition.

Mr. Speaker, given the somewhat inconsistent and incomplete and sometimes misleading coverage given recently by the news media to this general subject of broadcasting the proceedings of this body, one could be excused for not recognizing that this is a rather historic day in the history of the House. The significance of House Resolution 866, however, more than justifies the use of that term. Approval of the resolution, as has already been stated, will for the first time open to the American people the daily sessions of the House through the media of television and radio.

Although I am not fully cognizant of the rationale of the Committee on Rules in substituting their resolution, House Resolution 866, for the resolution which we submitted to them, House Resolution 821, I am quite certain that in the long run it will not make that much difference. The result, I am quite certain, will be the public broadcasting of the proceedings of this House.

A question at issue between some members of the Committee on Rules and the select committee involved who is going to control the broadcasting, the House itself or a network pool. In my opinion, the House will and should control the actual broadcasting of proceedings, just as the House now controls the daily printing of the Journal of the House, which is the record of the House. I think that analogy will win the day in any future intramural discussion as to who should be responsible for recording electronically the proceedings of the House.

Mr. Speaker, the question for the House, therefore, has become how rather than why.

So many legislative bodies—State, national, and international—are now televising their proceedings that the question of feasibility has been answered in the affirmative. Just this month the Canadian Parliament began televising its sessions. Congress remains one of the last holdouts—not because Members do not want it—most of us do—and not because most Americans do not favor it—opinion surveys show they do, also.

We have been cautious, and properly so, because commercial television can, under certain circumstances, have a distorting effect on reality. Both performers and viewers have been victims of this distortion. Unless the integrity of the environment is preserved, unless the character of the institution is protected and the rules of the game, so to speak, are observed, television programing can become the dominant factor, in which case the medium becomes the message.

In this context, the select committee's test of live television coverage of the House has produced some useful insights which may help to answer the question of how to do it.

We have found, for example, that the use of small, compact cameras allows television coverage to be unobtrusive, because bulky equipment, heavy cables, large control booths, and numerous technical personnel are not needed.

We have found that lighting levels in the House Chamber need not produce heat and glare and discomfort in order to get an adequate picture for broadcast purposes.

As a result, the select committee's survey of our colleagues revealed that only one Member—from among 160 respondents—indicated he was bothered or inhibited by the presence of live television cameras in the Chamber.

The select committee's test also demonstrated—at least to our satisfaction—that broadcast coverage can serve, in a fully compatible way, two distinct purposes: providing vital information to Members and staffs and allowing the American people to see their representatives at work in a meaningful way. We need not choose between a closed circuit system and a public system. The same system can serve both—so long as that system transmits a complete, accurate and understandable record of House legislative action.

It is essential that this condition be met. Unless broadcast coverage is complete and accurate, unless the record is authentic, the information being transmitted will be unreliable and the picture of the working Congress will be misleading. And both the House and its public will suffer.

It is not our purpose to make performers out of Members of Congress, nor to turn serious legislative business into entertainment. If commercial broadcasters or the American television audience are not interested in what happens and how it happens on the House

floor, then so be it. But I am certain they will be.

As a means of assuring the authenticity of broadcast coverage, the select committee has recommended two fundamental provisions: first, that the broadcast system be installed and operated by the House itself, not by an outside group; and, second, that coverage be devoted exclusively to the official action in the Chamber, to the Members actively participating in proceedings and debate.

On the first question, I believe the weight of evidence and experience is on the side of House operation of a broadcast system. Just as the press does not control the recording of our debates or the publication of the CONGRESSIONAL RECORD, so the networks should not control the electronic recording of our proceedings or the operation of the cameras in the Chamber.

Both, however, should and would have complete access to the product of that coverage and complete freedom to select, edit, and utilize all or any part of it. The reasonable requirements of the media will be fully met so long as the coverage itself is complete and unedited—which is precisely what the pending resolution would mandate.

House operation of a broadcast system, Mr. Speaker, would be less expensive than a network pool arrangement. It would be less subject to interruption. It would be more compatible with our closed-circuit requirements and with related House information needs. It would also be less likely to interfere with House procedures and it would not require alterations to the interior of the Capitol Building.

In this regard—as in every other significant respect—the recommendations of the select committee correspond with the preferences expressed by Members who replied to the committee's detailed questionnaire.

In brief, Mr. Speaker, we believe we have based our recommendations on the solid foundation of practical experience and an accurate assessment of our colleagues' views.

We believe the system we have proposed will satisfy the information needs of the public as well as the House.

We believe this system is technically sound and that it can be developed at a reasonable cost.

We believe, finally, that if H.R. 866 is approved by the House this year, we can have a complete closed circuit system—serving every Member and committee—installed early in the next session of this Congress, and available soon thereafter to the American people.

A unanimous and bipartisan committee has devoted 6 years of study and experimentation to the goal of opening the House more widely to the American people. How this is done should not be a matter of partisan dispute.

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

Mr. CLEVELAND. I yield to the gentleman from South Dakota.

Mr. PRESSLER. I thank the gentleman for yielding.

I wish to compliment the gentleman in the well and identify with his remarks.

I would like to ask about the gentleman's views down the road as to how this will affect small radio stations that are nonaffiliated with the national network—as we look down the road. Of course, this immediate bill does not, but what plans are under consideration for small radio stations?

Mr. CLEVELAND. I thank the gentleman for that question. I think that is one of the reasons why the Select Committee on Congressional Operations came up with its proposal that just as the House controls the CONGRESSIONAL RECORD and Journal which is available, as the gentleman knows, to everybody, it will control and make available to everybody the radio and television broadcasts and then the televising of our proceedings.

One of my objections to the proposal of my friend and distinguished colleague (Mr. ANDERSON of Illinois), to contract with a pool of the four major networks, is that the small stations could get this coverage but they might have to pay a sufficiently high price for it that the small stations might feel they could not afford it. That is one of the things we shall have to watch but that is down the road.

Today all we are saying is that we are going to go ahead with this system and get it into the Longworth Building, which does not have it, and we are going to install it in the Cannon Building, which does not have it. The Rayburn Building, of course, is connected now to the television system.

The Rules Committee will study the situation and come up with additional recommendations by February 15. I am convinced that their recommendations will coincide with the proposal of the select committee and for a number of reasons.

I have already talked about the analogy of our control of the printed record of our proceedings, but my friend the distinguished gentleman from South Dakota has put his finger squarely on another important point, which is that we are not going to turn this over to a monopoly of the Big Three broadcasting companies.

Mr. SISK. Mr. Speaker, at this time it gives me a great deal of pleasure to yield to a good friend and a gentleman knowledgeable in TV, who has had an industrial background in that area as well as in the Congress. I yield such time as he may consume to my friend, the gentleman from California (Mr. VAN DEERLIN).

Mr. VAN DEERLIN. Mr. Speaker, I thank my friend, the gentleman from California, for yielding.

It is surely not the fault of the gentleman from California, Mr. BERNIE SISK, that we have been as long as we have in following the lead of a great many Western democracies and many of the State legislatures in these United States in offering the people a full account of the proceedings in a body which, after all, belongs to them and not to us.

I am cheered also to think that with the passage of this resolution we are moving one step nearer to the full first amendment rights of all news people, both electronic and print.

I was glad that the question raised by the gentleman from South Dakota, and answered in part by the gentleman from New Hampshire, does lead me to a point that I wish to make concerning this legislation and having to do with the technology surrounding it.

Mr. Speaker, most of the attention given this resolution has turned on the use to be made by newscasters and especially by networks of the televised proceedings from this Chamber. I would direct the attention of my colleagues to a potentially far wider distribution: to millions of American homes and thousands of schools through the miracle of satellite. Independent broadcast stations and many cable franchises across the Nation already have invested in inexpensive earth stations for direct reception of satellite signals. Already today there are more than 150 cable systems which have their own Earth station dish. Applications for more than that number are today pending before the Federal Communications Commission. These earth stations come for as little as $15,000 for a four-meter dish. Two million cable subscribers are currently served by satellite. By 1981 or 1982, based on present projections, we are going to have 12 million homes perhaps which could be thus served as well as countless schools.

Gavel-to-gavel coverage of the House and Senate proceedings, although they may create no new star competition among the performers, will be available at times and to an extent that no commercial station, certainly no network, could or would provide. It is not within their economic capability. But they might easily be included within the new channel capability of a cable operator.

Do not the Members imagine that the debate heard earlier this afternoon and yesterday on social security reform, a subject which affects all Americans but particularly Americans in their later years and shutins and retired, might have been followed gavel to gavel by millions of our fellow citizens?

No, the economics are not prohibitive. At today's satellite lease rates the full proceedings of an entire Congress could be transmitted for about $1.5 million a year, not much if prorated among several hundred cable companies, if it is available and it will be made available under the terms of the resolution which specifically includes cable systems and signals which can be made available by satellite, the small and independent television stations around the country, we are, indeed, taking a step forward toward restoring the Government of this land to its own people.

Mr. SISK. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina (Mr. ROSE).

Mr. ROSE. Mr. Speaker, I thank the gentleman for yielding.

I would like to say that the House Administration Committee Policy Group on Information and Computers has worked very closely with the Select Committee on Congressional Operations in devising their report. If and when the Speaker sees fit to make this system operational,

it would be our purpose to wire up the buildings of the Congress with a cable that could not only carry the video proceedings of this body, but also two-way computer communications between Member's offices and the central computer system that we have now in the House information system.

I think the approach of the gentleman from Texas (Mr. BROOKS) is unique for another important reason. What the gentleman from Texas (Mr. BROOKS) and the gentleman's committee have proposed is that the House be the recorder of the proceedings of this body and that someone else be the interpreter.

The SPEAKER pro tempore. The time of the gentleman from North Carolina has expired.

Mr. SISK. Mr. Speaker, I yield 1 additional minute to the gentleman.

Mr. ROSE. Mr. Speaker, I think it is important for us to realize that we record through the CONGRESSIONAL RECORD exactly what happens in this body. Someone else interprets it. What the gentleman from Texas (Mr. BROOKS) and the gentleman's committee have proposed is that the House record the visual scenes that take place in this body and the world is free to interpret what those scenes mean.

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

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

Mr. ROUSSELOT. I thank the gentleman for yielding. Mr. Speaker, what do we do when our fellow Members revise and extend their remarks and, as a result, the printed word in the CONGRESSIONAL RECORD is much different than what we actually heard on the floor?

Mr. ROSE. That is a good question.

Mr. ROUSSELOT. That means that the Members will need to be more mindful to be sure that what they say verbally more closely matches what is actually printed in the RECORD.

Mr. ROSE. We certainly will.

Mr. SISK. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. RYAN).

Mr. RYAN. Mr. Speaker, in all of my time here, which encompasses only 5 years, I cannot think of a single more important issue to come before this House than the one we now deal with and which we are looking at in this Chamber; however, were the television sets to be on and this to be fully televised on a national basis, there would be many Members here now instead of the few we see here present.

I have in my mind searched to try to find a historic parallel to this precedent in importance. I go back, for instance, to the first session of the Congress.

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

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

Mr. ROUSSELOT. Mr. Speaker, does the gentleman want a quorum call? We will get it for the gentleman.

Mr. RYAN. No. It is enough to note that less than 40 people are in the Chamber.

Mr. ROUSSELOT. I just thought I would ask.

Mr. RYAN. Mr. Speaker, I go back to the first session of Congress, held in a second-story room in City Hall in Philadelphia. Certainly that was historic and precedent-making, but they knew what precedents they were setting. We do not know what we are doing now, in that sense. We are about to change this place that has been a forum for debate for almost 200 years. This is the 95th Congress, each Congress lasting 2 years, that is 190 years. We are now about to change it from a forum to a theater.

Now, that is not an exaggeration. That is a fact. We are about to change it in two ways from a forum to a theater. The first has to do with time. Do you remember, what was it, 3 years ago only, that we reported out a bill, a resolution from the Committee on the Judiciary, impeaching the President of the United States? The Committee on Rules at that time said, "We will schedule 40 hours of debate." Why? Because 5 minutes times each Member present makes about 36 hours, give or take a few minutes here and there. In any major measure we can have 40 hours of debate. Every single Member will want time. On the important and crucial votes before us. Abortion. Energy. B–1 bomber. How many others?

Every Member in this House that will demand his time. Why? Because the folks at home will say, "Where were you? Why were you not there?"

Because this place becomes a theater, it is no longer a place for men and women to debate the issues this country has. It becomes, in effect, a platform upon which every Member is required to stand up and talk. We can no longer gather in this Chamber to conduct the country's business. We all know we go on stage when we take the floor.

Now, let us go to the second thing, the matter of style.

This evening, right here on this legislation itself, one would presume that those who were for and those who were against this resolution each got half the time for debate. Is that the actual case? It is not. The time on this television resolution is divided between Republicans and Democrats, presuming the Republicans or the Democrats are opposed and the other side is for. This is part of my problem.

The SPEAKER pro tempore. The time of the gentleman from California has expired.

Mr. SISK. Mr. Speaker, I am going to yield the gentleman 1 additional minute.

Mr. RYAN. I think the fact that I get 1 additional minute, and will be the first and only one, so far, to speak against the concept of making this place a theater instead of a forum, and the most important single action taken in my time here, and probably in the last 190 years, is a good indication of the problem which exists with this kind of action. Even now, on this measure, the time is not divided among those who support and oppose the issue, but between Republicans and Democrats on Rules Committee—both of whom favor the measure. Why can I not organize opposition? If opposition to this measure is stifled before television, what pressures will build afterward? We are not yet ready to keep this beloved House from becoming national theater—we should resist pressure to change this place from a place where reasonable men and women may debate to the kind of place which the Roman Senate became.

I am unalterably, implacably and totally opposed to the idea of having TV in this Chamber until we can arrive at some kind of decision as to what the implications will be for all of us in this House, and in this country.

Mr. SISK. Mr. Speaker, at this point I am going to yield 2 minutes to the dean of the Congress so far as interest in this subject is concerned, the gentleman from Florida (Mr. PEPPER).

Mr. PEPPER. I thank the able gentleman from California very much for yielding to me. I want, in the warmest way, to compliment him and Mr. LOTT, and the members of the ad hoc subcommittee of the Rules Committee, the chairman of the Select Committee on Congressional Operations, Mr. BROOKS, and Mr. CLEVELAND, the ranking minority member and all who have had a part, especially including our great Speaker, of course, in making, we think, imminent the realization of this dream of broadcasting the proceedings of the Congress that so many of us have cherished for a long time.

I have heard it said in this Congress and in this Government of ours that a good idea has a gestation period of a quarter to a third of a century. It was in 1944, just a third of a century ago, that I introduced in the other body a resolution to cover by radio the proceedings of the Congress of the United States. I introduced the proposal from time to time and, of course, included television when that medium came in. I am hoping that in the spring of this coming year we are going to begin the establishment of that institution. That, I believe, will be a meaningful step forward for the democracy of our country.

Our times have changed since the early days. The Members used to come here on stagecoaches and on horseback. Now, most of us come here by plane, or certainly by car, in most instances. Gallery observers are permitted to see us as we are, warts and nasal intonations included. The people back home have a right to the same privilege that the people in the galleries can enjoy, when the miracle of television and radio make it possible, to see and hear what the Members of the people's Congress say and do.

Today, we passed a social security bill which has one amendment which JIM BURKE says will cost the taxpayers of this country $7 billion a year. That bill affects 24 million, at least, living citizens of America. Many of them would have liked to have seen and heard the debate upon that issue. Time after time, we are considering matters of the most vital import to the people of this country.

We do not decree that the people hear us; we only propose to give them an opportunity to hear. All they have got to do is to turn that little knob and we are off, but why should they not have the privilege of turning it on and seeing and

hearing us as we debate the national concerns here in this body?

So, I think this is a great step forward in the perfection of the democracy of America, and I look forward anxiously to that happy day next year when the people all over America can turn that little knob and begin to see and hear what we are doing or not doing in the interests of this great America.

Mr. LOTT. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I rise in support of the resolution.

A year or so ago, when I was in London on a private trip, I had occasion to strike up a conversation with a cabbie. Because it was pretty obvious from my accent that I was a foreigner, he asked me where I was from, and finally discovered that I was a Member of Congress. I asked him what he thought about the Mother of Parliaments, the House of Commons. He replied, "I never knew what a bunch of bloody baboons ran this country until they put the show on the radio recently."

Apparently, the BBC had started broadcasting sessions of Commons and this one stouthearted Englishman learned something about the system of government at Westminster that he had never realized before.

I think some good may come from broadcasting and televising the House of Representatives.

I do not believe that Englishman's view necessarily applies to this body, the son of the Mother of Parliaments. I think perhaps some good opinions might be established in the minds of the American people who in general have a low regard of the House of Representatives of the United States. I do not think it will hurt anything. It is worth trying. It might even bring about a massive change, not only in the way we operate and conduct our affairs, but even in the composition of the body. And that could not be all bad.

Mr. SISK. Mr. Speaker, I yield myself 4 minutes, and I do this in order to answer some questions which have been raised. I do not desire to cut anyone off.

First, let me say that the Members will note from the resolution that this might, if passed—and I hope everyone will vote for this resolution—permit the Speaker to get and complete the in-house wiring. Then the Committee on Rules will be exploring certain alternatives. That effort will be headed by a very distinguished colleague, the gentleman from Louisiana (Mr. LONG), who is chairman of a subcommittee of the Committee on Rules. I want to recognize the gentleman. I believe he has indicated no particular desire to speak here, but he will be the gentleman chairing this subcommittee which will be analyzing and, hopefully, coming up with a recommendation.

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

Mr. SISK. I yield to the gentleman from Mississippi.

Mr. WHITTEN. I thank the gentleman for yielding.

Mr. Speaker, I rise at this point—since, apparently, this will pass and the Committee on Rules will give attention to it—to describe, I hope, objectively, a situation which we have now.

It is my understanding that the rollcalls today will equal about 720, as we head for the end of the year. I happen to hold hearings from 10 o'clock to 12 o'clock and from 1 o'clock to 5 o'clock for about two-thirds of the year. It means that one cannot handle his mail and his telephone calls under the existing conditions. If one misses a day from the floor, he misses about 10 rollcalls. One of them will be a quorum, which is normal; another will be the approval of the Journal; another will be to go into committees; and another will be because someone does not like something and he has 33 friends who will stand up with him. Under present conditions, it is extremely hard to halfway do our work on the committees.

I have, as other Members have, been in many, many areas with some of my colleagues, and when you come back, the same fellows are in the front of every picture. If we have this, I am saying here that this committee, which is going to study it—I am not objecting to what it is trying to do—will give some thought to those who do work, to have a chance to work, so that those in front of the camera will not hog the show and give the country the idea that certain Members are the ones who run the Congress.

We should give some thought to those Members who do work and give them some chance to work, so that those who are in front of the camera will not hog the show in the Congress before the country. We should let those who want to work have a chance to work. We need to change this rollcall system so a Member can get his work done.

Mr. SISK. Mr. Speaker, I yield 1 minute to the gentleman from Louisiana (Mr. LONG) so he may comment on some of the comments made by the gentleman from Mississippi (Mr. LOTT).

Mr. LONG of Louisiana. Mr. Speaker, I thank the gentleman for yielding me this time.

I think the discussions today has brought out far-reaching ramifications—and they are ramifications which are not completely thought out by all Members—as to what is going to happen as a result of the institution of the presentation of the proceedings of the House on television.

Because this is so complex and because it is so new, I invite all Members to give this matter some individual thought. I invite them to present their thoughts to us, just as our colleague, the gentleman from Mississippi, did and just as our colleague, the gentleman from California, did.

This really poses some problems that have never before come to our minds, problems that are going to have great effect upon this House of Representatives, and we certainly request that all the Members present their views to us so that we at least can get as comprehensive a look as is humanly possible, under these new circumstances, at the situation in which we are going to find ourselves.

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

Mr. LONG of Louisiana. I yield to the gentleman from California.

Mr. RYAN. Mr. Speaker, one of the things I anticipate will happen almost immediately is that there will be an increase in the desire of individual Members to speak either for or against a particular issue.

As we have the rules written today, there is no change in the rules, and no Members, apart from those who are members of a subcommittee within which the policy matter is considered, are allowed to have much to say, other than in a simple pro forma 30 seconds or whatever the time happens to be, so we would be effectively squelching the very kind of debate the Members say they want.

Mr. SISK. Mr. Speaker, I yield myself 3 additional minutes.

First, Mr. Speaker, may I inquire as to how much time I have remaining?

The SPEAKER pro tempore (Mr. MURTHA). The gentleman from California (Mr. SISK) now has 5 minutes remaining, and will have 2 minutes remaining after he uses his 3 minutes.

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

Mr. SISK. Mr. Speaker, I yield myself 3 additional minutes, and I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I appreciate my colleague's yielding.

I, like my colleague, the gentleman from Maryland (Mr. BAUMAN), feel inclined to support this resolution, but I would like to ask my distinguished colleague, the gentleman from California (Mr. SISK), this question:

On page 3 of House Resolution 866, the resolution before us, it says: "Authority To Delegate."

Then it says:

SEC. 5. The Speaker may delegate any of his responsibilities under this resolution to such legislative entity as he deems appropriate.

We have no back-up material in the committee report to tell why there is a need for this delegated power or why it was done.

Does the gentleman know what the Speaker has in mind with this delegated power or why he wants it?

Mr. SISK. Mr. Speaker, I would have to say that at this moment I do not, and I am not at this point going to assume what he may do.

Mr. ROUSSELOT. Is the Speaker going to delegate authority to the Committee on Rules, the Committee on Government Operations, or what?

Mr. SISK. Mr. Speaker, if the gentleman will permit me to continue, the gentleman knows, of course, that this is very clearly a grant of considerable authority to the Speaker.

Mr. ROUSSELOT. I would say it is quite substantial.

Mr. SISK. That is right. It is.

Mr. ROUSSELOT. Well, what is the Speaker going to do with it?

Mr. SISK. I think this is, of course, a matter of our faith and confidence in the Speaker, and in the final analysis, let me say to my colleague that this House will have confidence in the Speaker. I think my colleague is asking a good question.

Mr. ROUSSELOT. Yes, I think it is a terrific question. Perhaps the gentleman from Texas (Mr. BROOKS) can tell us, since he is very close to the leadership.

Mr. SISK. Mr. Speaker, if the gentleman will permit me to continue, in the final analysis the Speaker of the House can do nothing that this House does not approve. We will have the final say on the resolution, and the gentleman and I as individuals know what our independent moods are, and that we will vote as we see fit.

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

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

Mr. BROOKS. Mr. Speaker, I will speak as an individual Member, not as a part of the leadership, since I am not a part of the leadership, as the Members well know.

Mr. ROUSSELOT. But, Mr. Speaker, the gentleman is the chairman of a major committee.

Mr. BROOKS. Mr. Speaker, that is just one of the working committees of the House.

I will say to my distinguished friend, the gentleman from California (Mr. ROUSSELOT), that my recommendation was that of a select committee, and as a recommendation, that does not mean that is what the Speaker will do. But the recommendation was that the Speaker delegate the actual operation of the cameras to the Architect of the Capitol.

Mr. ROUSSELOT. Did the gentleman say: The Architect of the Capitol?

Mr. BROOKS. To the Architect.

Mr. Speaker, let me tell the Members why. The existing tests that have been running have been conducted with cameras that the Architect operates as part of the surveillance system for the garage and for the protection of the U.S. Capitol. Those are just off-the-shelf cameras. That office has the people who know how to install them, how to maintain them, and how to run them. They have the capability and the know-how. They have the responsibility for the operations in the Chamber, for the cameras, the lighting, and anything along the line of that type of installation within the Capitol.

I thought they were the appropriate people, but the Speaker might decide somebody else may do it. That was the recommendation of the select committee.

Mr. SISK. Mr. Speaker, I reserve the balance of my time.

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

Mr. Speaker, in response to the gentleman's question, I understand the Speaker might delegate this authority to the Clerk, who would in turn contract it out on a pool arrangement or perhaps to some organization that would conduct this television operation.

Mr. ROUSSELOT. The gentleman's guess is that the Speaker will delegate the authority with respect to in-house details to the Clerk of the House; is that correct?

Mr. LOTT. Perhaps.

Mr. ROUSSELOT. The gentleman says perhaps, but he is not sure?

Mr. LOTT. No, I am not.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman.

Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Speaker, I was interested in the comments by my friend, the gentleman from California (Mr. RYAN), in which he suggested that we will suddenly be transformed from a serious legislative forum into a theater.

My reaction is that we are already engaged in theater, and I think that we have had very good theater here this afternoon in considering this resolution. In fact, it was that eminent, great actor, Henry Kissinger, who once said that all politics is really theater—"Politics" spelled with a capital "P."

Mr. Speaker, I think there is a lot to what he said. What we are doing here is enlarging the theater very substantially. I think that is to the good. It will increase the visibility of the legislative branch and particularly of what I call the people's branch of the Government. I think that is all to the good.

I will further say that when the committees were opened to television and radio coverage, there was a similar apprehension about grandstanding. I do not think it has really materialized. I think it has not really altered the work of the committees substantially.

Finally, I will say, Mr. Speaker, that we really ought to tip our hat today to a former Member of the House, Bob Ellsworth, who in 1966, I believe, was the first Member of the House to introduce a resolution calling for full radio and television coverage. Several of us joined him on that occasion.

Perhaps my recollection of the history is not completely accurate, but Mr. Ellsworth went on to a distinguished career as Assistant Secretary of Defense and as NATO Ambassador. I think one of his great achievements was to nudge us down this road, which is a very good road to travel.

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

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

Mr. RYAN. Mr. Speaker, may I say to the gentleman that we have always had theater, perhaps, but at least we have had the filter of the print media which, because they are not here in substantial numbers, and the television does not show that, still have the capacity at least to filter down to what is the most important and salient elements of any argument.

Mr. FINDLEY. They also have the capacity to distort the image.

Mr. LOTT. Mr. Speaker, I yield the balance of my time to the gentleman from Washington (Mr. CUNNINGHAM).

The SPEAKER pro tempore. The gentleman from Washington (Mr. CUNNINGHAM) is recognized for 1½ minutes.

Mr. CUNNINGHAM. Mr. Speaker, I appreciate my colleague's yielding me this time.

In the State of Washington we introduced electronic coverage in our State legislature, and we turned a slow process into an absolute stop.

We did not have grandstanding, but we had a sudden spurt of everybody wanting to talk.

At the same time we did give the public some competition to "Sesame Street" on the part of adults.

Television did not show the great oratory. It showed the chairman maybe picking his nose or a senior committee chairman scratching his leg, or another member resting his eyes after working hard in reading the journal. The legislature was intimidated electronically.

Mr. Speaker, open government is laudable, but I submit, as the gentleman from California has indicated, that we might be allowing the camel to put his head in the tent.

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

Mr. CUNNINGHAM. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I thank the gentleman for yielding.

I am going to support this resolution.

One concern I have among all the concerns that have been expressed with respect to our image around the country is as to what kind of song is going to be picked as a lead-in song once the House of Representatives is opened.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, I think in this atmosphere of one of the greatest of parliaments, we will find in time, after a shakedown cruise, during which people may be able to put on a little act, knowing that the proceedings are being televised, if we allow television to portray what it thinks is interesting and important, we will all get used to it and will bring to the American people the same feelings they had when we had the impeachment proceedings.

Mr. SISK. Mr. Speaker, I yield myself the remainder of my time.

Let me make a brief comment. There are today, I believe, 18 State legislatures that are using electronic media. For example, the Florida Legislature has had constant coverage, audio-video, for many years. They found very shortly that this showmanship ceased to be any problem. The Georgia State Legislature has as well.

Our committee has looked into this. I can understand some of the concerns that have been expressed here today, but, again, this has been the reason why for many years this matter was studied and has been looked at. As the gentleman from Florida (Mr. PEPPER) has so ably said earlier, we spent three decades here trying to determine where we are going, and all in all the history of experience that the committee had available to it indicates that in fact it is in the best interests of open government and in the best interests of our country. Therefore, I would urge that this resolution be agreed to.

Ms. HOLTZMAN. Mr. Speaker, I rise in opposition to House Resolution 866, a resolution amending the rules to provide for television and radio coverage and the proceedings of the House.

I strongly support radio and television coverage of House proceedings just as I supported such coverage of the impeachment proceedings. The issue is not, however, whether there will be coverage. There will be. The issue is instead what that broadcasting will be like—whether there will be gavel to gavel coverage of House proceedings, what rights there will be to edit and revise portions of the television transcripts, and whether there will be network coverage or coverage by public broadcasting. This resolution does not decide these issues but writes a blank check to the Speaker and leaves in his hands alone the decisions as to how the broadcasting will be done and by whom. These matters are too important to leave in the hands of a single individual, even the Speaker for whom I have great respect. They should be decided after careful deliberation by the full House.

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

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

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

Mr. ROUSSELOT. 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 342, nays 44, not voting 48, as follows:

[Roll No. 709]

YEAS—342

Abdnor	Burton, John	Ellberg
Addabbo	Burton, Phillip	Emery
Akaka	Butler	English
Alexander	Byron	Erlenborn
Allen	Caputo	Evans, Colo.
Ambro	Carney	Evans, Del.
Ammerman	Carr	Evans, Ga.
Anderson, Ill.	Cavanaugh	Evans, Ind.
Andrews, N.C.	Cederberg	Fary
Andrews, N. Dak.	Chappell	Fascell
	Chisholm	Fenwick
Applegate	Clay	Findley
Archer	Cleveland	Fish
Armstrong	Cochran	Fisher
Ashbrook	Cohen	Fithian
Ashley	Coleman	Flippo
Aspin	Conable	Florio
Bafalis	Conte	Flynt
Baldus	Conyers	Foley
Baucus	Corcoran	Ford, Mich.
Bauman	Cornell	Ford, Tenn.
Beard, R.I.	Cotter	Forsythe
Beard, Tenn.	Crane	Fountain
Bedell	D'Amours	Fowler
Beilenson	Daniel, Dan	Fraser
Benjamin	Daniel, R. W.	Frenzel
Bennett	Danielson	Frey
Bevill	Davis	Fuqua
Bingham	de la Garza	Gammage
Blanchard	Delaney	Gaydos
Blouin	Dellums	Gephardt
Boggs	Derrick	Giaimo
Boland	Derwinski	Gibbons
Bonior	Devine	Gilman
Brademas	Dickinson	Ginn
Breaux	Diggs	Glickman
Breckinridge	Dornan	Goldwater
Brinkley	Downey	Gonzalez
Brodhead	Drinan	Gore
Brooks	Duncan, Tenn.	Gradison
Brown, Mich.	Early	Gudger
Brown, Ohio	Eckhardt	Guyer
Broyhill	Edgar	Hagedorn
Buchanan	Edwards, Ala.	Hall
Burke, Fla.	Edwards, Calif.	Hamilton
Burlison, Mo.	Edwards, Okla.	Hannaford
Hansen	Meeds	Santini
Harkin	Metcalfe	Sarasin
Harrington	Meyner	Sawyer
Harris	Michel	Scheuer
Hawkins	Mikulski	Schroeder
Heckler	Mikva	Sebelius
Hefner	Miller, Calif.	Seiberling
Heftel	Miller, Ohio	Sharp
Hightower	Mineta	Shuster
Hillis	Minish	Simon
Hollenbeck	Mitchell, Md.	Sisk
Holt	Mitchell, N.Y.	Skelton
Horton	Moakley	Skubitz
Hubbard	Moffett	Smith, Iowa
Huckaby	Montgomery	Smith, Nebr.
Hughes	Moore	Solarz
Hyde	Moorhead, Calif.	Spellman
Ichord		Spence
Ireland	Moorhead, Pa.	St Germain
Jacobs	Moss	Staggers
Jeffords	Mottl	Stangeland
Jenkins	Murphy, Ill.	Stanton
Jenrette	Murphy, N.Y.	Stark
Johnson, Calif.	Murphy, Pa.	Steers
Johnson, Colo.	Myers, Gary	Steiger
Jones, N.C.	Myers, John	Stockman
Jones, Okla.	Natcher	Stokes
Jones, Tenn.	Neal	Stratton
Jordan	Nichols	Studds
Kasten	Nowak	Thompson
Kastenmeier	Oakar	Thone
Kazen	Oberstar	Thornton
Kelly	Obey	Traxler
Kemp	Ottinger	Trible
Ketchum	Panetta	Tsongas
Keys	Patten	Tucker
Kildee	Patterson	Udall
Krebs	Pattison	Ullman
Krueger	Pease	Van Deerlin
LaFalce	Pepper	Vanik
Lagomarsino	Perkins	Vento
Le Fante	Pettis	Volkmer
Leach	Pike	Walgren
Lehman	Pressler	Walker
Levitas	Preyer	Walsh
Lloyd, Calif.	Price	Wampler
Lloyd, Tenn.	Pritchard	Watkins
Long, La.	Quayle	Waxman
Long, Md.	Quillen	Weaver
Lott	Rahall	Weiss
Luken	Railsback	White
Lundine	Rangel	Whitehurst
McCory	Regula	Whitley
McCloskey	Reuss	Whitten
McCormack	Rhodes	Wiggins
McDade	Rinaldo	Wilson, Tex.
McEwen	Risenhoover	Winn
McFall	Robinson	Wirth
McHugh	Rodino	Wright
McKay	Roe	Wydler
McKinney	Roncalio	Wylie
Madigan	Rooney	Yates
Maguire	Rose	Yatron
Mahon	Rosenthal	Young, Alaska
Mann	Rousselot	Young, Fla.
Markey	Rudd	Young, Mo.
Marks	Runnels	Zablocki
Marlenee	Ruppe	Zeferetti
Martin	Russo	

NAYS—44

Anderson, Calif.	Harsha	Roybal
	Holtzman	Ryan
Badham	Kindness	Satterfield
Biaggi	Latta	Shipley
Bowen	Lederer	Slack
Burke, Mass.	Livingston	Snyder
Burleson, Tex.	McDonald	Steed
Collins, Tex.	Milford	Stump
Corman	Mollohan	Taylor
Cornwell	Murtha	Treen
Cunningham	Myers, Michael	Waggonner
Dingell	Nedzi	Wilson, C. H.
Ertel	Nix	
Goodling	O'Brien	
Grassley	Poage	
Hammer-schmidt	Roberts	
	Rostenkowski	

NOT VOTING—48

Annunzio	Collins, Ill.	Lent
AuCoin	Coughlin	Lujan
Badillo	Dent	Marriott
Barnard	Dicks	Mathis
Bolling	Dodd	Mattox
Bonker	Duncan, Oreg.	Mazzoli
Broomfield	Flood	Nolan
Brown, Calif.	Flowers	Pickle
Burgener	Hanley	Pursell
Burke, Calif.	Holland	Quie
Carter	Howard	Richmond
Clausen, Don H.	Koch	Rogers
	Kostmayer	Schulze
Clawson, Del	Leggett	Sikes
Symms	Whalen	Young, Tex.
Teague	Wilson, Bob	
Vander Jagt	Wolff	

The Clerk announced the following pairs:

On this vote:

Mr. Mattox for, with Mr. Annunzio against.

Until further notice:

Mr. AuCoin with Mr. Bonker.
Mr. Flood with Mr. Broomfield.
Mr. Hanley with Mr. Carter.
Mr. Sikes with Mr. Lent.
Mr. Teague with Mr. Quie.
Mr. Wolff with Mr. Del Clawson.
Mrs. Burke of California with Mr. Nolan.
Mr. Dent with Mr. Brown of California.
Mr. Dodd with Mr. Bob Wilson.
Mr. Howard with Mr. Vander Jagt.
Mr. Koch with Mr. Symms.
Mr. Richmond with Mr. Burgener.
Mr. Rogers with Mr. Lujan.
Mr. Kostmayer with Mr. Whalen.
Mr. Mathis with Mr. Schulze.
Mr. Flowers with Mr. Pursell.
Mr. Mazzoli with Mr. Marriott.
Mr. Pickle with Mr. Leggett.
Mr. Badillo with Mr. Holland.
Mr. Barnard with Mr. Duncan of Oregon.
Mrs. Collins of Illinois with Mr. Don H. Clausen.
Mr. Dicks with Mr. Coughlin.

Mr. GAMMAGE changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

The title was amended so as to read: "Providing for radio and television coverage of House proceedings."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SISK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 866, just agreed to.

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

There was no objection.

LEGISLATIVE PROGRAM

(Mr. DEVINE asked and was given permission to address the House for 1 minute.)

Mr. DEVINE. Mr. Speaker, I have taken this time in order to inquire of the majority leader the calendar for the remainder of the day, what time we expect to rise, and what the proceedings are on the calendar for the balance of the week.

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

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

Mr. WRIGHT. Mr. Speaker, in response to the inquiry of the gentleman from Ohio, the House has made splendid progress today and throughout this entire week. We have completed everything on the schedule for the week, except for one item, H.R. 8200, the uniform bankruptcy law.

It would be our purpose to take up the rule immediately. If not too much time is consumed in debating and discussing the rule, we will get well into the debate which provides for 2-hours of general

debate, under an open rule; we will complete as much of that as possible, and we will rise at about 7 o'clock tonight. Then we would complete that bill tomorrow.

The House will convene at 10 o'clock tomorrow, and, surely, it is not beyond the realm of expectation that we would complete that bill well in time to conclude by 3 o'clock tomorrow afternoon.

Mr. DEVINE. Mr. Speaker, I thank the gentleman.

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

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

Mr. ROUSSELOT. I thank the gentleman for yielding.

Mr. Speaker, is it the majority leader's understanding that there will be no amendments offered tonight?

Mr. WRIGHT. In response to that, Mr. Speaker, if the gentleman will yield further, I do not see any practical way in which we can conclude the general debate this evening. There are 2 hours of general debate. The chairman of that committee, the gentleman from New Jersey (Mr. RODINO) is here, ready to begin. I do not believe that we have any realistic expectation of getting into the 5-minute rule this evening, given the promise that was earlier made that we would rise about 7 o'clock.

Mr. ROUSSELOT. I thank the majority leader.

FURTHER MESSAGE FROM THE SENATE

After the message from the Senate, Mr. Sparrow, one of its clerks, announced that the Senate disagrees to the amendments of the House to the bill (S. 1585) entitled "An act to amend title 18, United States Code, to make unlawful the use of minors engaged in sexually explicit conduct for the purpose of promoting any film, photograph, negative, slide, book, magazine, or other print or visual medium, or live performance, and for other purposes," agree to a conference requested by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. CULVER, Mr. KENNEDY, Mr. BAYH, Mr. DECONCINI, Mr. MATHIAS, Mr. THURMOND, and Mr. WALLOP to be the conferees on the part of the Senate.

PROVIDING FOR CONSIDERATION OF H.R. 8200, BANKRUPTCY LAW REVISION

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 826 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 826

Resolved, That upon the adoption of this resolution it shall be in order to move, section 303(a) of the Congressional Budget Act of 1974 (Public Law 93-344) and clause 3 of rule XIII to the contrary notwithstanding, 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. 8200) to establish a uniform law on the subject of bankruptcies. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, 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 the Judiciary now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be read for amendment by titles instead of by sections, and all points of order against said substitute for failure to comply with the provisions of section 303(a) of the Congressional Budget Act of 1974 (Public Law 93-344) 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 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 pro tempore. The gentleman from Florida (Mr. PEPPER) is recognized for 1 hour.

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

Mr. Speaker, House Resolution 826 provides for the consideration of H.R. 8200, the bankruptcy law revision of 1977. This is an open rule providing for 2 hours of general debate to be divided and controlled in the customary manner by the Committee on the Judiciary. It is made in order to consider the committee amendment in the nature of a substitute as an orginal bill for the purpose of amendment, and all points of order against the substitute for failure to comply with section 303(a) of the Congressional Budget Act and clause 3 of rule XIII—the Ramseyer rule—are waived. The substitute shall be read by titles instead of by sections, and the rule provides for one motion to recommit with or without instructions.

The waiver of section 303(a) of the Budget Act is required to permit consideration of those parts of the bill which establish life tenure salaries and retirement for the bankruptcy judges. This part of the Budget Act prohibits the consideration of measures that contain entitlements for a fiscal year before the first budget resolution for that year has been adopted. The waiver of the Ramseyer rule allows consideration of the bill even though the committee report does not contain a Ramseyer, or a list of deletions and additions to existing law. This requirement was not made of this bill because it deletes in its entirety a voluminous set of laws, and the reprinting of these laws was felt to be cost-prohibitive.

Mr. Speaker, H.R. 8200 implements a comprehensive revision of our Nation's bankruptcy law, making improvements which have been deliberated over for a long time and the need for which has been demonstrated over the years. The last substantial revision of this system was in 1938, the year I sponsored a bankruptcy law revision bill during my service in the Senate.

As the Members are aware, this bill is very complex and as such it would be impossible for me to detail all its provisions to you now. Let me therefore outline the major concerns of H.R. 8200 and how they alter the present bankruptcy system in the United States.

H.R. 8200 establishes a new court structure to replace the existing structure of separate bankruptcy courts which are subordinate to and under the control of district courts. This new court system is to have complete jurisdiction over all bankruptcy cases, removing this responsibility from the Federal district court judges. There are to be life tenured judges in the new court system, although the current bankruptcy referees would continue to sit through the transition period of the bill, that is until 1983.

This legislation further creates a system of U.S. trustees to administer the new structure, thereby relieving the judges of any possible conflict in the dual responsibilities they hold at present. These Federal trustees would oversee the qualifications and appointments of private trustees and would serve as enforcers of the bankruptcy law.

The extensive revision proposed by the bill accounts for the remarkable growth in consumer and commercial credit industries as well as in the complexity of business reorganizations and other changes. The bill simplifies the establishment of repayment plans for the consumer debtor, and the loopholes which have worked in the past to impede the fresh start given to overburdened debtors have been closed. For the commercial debtor, moreover, the bill modernizes the law and particularly responds to changes in the areas of preference and protection of both creditors and debtors.

I feel it is important to note that the legislation encourages the use of alternatives to liquidation. It also consolidates the existing laws on business reorganization into an efficient and less time consuming procedure.

These are, as I have stated earlier, the general provisions of H.R. 8200. The bill represents a cumulative development of years of work and thousands of pages of testimony on a complex subject, and I believe it deserves full consideration by the House. I respectfully request, Mr. Speaker, that we adopt House Resolution 826 so that we may proceed to the consideration of this legislation.

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

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

Mr. ROUSSELOT. I thank Mr. Pepper for yielding. Mr. Speaker, can the gentleman tell us how long the Committee on the Judiciary has worked on this legislation?

Mr. PEPPER. I cannot hear the gentleman.

Mr. ROUSSELOT. Can the gentleman tell us how long the Committee on the Judiciary has been working on this legislation?

Mr. PEPPER. I know that it has been several years. It is 6 years. I am advised by the able gentleman from California (Mr. EDWARD), that the Committee on the Judiciary has been working on this

bill, holding numerous hearings, taking the advice and counsel of innumerable people on the law. They know something about this subject, and this bill is a very good one.

Mr. ROUSSELOT. We can be assured, then, that this is not a hurry-up bill and that adequate time has been given to its drafting this large document?

Mr. PEPPER. It is a bill which we hope will provide for more expeditious disposition of bankruptcy cases.

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

Mr. Speaker, let me say to the gentleman from California (Mr. ROUSSELOT), who just made inquiry of the gentleman from Florida (Mr. PEPPER), that they have been fiddling with this matter for several years. It is not a very new matter.

Mr. Speaker, this rule provides 2 hours of general debate for the consideration of H.R. 8200, the bankruptcy revision bill.

Points of order are waived against both the bill and the committee substitute for failure to comply with section 303(a) of the Budget Act. Section 303(a) prohibits new entitlement authority from becoming effective during a fiscal year until after the first budget resolution for that fiscal year has been adopted. Life tenure, high salaries and retirement benefits for the newly converted Federal judgeships and annuities to dependents would not become effective until fiscal year 1984. This new entitlement authority violates section 303(a) of the Budget Act, and therefore the waiver is necessary.

The chairman of the Budget Committee has written a letter in which he concludes that it would not serve the fundamental purposes of the Budget Act to insist on a strict application of the act to this bill.

In addition to a Budget Act waiver, this rule includes a waiver of the Ramseyer rule, clause 3 of rule XIII. The committee report does include some of the changes in existing law made by the bill. However, it does not include all of the old Bankruptcy Act which is being changed. Therefore the waiver of the Ramseyer rule is necessary.

In order to preserve the normal amending process, the rule makes the committee substitute in order as an original bill for the purpose of amendment. The substitute will be read by titles instead of by sections.

Finally, the rule does provide for a motion to recommit with or without instructions.

Mr. Speaker, I have a number of questions about this proposed bankruptcy law revision.

First, I am concerned because this bill will create a large number of new bankruptcy judgeships who will be political appointees. These appointees will have life tenure, so they will be with us for a long time. They will have excellent retirement benefits without making contributions.

Mr. Speaker, I am also concerned because this bill invites increased abuse of our student loan program. Under present law, there is a prohibition on a discharge in bankruptcy until 5 years after a student loan comes due. However, this bill removes that prohibition. So under this bill a student can go to college, or law school or medical school on money borrowed from the taxpayers. Then as soon as the student receives his diploma, he can declare bankruptcy and the taxpayers are left holding the bag. This is not fair to the taxpayers. It is not fair to the other hard-working student who borrows money to go to school, and then spends the first years of his career working to pay off the debt.

Mr. Speaker, these problems need to be corrected before this bill is enacted into law.

Mr. Speaker, the gentleman from Illinois (Mr. RAILSBACK) has asked for some time, and I yield such time as he may consume to him at this point.

Mr. RAILSBACK. Mr. Speaker, I ask unanimous consent to revise and extend my remarks and to include extraneous matter in the body of the RECORD during the remarks I make in the debate on this bankruptcy bill.

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

Mr. BUTLER. Mr. Speaker, reserving the right to object, will the gentleman identify the extraneous matter that he has in mind.

Mr. RAILSBACK. If the gentleman will yield, Mr. Speaker, I will be pleased to identify the extraneous matter.

It will be a letter from Griffin Bell, the Attorney General, in opposition to the article III status granted to what will be about 200 judges at the expiration of a 6-year period. It will be a statement from the Chief Justice of the U.S. States Supreme Court, Chief Justice Burger, in opposition to the creation of the article III-status judges.

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

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

There was no objection.

Mr. LATTA. Mr. Speaker, I will say I am glad the gentleman withdrew his reservation of objection, because certainly he would want both sides of this issue properly discussed.

Mr. Speaker, I have no further requests for time, and I reserve the remainder of my time.

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

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

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

Mr. QUILLEN. 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 358, nays 11, not voting 65, as follows:

[Roll No. 710]

YEAS—358

Abdnor	Evans, Colo.	McCormack
Addabbo	Evans, Ga.	McDade
Akaka	Evans, Ind.	McFall
Alexander	Fary	McHugh
Allen	Fascell	McKay
Ambro	Fenwick	McKinney
Anderson, Calif.	Findley	Madigan
	Fish	Maguire
Anderson, Ill.	Fisher	Mahon
Andrews, N.C.	Fithian	Mann
Andrews, N. Dak.	Flippo	Markey
	Florio	Marks
Applegate	Flynt	Marlenee
Archer	Foley	Martin
Armstrong	Ford, Mich.	Mathis
Ashbrook	Ford, Tenn.	Meeds
Ashley	Forsythe	Metcalfe
Aspin	Fountain	Meyner
Badham	Fowler	Michel
Bafalis	Fraser	Mikulski
Baldus	Frenzel	Mikva
Baucus	Frey	Milford
Beard, R.I.	Fuqua	Miller, Calif.
Beard, Tenn.	Gammage	Miller, Ohio
Bedell	Gaydos	Mineta
Beilenson	Gephardt	Minish
Benjamin	Giaimo	Mitchell, Md.
Bennett	Gibbons	Mitchell, N.Y.
Bevill	Gilman	Moakley
Biaggi	Ginn	Moffett
Bingham	Glickman	Mollohan
Blanchard	Goldwater	Montgomery
Blouin	Gonzalez	Moore
Boggs	Goodling	Moorhead, Calif.
Bonior	Gore	
Bowen	Gradison	Moorhead, Pa.
Brademas	Grassley	Moss
Breaux	Gudger	Mottl
Breckinridge	Guyer	Murphy, Ill.
Brinkley	Hagedorn	Murphy, N.Y.
Brodhead	Hall	Murphy, Pa.
Brooks	Hamilton	Murtha
Brown, Mich.	Hammer-schmidt	Myers, Gary
Brown, Ohio		Myers, John
Broyhill	Hannaford	Myers, Michael
Buchanan	Harkin	Natcher
Burke, Fla.	Harris	Neal
Burke, Mass.	Harsha	Nedzi
Burleson, Tex.	Hawkins	Nichols
Burlison, Mo.	Heckler	Nix
Burton, Phillip	Hefner	Nowak
Butler	Heftel	O'Brien
Byron	Hightower	Oakar
Caputo	Hillis	Oberstar
Carney	Hollenbeck	Obey
Carr	Holtzman	Panetta
Cavanaugh	Horton	Patten
Cederberg	Hubbard	Patterson
Chappell	Huckaby	Pattison
Chisholm	Hughes	Pease
Clay	Hyde	Pepper
Cleveland	Ichord	Perkins
Cochran	Ireland	Pettis
Cohen	Jacobs	Pike
Coleman	Jeffords	Pressler
Collins, Tex.	Jenkins	Preyer
Conable	Jenrette	Price
Conte	Johnson, Calif.	Pritchard
Conyers	Jones, N.C.	Quillen
Corcoran	Jones, Okla.	Rahall
Corman	Jones, Tenn.	Railsback
Cornell	Jordan	Rangel
Cornwell	Kasten	Regula
Crane	Kastenmeier	Reuss
Cunningham	Kazen	Rhodes
D'Amours	Kelly	Rinaldo
Daniel, Dan	Kemp	Risenhoover
Daniel, R. W.	Ketchum	Roberts
Danielson	Keys	Robinson
Davis	Kildee	Rodino
de la Garza	Krebs	Roe
Delaney	Krueger	Roncalio
Dellums	LaFalce	Rooney
Derrick	Lagomarsino	Rose
Derwinski	Latta	Rosenthal
Devine	Le Fante	Rostenkowski
Dickinson	Leach	Roybal
Dingell	Lederer	Rudd
Dornan	Lehman	Runnels
Downey	Levitas	Ruppe
Drinan	Livingston	Russo
Duncan, Oreg.	Lloyd, Calif.	Ryan
Duncan, Tenn.	Lloyd, Tenn.	Santini
Eckhardt	Long, La.	Sarasin
Edwards, Ala.	Long, Md.	Sawyer
Edwards, Calif.	Lott	Scheuer
Eilberg	Luken	Schroeder
Emery	Lundine	Sebelius
English	McClory	Seiberling
Erlenborn	McCloskey	Sharp

Shipley	Studds	Wayman
Shuster	Stump	Weaver
Simon	Taylor	White
Sisk	Thompson	Whitehurst
Skelton	Thone	Whitley
Slack	Thornton	Whitten
Smith, Iowa	Traxler	Wilson, C. H.
Smith, Nebr.	Treen	Wilson, Tex.
Snyder	Tribble	Winn
Solarz	Tsongas	Wirth
Spellman	Udall	Wolff
Spence	Ullman	Wright
St Germain	Van Deerlin	Wylie
Staggers	Vanik	Yates
Stangeland	Vento	Yatron
Stanton	Volkmer	Young, Alaska
Stark	Waggonner	Young, Fla.
Steed	Walgren	Young, Mo.
Steers	Walker	Zablocki
Steiger	Wampler	Zeferetti
Stockman	Watkins	

NAYS—11

Bauman	McDonald	Satterfield
Edwards, Okla.	Poage	Stratton
Hansen	Quayle	Wydler
Holt	Rousselot	

NOT VOTING—65

Ammerman	Diggs	Mazzoli
Annunzio	Dodd	Nolan
AuCoin	Early	Ottinger
Badillo	Edgar	Pickle
Barnard	Ertel	Pursell
Boland	Evans, Del.	Quie
Bolling	Flood	Richmond
Bonker	Flowers	Rogers
Broomfield	Hanley	Schulze
Brown, Calif.	Harrington	Sikes
Burgener	Holland	Skubitz
Burke, Calif.	Howard	Stokes
Burton, John	Johnson, Colo.	Symms
Carter	Kindness	Teague
Clausen, Don H.	Koch	Tucker
	Kostmayer	Vander Jagt
Clawson, Del	Leggett	Walsh
Collins, Ill.	Lent	Weiss
Cotter	Lujan	Whalen
Coughlin	McEwen	Wiggins
Dent	Marriott	Wilson, Bob
Dicks	Mattox	Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. Ertel for, with Mr. Ammerman against.

Until further notice:

Mr. Annunzio with Mr. Broomfield.
Mr. Hanley with Mr. Carter.
Mr. Richmond with Mr. Lent.
Mr. Flood with Mr. Quie.
Mr. Sikes with Mr. Del Clawson.
Mr. Teague with Mr. Bob Wilson.
Mr. Mattox with Mr. Vander Jagt.
Mrs. Burke of California with Mr. Symms.
Mr. Dent with Mr. Lujan.
Mr. Dodd with Mr. Whalen.
Mr. Howard with Mr. Schulze.
Mr. Koch with Pursell.
Mr. AuCoin with Mr. Marriott.
Mr. Rogers with Mr. Leggett.
Mr. Kostmayer with Mr. Holland.
Mr. Flowers with Mr. Don H. Clausen.
Mr. Mazzoli with Mr. Coughlin.
Mr. Pickle with Mr. McEwen.
Mr. Badillo with Mr. Evans of Delaware.
Mrs. Collins of Illinois with Mr. Barnard.
Mr. Boland with Mr. Burgener.
Mr. Bonker with Mr. Dicks.
Mr. Early with Mr. Kindness.
Mr. Edgar with Mr. Wiggins.
Mr. John Burton with Mr. Walsh.
Mr. Brown of California with Mr. Tucker.
Mr. Cotter with Mr. Stokes.
Mr. Weiss with Mr. Skubitz.
Mr. Harrington with Mr. Nolan.
Mr. Ottinger with Mr. Diggs.

Mr. HARSHA changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR CONFEREES TO FILE CONFERENCE REPORT ON H.R. 6010

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that the conferees on the part of the House may have until midnight tonight, October 27, 1977, to file the conference report on H.R. 6010 to amend title XIII of the Federal Aviation Act of 1958 to expand the types of risks which the Secretary of Transportation may insure or reinsure, and for other purposes.

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

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the gentleman tell us why it is necessary to get a unanimous-consent request?

Mr. ROBERTS. The truth is, I do not know, but that is what the committee said we had to do.

Mr. ROUSSELOT. That is the best reply we have heard today.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

CONFERENCE REPORT (H. REPT. NO. 95–773)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 6010) to amend title XIII of the Federal Aviation Act of 1958 to expand the types of risks which the Secretary of Transportation may insure or reinsure, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the amendment of the House to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 8. (a) Section 403(b)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1373(b)(1)) is amended by striking out "to ministers of religion on a space available basis." and inserting in lieu thereof "on a space-available basis to any minister of religion, any person who is sixty years of age or older and retired, any person who is sixty-five years of age or older, and to any handicapped person and any attendant required by such handicapped person. For the purposes of this subsection, the term 'handicapped person' means any person who has severely impaired vision or hearing, and any other physically or mentally handicapped person, as defined by the Board. For purposes of this subsection, the term 'retired' means no longer gainfully employed as defined by the Board.".

((b) Within six months after the date of enactment of this section, the Board shall study and report to Congress on the feasibility and economic impact of air carriers and foreign air carriers providing reduced-rate transportation on a space-available basis to persons twenty-one years of age or younger.

SEC. 9. Section 401(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)) is amended by adding at the end thereof the following new paragraph:

"(4)(A) Notwithstanding any other provision of this Act, any citizen of the United States who undertakes, within the State of California or the State of Florida, the carriage of persons or property as a common carrier for compensation or hire with aircraft capable of carrying thirty or more persons pursuant to authority for such carriage (i) within the State of California, granted by the Public Utilities Commission of such State, or (ii) within the State of Florida, granted by the Public Service Commission of such State, is authorized—

"(I) to establish services for persons and property which includes transportation by such citizen over its routes in California or Florida and transportation by an air carrier or foreign air carrier in air transportation; and

"(II) subject to the requirements of section 412 of this title, to enter into an agreement with any air carrier or foreign air carrier for the establishment of joint fares, rates, and services for such through service.

"(B) The joint fares or rates established under clause (II) of subparagraph (A) of this paragraph shall be the lowest of—

"(i) the sum of the applicable fare or rate for service in California approved by such Public Utilities Commission, or the sum of the applicable fare or rate for service in Florida approved by such Public Service Commission, and the applicable fare or rate for that part of the through service provided by the air carrier or foreign air carrier;

"(ii) a joint fare or rate established and filed in accordance with section 403 of this Act; or

"(iii) a joint fare or rate established by the Board in accordance with section 1002 of this Act.".

SEC. 10. (a) The first sentence of section 403(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1373) is amended to read as follows: "No change shall be made in any rate, fare, or charge, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, specified in any effective tariff—

"(1) of any air carrier, or foreign air carrier, directly engaged in the operation of aircraft if such rate, fare, or charge is for the carriage of property in air transportation, except after sixty days' notice of the proposed change filed, posted, and published in accordance with subsection (a) of this section; and

"(2)(A) of any air carrier, or foreign air carrier, if such rate, fare, or charge is for the carriage of persons in air transportation, or (B) of any air carrier, or foreign air carrier, not directly engaged in the operation of aircraft if such rate, fare, or charge is for the carriage of property in air transportation, except after forty-five days' notice of the proposed change filed, posted, and published in accordance with subsection (a) of this section.".

(b) The first sentence of section 1002(g) of such Act (49 U.S.C. 1482) is amended by inserting "at least fifteen days before the day on which such tariff would otherwise go into effect" immediately after "and delivering to the air carrier affected thereby".

SEC. 11. (a) The amendment made by subsection (a) of section 10 of this Act shall apply to any tariff change filed by any air carrier or foreign air carrier in accordance with section 403(c) of the Federal Aviation Act of 1958 after the thirtieth day after the date of enactment of this section.

(b) The amendment made by subsection (b) of section 10 of this Act shall apply to any tariff change filed by any air carrier for interstate or overseas air transportation in accordance with section 403(c) of the Federal Aviation Act of 1958 after the thirtieth day after the date of enactment of this section.

SEC. 12. (a) Section 406(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1376(b)) is amended by adding at the end thereof the following new sentence: "In determining compensation for any local service air carrier for the year 1966 in accordance with the

provisions of this subsection, the Board shall apply Local Service Class Subsidy Rate III–A as set forth in Board order E–23850 (44 CAB 637 et seq.), except that the Board shall not apply that part of such order which requires the Board to take into account any decrease in the Federal income tax liability of such carrier for such year resulting from any net operating loss carryback pursuant to section 172 of the Internal Revenue Code of 1954.".

(b) In the event that the Civil Aeronautics Board in determining the amount of compensation to be paid to any local service air carrier for the year 1966 in accordance with the provisions of section 406(b) of the Federal Aviation Act of 1958 took into account any decrease in the Federal income tax liability for such air carrier for such year resulting from any net operating loss carryback pursuant to section 172 of the Internal Revenue Code of 1954, the Board shall redetermine the compensation to be paid to such air carrier in accordance with section 406(b) as amended by this section, and shall make payment to such air carrier of any amount owed to such carrier as provided in such redetermination.

SEC. 13. Section 406(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1376) is amended by inserting at the end thereof the following new sentences: "Nothing in this section shall prohibit the Board from making payments as compensation for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, for the period August 1, 1973, through July 31, 1975, where such payments have already been provided by Board order, to the holder of a certificate authorizing the transportation of mail by aircraft, to the account or for the benefit of any air carrier designated an 'air taxi operator' by the Board, which provided air transportation between points named in the holder's certificate in satisfaction of an express condition to the suspension by Board order of the holder's certificate authority to engage in air transportation between those points. In no event shall such payments differ from the amount previously provided by such Board order.".

SEC. 14. Section 501(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1401(b)) is amended to read as follows:

"ELIGIBILITY FOR REGISTRATION

"(b) An aircraft shall be eligible for registration if, but only if—

"(1)(A) it is—

"(i) owned by a citizen of the United States (other than a corporation) or by an individual citizen of a foreign country who has lawfully been admitted for permanent residence in the United States; or

"(ii) owned by a corporation lawfully organized and doing business under the laws of the United States or any State thereof so long as such aircraft is based and primarily used in the United States; and

"(B) it is not registered under the laws of any foreign country; or

"(2) it is an aircraft of the Federal Government, or of a State, territory, or possession of the United States or the District of Columbia or a political subdivision thereof. For purposes of this subsection, the Secretary of Transportation shall, by regulation, define the term 'based and primarily used in the United States'.".

SEC. 15. (a) Section 601(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1421), relating to emergency locator transmitters, is amended as follows:

(1) In paragraph (1), immediately before ", minimum standards" insert the following: "and except as provided in paragraph (3) of this subsection".

(2) By adding at the end thereof the following new paragraph:

"(3) The Administrator shall issue regulations which permit, subject to such limitations and conditions as he prescribes in such regulations, the operation of any aircraft equipped with an emergency locator transmitter during any period for which such transmitter has been removed from such aircraft for inspection, repair, modification, or replacement.".

(b)(1) Section 601 of such Act is amended by relettering subsection (d), relating to aviation fuel standards, as subsection (e).

(2) Any reference to such relettered subsection (e) shall be relettered accordingly.

(c) That portion of the table of contents contained in the first section of such Act which appears under the side heading "Sec. 601. General safety powers and duties." is amended by striking out

"(d) Aviation fuel standards."

"(d) Emergency locator transmitters.

"(e) Aviation fuel standards.".

and inserting in lieu thereof the following:

SEC. 16. (a) Section 102 of the Federal Aviation Act of 1958 is amended by inserting under the center heading the following subsection heading:

"GENERAL FACTORS FOR CONSIDERATION".

(b) Section 102 of such Act is amended—

(1) by striking out "In the exercise and performance of its powers and duties under this Act," and inserting in lieu thereof "(a) In the exercise and performance of its powers and duties under this Act,";

(2) by redesignating existing clauses (a) through (f) as (1) through (6), respectively; and

(3) by adding at the end thereof the following new subsection:

"FACTORS FOR ALL-CARGO AIR SERVICE

"(b) In addition to the declaration of policy set forth in subsection (a) of this section, the Board, in the exercise and performance of its powers and duties under this Act with respect to all-cargo air service shall consider the following, among other things, as being in the public interest:

"(1) The encouragement and development of an expedited all-cargo air service system, provided by private enterprise, responsive to (A) the present and future needs of shippers, (B) the commerce of the United States, and (C) the national defense.

"(2) The encouragement and development of an integrated transportation system relying upon competitive market forces to determine the extent, variety, quality, and price of such services.

"(3) The provision of services without unjust discriminations, undue preferences or advantages, unfair or deceptive practices, or predatory pricing.".

(c) 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 I—GENERAL PROVISIONS"

is amended by striking out

"Sec. 102. Declaration of Policy: The Board."

and inserting in lieu thereof

"Sec. 102. Declaration of Policy: The Board.

"(a) General factors for consideration.

"(b) Factors for all-cargo air service.".

SEC. 17. (a) Title IV of the Federal Aviation Act of 1958 (49 U.S.C. 1371 et seq.) is amended by adding at the end thereof the following new section:

"CERTIFICATE FOR ALL-CARGO AIR SERVICE

"APPLICATION

"SEC. 418. (a)(1) Any citizen of the United States who has a valid certificate issued under section 401(d)(1) of this title and who provided scheduled all-cargo air service at any time during the period from January 1, 1977, through the date of enactment of this section may, during the forty-five-day period which begins on the date of enactment of this section, submit an application to the Board for a certificate under this section to provide all-cargo air service. Such application shall contain such information and be in such form as the Board shall by regulation require.

"(2) Any citizen of the United States who (A) operates pursuant to an exemption granted by the Board under section 416 of this title, and (B) provided scheduled all-cargo air service continuously (other than for interruptions caused by labor disputes) during the 12-month period ending on the date of enactment of this section, or whose predecessor in interest provided such service during such period, may, during the forty-five-day period which begins on the date of enactment of this section, submit an application to the Board for a certificate under this section to provide all-cargo air service. Such application shall contain such information and be in such form as the Board shall by regulation require.

"(3) After the three hundred and sixty-fifth day which begins after the date of enactment of this section, any citizen of the United States may submit an application to the Board for a certificate under this section to provide all-cargo air service. Such application shall contain such information and be in such form as the Board shall by regulation require.

"ISSUANCE AND REVOCATION OF CERTIFICATE

"(b)(1)(A) Not later than sixty days after any application is submitted pursuant to paragraph (1) or (2) of subsection (a) of this section, the Board shall issue a certificate under this section authorizing the all-cargo air service covered by the application.

"(B) No later than one hundred and eighty days after any application is submitted pursuant to paragraph (3) of subsection (a) of this section, the Board shall issue a certificate under this section authorizing the whole or any part of the all-cargo air service covered by the application unless it finds that the applicant is not fit, willing, and able to provide such service and to comply with any rules and regulations promulgated by the Board.

"(2) Any certificate issued by the Board under this section may contain such reasonable conditions and limitations as the Board deems necessary, except that such terms and conditions shall not restrict the points which may be served, or the rates which may be charged, by the holder of such certificate.

"(3) Notwithstanding any other provision of this section, no certificate issued by the Board under this section shall authorize all-cargo air service between any pair of points both of which are within the State of Alaska or the State of Hawaii.

"(4) If any all-cargo air service authorized by a certificate issued under this subsection is not performed to the minimum extent prescribed by the Board, it may by order, entered after notice and opportunity for a hearing, direct that such certificate shall, thereafter, cease to be effective to the extent of such service.

"EXEMPTIONS

"(c) Any applicant who is issued a certificate under this section shall, with respect to any all-cargo air service provided in accordance with such certificate, be exempt from the requirements of section 401(a) of this Act, and any other section of this Act which the Board by rule determines appropriate, and any rule, regulation, or procedure issued pursuant to any such section.

"AIR CARRIER STATUS

"(d) Any applicant who is issued a certificate under this section shall be an air carrier for the purposes of this Act, except to the extent such carrier is exempt from any requirement of the Act pursuant to this section.".

(b) Section 101 of such Act (49 U.S.C. 1301) is amended by—

(1) renumbering paragraphs (11) through (38), and any references thereto, as paragraphs (12) through (39), respectively; and

(2) inserting immediately after paragraph (10), the following new paragraph:

"(11) 'All-cargo air service' means—

"(A) the carriage by aircraft of only (i) property as a common carrier for compensation or hire, or (ii) mail, or both, in commerce between a place in any State of the United States, or the District of Columbia, and a place in any other State of the United States, or the District of Columbia; or between places in the same State of the United States through the airspace over any place outside thereof; or between places in the same territory or possession of the United States, or the District of Columbia:

"(B) the carriage by aircraft of only (i) property as a common carrier for compensation or hire, or (ii) mail, or both, in commerce between a place in any State of the United States or the District of Columbia and any place in the Commonwealth of Puerto Rico or the Virgin Islands or between a place in the Commonwealth of Puerto Rico and a place in the Virgin Islands;

whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.".

(c) That portion of the table of contents contained in the first section of such Act which appears under the center heading

"TITLE IV—AIR CARRIER ECONOMIC REGULATION"

is amended by adding at the end thereof

"Sec. 418. Certificate for all-cargo air service.

"(a) Application.

"(b) Issuance and revocation of certificate.

"(c) Exemptions.

"(d) Air carrier status."

SEC. 18. (a) Subsection (d) of section 1002 of the Federal Aviation Act of 1958 (49 U.S.C. 1482(d)) is amended by—

(1) striking out "Whenever," and inserting in lieu thereof

"(1) Except as provided in paragraph (2) of this subsection, whenever,";

(2) striking out "interstate" and inserting in lieu thereof "interstate air transportation of persons, air transportation of property within the State of Alaska, air transportation of property within the State of Hawaii,";

(3) striking out "effective: *Provided*, That as to rates, fares, and charges for overseas air transportation, the Board shall determine and prescribe only a just and reasonable maximum or minimum, or maximum and minimum rate, fare, or charge." and inserting in lieu thereof "effective."; and

(4) adding at the end thereof the following new paragraphs:

"(2) With respect to rates, fares, and charges for overseas air transportation, the Board shall determine and prescribe only a just and reasonable maximum or minimum, or maximum and minimum rate, fare, or charge.

"(3) Whenever, after notice and hearing, upon complaint, or upon its own initiative, the Board shall be of the opinion that any individual or joint rate or charge demanded, charged, collected, or received by any air carrier for interstate air transportation of property or any classification, rule, regulation, or practice affecting such rate or charge, or the value of the service thereunder, is or will be unjustly discriminatory, or unduly preferential, or unduly prejudicial, or predatory the Board shall alter such rate, charge, classification, rule, regulation, or practice to the extent necessary to correct such discrimination, preference, prejudice, or predatory practice and make an order that the air carrier or foreign air carrier shall discontinue demanding, charging, collecting, or receiving any such discriminatory, preferential, prejudicial, or predatory rate or charge or enforcing any such discriminatory, preferential, prejudicial, or predatory classification, rule, regulation, or practice.".

(b) The last sentence of subsection (g) of such section 1002 is amended to read as follows: "If the proceeding has not been concluded and an order made within the period of suspension, the proposed rate, fare, charge, classification, rule, regulation, or practice shall go into effect at the end of such period, except that this subsection shall not apply to any initial tariff filed by any air carrier. The Board shall not suspend any proposed tariff under this subsection because of the proposed rate, fare, charge, classification, rule, regulation, or practice stated therein unless the Board is empowered to find such proposed rate, fare, charge, classification, rule, regulation, or practice unjust or unreasonable and empowered to determine and prescribe the lawful rate, fare, charge, classification, rule, regulation, or practice, or the lawful maximum or minimum, or maximum and minimum rate, fare, or charge.".

(c) The first sentence of subsection (h) of such section 1002 is amended by striking out "air transportation" and inserting in lieu thereof "interstate air transportation of persons, air transportation of property within the State of Alaska, air transportation of property within the State of Hawaii, or overseas or foreign air transportation".

(d) Subsection (i) of such section 1002 is amended by striking out "interstate" and inserting in lieu thereof "interstate air transportation of persons, air transportation of property within the State of Alaska, air transportation of property within the State of Hawaii,".

(e)(1) Such section 1002 is amended by adding at the end thereof the following new subsection:

"DEFINITIONS

"(k)(1) For purposes of this section, the term 'interstate air transportation of property' means—

"(A) the carriage by aircraft of property as a common carrier for compensation or hire in commerce between a place in any State of the United States, or the District of Columbia, and a place in any other State of the United States, or the District of Columbia (other than the carriage by aircraft of property by a common carrier between any pair of points both of which are within the State of Alaska or Hawaii if such carriage is part of the continuous carriage of such property and another common carrier provides, as part of such continuous carriage, the carriage by aircraft of such property between any pair of points one of which is within the State of Alaska or Hawaii and the other of which is not within the same State); or between places in the same State of the United States (other than the State of Alaska or Hawaii) through the airspace over any place outside thereof; or between places in the same territory or possession of the United States, or the District of Columbia;

"(B) the carriage by aircraft of property as a common carrier for compensation or hire, in commerce between a place in any State of the United States or the District of Columbia and any place in the Commonwealth of Puerto Rico or the Virgin Islands or between a place in the Commonwealth of Puerto Rico and a place in the Virgin Islands;

whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.

"(2) For purposes of this section, the term 'overseas air transportation' means—

"(A) the carriage by aircraft of persons as a common carrier for compensation or hire in commerce between a place in any State of the United States, or the District of Columbia, and any place in a territory or possession of the United States; or between a place in a territory or possession of the United States, and a place in any other territory or possession of the United States;

"(B) the carriage by aircraft of property as a common carrier for compensation or hire in commerce between a place in any State of the United States, or the District of Columbia, and any place in a territory or possession of the United States (other than the Commonwealth of Puerto Rico and the Virgin Islands); or between a place in a territory or possession of the United States (other than the Commonwealth of Puerto Rico and the Virgin Islands), and a place in any other territory or possession of the United States (other than the Commonwealth of Puerto Rico and the Virgin Islands);

whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.

"(3) For purposes of this section, the term 'air transportation of property within the State of Alaska' means the carriage by aircraft of property (A) by a common carrier for compensation or hire in commerce between any pair of points both of which are within the State of Alaska if such carriage is part of the continuous carriage of such property and another common carrier provides, as part of such continuous carriage, the carriage by aircraft of such property between any pair of points one of which is within the State of Alaska and the other of which is not within such State, or (B) by a common carrier for compensation or hire in commerce between places in the State of Alaska through the airspace over any place outside thereof, whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.

"(4) For purposes of this section, the term 'air transportation of property within the State of Hawaii' means the carriage by aircraft of property (A) by a common carrier for compensation or hire in commerce between any pair of points both of which are within the State of Hawaii if such carriage is part of the continuous carriage of such property and another common carrier provides, as part of such continuous carriage, the carriage by aircraft of such property between any pair of points one of which is within the State of Hawaii and the other of which is not within such State, or (B) by a common carrier for compensation or hire in commerce between places in the State of Hawaii through the airspace over any place outside thereof, whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.".

(2) That portion of the table of contents contained in the first section of such Act which appears under the side heading

"Sec. 1002. Complaints to and investigations by the Administrator and the Board."

is amended by adding at the end thereof

"(k) Definitions.".

SEC. 19. Notwithstanding section 16 of the Federal Airport Act (as in effect on April 26, 1950), the Secretary of Transportation is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (50 App. U.S.C. 1622c), and the provisions of subsection (b) of this section, to grant releases from any of the terms, conditions, reservations, and restrictions contained in Patent Number 1,128,955, dated April 26, 1950, by which the United States gave and granted a patent in certain property to the city of Redmond, Oregon, for airport purposes.

(b) Any release granted by the Secretary of Transportation under subsection (a) of this section shall be subject to the following conditions:

(1) The city of Redmond, Oregon, shall agree that in conveying any interest in the property which the United States granted the city by Patent Number 1,128,955, dated April 26, 1950, the city will receive an amount

for such interest which is equal to the fair market value (as determined pursuant to regulations issued by such Secretary).

(2) Any such amount so received by the city shall be used by the city for the development, improvement, operation, or maintenance of a public airport.

And the Senate agree to the same.

GLENN M. ANDERSON,
HAROLD T. JOHNSON,
TENO RONCALIO,
WILLIAM H. HARSHA,
GENE SNYDER,
Managers on the Part of the House.

HOWARD W. CANNON,
DANIEL K. INOUYE,
TED STEVENS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE ON CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 6010) to amend title XIII of the Federal Aviation Act of 1958 to expand the types of risks which the Secretary of Transportation may insure or reinsure, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the House amendment struck out all of the House amendment and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the Senate amendment and the House amendment. The differences between the Senate amendment, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

REDUCED FARES

House provision

Amends section 403(b)(1) of the Federal Aviation Act of 1958 (hereinafter in this statement referred to as the "Act") to permit the Civil Aeronautics Board (hereinafter in this statement referred to as the "CAB") to approve reduced air fares on a standby basis for retired persons 60 years of age or over, all persons 65 years of age or older, and handicapped persons. This provision also requires the CAB to study the economic feasibility of reduced fares for youth.

Senate provision

Same as the House provision.

Conference substitute

Same as the House and Senate provisions.

THROUGH SERVICE BY INTRASTATE CARRIERS

House provision

Amends section 401(d) of the Act to permit intrastate airlines in California to enter into agreements with interstate air carriers to offer through ticketing and baggage service. The joint fares offered for this service shall be the lower of the sum of the fares for the intrastate and interstate parts of such service or a joint fare established under the Federal Aviation Act of 1958.

Senate provision

Same as the House provision except it authorizes intrastate airlines to Florida to provide the same type of service.

Conference substitute

Same as the Senate provision.

AIR CARRIER TARIFF CHANGES

House provision

Amends section 403(c) of the Act to require air carriers to file any proposed change in passenger fares 45 days before the effective date of the proposed change. It also amends section 403(c) to require direct air carriers to file any change in freight rates 60 days before the effective date of such proposed change and indirect air carriers to file any proposed change in freight rates 45 days before the effective date of such proposed change. Further, it amends section 1002(g) of the Act to require the CAB to issue its decision on suspension of any proposed fare or rate change for interstate or overseas air transportation at least 15 days before the effective date of the change.

Senate provision

Same as the House provision.

Conference substitute

Same as the House and Senate provisions.

REDETERMINATION OF MAIL RATE COMPENSATION

House provision

Amends section 406(b) of the Act to require the CAB to reimburse any air carrier which was required to repay any part of its 1966 subsidy because of tax loss carrybacks used to reduce the carriers 1966 taxes.

Senate provision

Same as House provision.

Conference substitute

Same as House and Senate provisions.

SUBSIDY REPAYMENT

House provision

Amends section 406(a) of the Act to allow the CAB to pay a subsidy to an air taxi operator which payment was provided for by a CAB order allowing the air taxi to provide replacement service for a certificated air carrier during the period August 1, 1973, through July 31, 1975.

Senate provision

Same as the House provision.

Conference substitute

Same as the House and Senate provisions.

ELIGIBILITY FOR AIRCRAFT REGISTRATION

House provision

No comparable provision.

Senate provision

Amends section 501(b) of the Act to permit aircraft owned by citizens of foreign countries admitted for permanent residence in the United States, and aircraft owned by corporations lawfully organized and doing business under the laws of the United States or any State thereof which are based and primarily used in the United States, to be registered in the United States.

Conference substitute

Same as the Senate provision.

EMERGENCY LOCATOR TRANSMITTERS

House provision

No comparable provision.

Senate provision

Amends section 601(d) of the Act to provide the Administrator of the Federal Aviation Administration with increased flexibility to carry out the provisions of Public Law 92-596, as amended by Public Law 93-239, which require that emergency locator transmitters be installed on certain civil aircraft. The section requires the Administrator to issue regulations permitting the operation of civil aircraft subject to the statutory requirement during any period for which the transmitter has been removed for inspection, repair, modification, or replacement.

Conference substitute

Same as the Senate provision.

AIR CARGO

House provision

No comparable provision.

Senate provision

Section 102 of the Act is amended to add several criteria specifically relating to all-cargo air service to the declaration of policy which is to be considered by the CAB in the exercise of its duties under the Act.

A new section 418 is added to the Act establishing certificates for all-cargo air service. One hundred five days after the date of the enactment of the new section the Board is required to award all-cargo certificates to any air carrier who holds a certificate under section 401(d)(1) of the Act and has provided scheduled interstate all-cargo air service at any time between January 1, 1977, and the date of enactment. During the same time period, the Board is also required to award certificates for all-cargo air service to commuter air carriers who have provided scheduled all-cargo air service continuously during the 12-month period preceding the date of enactment. One year after enactment the Board is required to award all-cargo certificates to any applicant who demonstrates that it is fit, willing, and able to provide the proposed service and comply with rules and regulations promulgated by the Board. Certificates issued under this section shall not contain restrictions limiting the points to be served or the rates to be charged except insofar as the provision imposes special restrictions on service within Alaska. The CAB may exempt all-cargo carriers from other sections of the Act. The all-cargo service covered by the certificates includes interstate service as presently defined in the Act and service to Puerto Rico and the Virgin Islands.

Section 1002 of the Federal Aviation Act is amended to limit the Boards authority to regulate rates for the transportation of property, whether by all-cargo aircraft or combination aircraft, to those cases where the Board finds after notice and hearing that the rates are discriminatory, preferential, prejudicial, or predatory. The Board is precluded from suspending proposed cargo rates pending a hearing.

Conference substitute

Same as the Senate provision, except that it provides that all-cargo air service within the States of Alaska and Hawaii will continue to be governed by existing law.

The conference substitute provides that no certificate issued under new section 418 of the Act shall authorize cargo service between points in the State of Hawaii or between points in the State of Alaska. Such service will continue to be governed by existing law and the CAB may authorize such service by awarding certificates of public convenience and necessity under existing section 401 of the Act.

New section 418 does apply to service between points in Alaska or Hawaii, and points in other States. Such service may be authorized in all-cargo certificates awarded under new section 418.

The conference substitute amends section 1002 of the Federal Aviation Act to provide that rates for transportation between points in the States of Alaska or Hawaii will continue to be regulated under existing law. CAB will have authority to modify such rates if they are unjust or unreasonable, and to suspend the rates pending a hearing. The rates which will be regulated under existing law are (1) rates for the carriage of property between two points in Alaska or two points in Hawaii if the aircraft passes over a place outside the State, or (2) rates for the carriage of property between two points in Alaska or Hawaii, if such transportation is part of a continuous movement of the property, and another carrier provides, as part of such continuous movement, transportation between a point in Alaska or Hawaii and a point in another State.

Rates for the transportation of property between points in Alaska or Hawaii and points in other States are not affected by the conference substitute. These rates would be subject to the limitation imposed by the Senate amendment to section 1002 of the

Act and such rates could be regulated only if the Board found, after notice and hearing, that the rates were discriminatory, preferential, prejudicial, or predatory.

New section 418 permits the Board to exempt holders of certificates for all-cargo service from any section of the Act. While this section is intended to give the Board substantial discretion, the Managers do not contemplate that the Board will exempt carriers from the requirement of filing tariffs. Tariffs provide valuable notice of rates to users of air transportation. Tariffs will be necessary for the Board to effectively carry out its duties to determine whether rates for the transportation of property are discriminatory, preferential, prejudicial, or predatory.

AUTHORITY TO RELEASE PROPERTY RESTRICTIONS

House provision

No comparable provision.

Senate provision

Authorizes the Secretary of Transportation to grant, subject to certain conditions, releases from the terms, conditions, reservations, and restrictions set forth in a patent by which the United States granted a patent in certain property to the city of Redmond, Oregon, for airport purposes, under section 16 of the Federal Airport Act of 1946.

Conference substitute

Same as the Senate provision.

GLENN M. ANDERSON,
HAROLD T. JOHNSON,
TENO RONCALIO,
WILLIAM H. HARSHA,
GENE SNYDER,
Managers on the Part of the House.

HOWARD W. CANNON,
DANIEL K. INOUYE,
TED STEVENS,
Managers on the Part of the Senate.

BANKRUPTCY LAW REVISION

Mr. EDWARDS of California. 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. 8200) to establish a uniform law on the subject of bankruptcies.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. EDWARDS).

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. 8200, with Mr. SIMON 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 California (Mr. EDWARDS) will be recognized for 1 hour, and the gentleman from Virginia (Mr. BUTLER) will be recognized for 1 hour.

The Chair recognizes the gentleman from California (Mr. EDWARDS).

Mr. EDWARDS of California. Mr. Chairman, I yield 5 minutes to the distinguished chairman of the House Judiciary Committee, the gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. Mr. Chairman, the matter before the House this afternoon is one of tremendous importance. It is the first major revision of our Nation's bankruptcy laws in 40 years, and the most significant changes proposed in the bankruptcy system since 1898, when the current Bankruptcy Act was enacted. This has been a long labor. The chairman of the subcommittee, Mr. EDWARDS, has worked on this legislation for over 7 years, since the time that he and our colleague Mr. WIGGINS were appointed to the Bankruptcy Commission in 1970. The ranking Republican of the subcommittee, Mr. BUTLER, has also devoted years to this effort. It has been a very commendable effort. The subcommittee has proposed major legislation that meets the needs of the bankruptcy laws and the bankruptcy system. It has been a monumental effort and I commend them for it.

Since the last major revision of the bankruptcy laws in 1938, much has changed in our economy. The bankruptcy laws must respond to the economy, because they are designed to be the cushion for both businesses and individuals that fail in our economic system. That is why this re-examination of the bankruptcy laws is so important. Since 1938, credit has become a major factor in our consumer economy. Consumer credit has increased twentyfold in that period. Business credit has increased substantially as well. The adoption of the uniform commercial code in the 1960's has given an additional spur to business lending, and has changed the ground rules on which the bankruptcy laws were based in 1938.

The bankruptcy system itself has also begun to strain. As the number of bankruptcy cases and their complexity has increased, the bankruptcy courts have become overburdened. The district courts have become crowded too, but for different reasons. The result has been a shift of the judicial duties in bankruptcy cases to the bankruptcy courts. In sum, the system has changed dramatically in the past 40 years without the necessary statutory changes to make it operate well.

These are the problems that the subcommittee set out to solve. They solved them in H.R. 8200, and they have done it in a balanced, fair way, that is neither pro-debtor nor pro-creditor. They have approached the bankruptcy law with an objective fairness that will benefit both debtors and creditors involved in bankruptcy cases. The law in 1938 was not designed to handle consumer cases. Now, however, consumer bankruptcies account for nearly 90 percent of the quarter of a million bankruptcy cases filed each year. This bill redesigns traditional bankruptcy protections to make them more effective for non-business debtors. For businesses, the bill facilitates reorganizations, protecting investments, and jobs.

But as I said, this is not a pro-debtor bill. It helps creditors as well. The bill redesigns the procedures for repayment plans and reorganizations for both individuals and businesses. They will be easier to use, and creditors will recover more. The bill also redefines the protections creditors are entitled to in bankruptcy. These protections have been eroded over the years by a confusing case law, and the bill corrects that.

However, the most significant portion of the bill concerns the way bankruptcy cases are handled. There is a hidden bankruptcy system today, processing nearly 250,000 cases each year, involving over 9 million creditors, over $27 billion in assets, and over $43 billion in claims. The volume is enormous. It exceeds the total number of Federal civil and criminal cases combined, but it is not a visible system.

The bankruptcy judges have done their work well over the years, but bankruptcy has outgrown itself, and we need a change in the bankruptcy courts as much as we do in the substantive law. The impact of that volume of cases and that amount of dollars is just too great to permit the system to continue as it is today or with only a few cosmetic changes. I think that H.R. 8200 has successfully redesigned the bankruptcy system. The bill does so with an historical perspective of the growth and changes of the bankruptcy system over the last 40 years so that the errors of the past will not be repeated. It recognizes statutorily the de facto separation between the district courts and the bankruptcy courts, and accomplishes a complete separation of the administrative and judicial functions of the bankruptcy judges. Both of these changes will lead to a fairer, better bankruptcy system. They are essential to the success of this bankruptcy law revision.

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

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

Mr. MIKVA. I thank the gentleman for yielding.

Mr. Chairman, I want to commend the distinguished gentleman from New Jersey (Mr. RODINO) for the very cooperative manner in which this difficult matter of concurrent jurisdiction was worked out with the Committee on Ways and Means. As the gentleman from Oregon (Mr. ULLMAN) chairman of the Committee on Ways and Means, indicates, there has been a considerable agreement worked out in those areas which do involve concurrent jurisdiction. The Committee on Ways and Means is not seeking any kind of sequential referral at this time, but acknowledges that at some future time, as these problems come up, which involve the Internal Revenue Code, we would consider amendments at that time which might affect that concurrent jurisdiction.

Mr. RODINO. Mr. Chairman, I want to thank the gentleman for his comments. It indicates again the understanding on the part of the Committee on Ways and Means and its distinguished chairman the need to expedite and not to impede this legislation. We both recognize where the jurisdictional questions are. I think in this manner we can proceed to go forward and do a service to the public.

Mr. ULLMAN. Mr. Chairman, the bill, H.R. 8200, makes major revisions to the bankruptcy laws. Understandably, a bill of this scope cuts across several fields of law. The bill would make important changes affecting the Federal tax rules for bankruptcy cases. Mr. Speaker, tax considerations can have an important

effect on a bankruptcy case, for both businesses and individuals. It is important for the debtor, for creditors, for the trustee of the debtor, and in some cases for the court handling the case, to know how the decisions they make will affect the debtor's liability for Federal taxes.

The chairman of the Judiciary Committee and I engaged in discussions and correspondence during the time that this bill was under consideration by his committee. We both recognized the direct effect which many provisions of the bill would have on Federal tax law. The chairman acknowledged the strong mutual interest which his committee and the Committee on Ways and Means have in the parts of the bill which affect Federal taxes.

Pursuant to our agreement, the special tax provisions of H.R. 8200 will apply to State and local taxes only. The Federal tax aspects of these provisions, along with those provisions which amend the Internal Revenue Code and which were formerly contained in title III of H.R. 6, would be introduced as separate legislation and referred to the Committee on Ways and Means.

In the same spirit, the Committee on Ways and Means has attempted to accommodate the strong desire of Chairman RODINO and the Judiciary Committee to expedite basic bankruptcy reforms. Therefore, provisions which affect the priority and discharge status of tax claims in a bankruptcy action, and provisions dealing with procedures for determining tax liabilities in the bankruptcy court, remain in the bill before us today. On these latter provisions, Mr. Speaker, our committee has agreed not to request a sequential referral of the bill.

We believe, however, that the Committee on Ways and Means has concurrent jurisdiction over these priority and procedure issues as they affect Federal taxes, and we will want the opportunity to consider these issues. In general, the bill in its present form eliminates or reduces rights which the Federal tax authorities now have in collecting taxes from individuals and businesses in bankruptcy.

However, Mr. Chairman, because of the unusually heavy schedule of the Committee on Ways and Means during recent months, we are not in a position to offer committee amendments to H.R. 8200 today. Our hearings on the bill containing the special tax provisions recommended by the Judiciary Committee will provide the Committee on Ways and Means the opportunity to hear the views of the current administration and to consider the broad range of tax issues in the bankruptcy area. At that time, we will consider possible amendments to the bill before us today.

Mr. Chairman, I recognize that tax rules are important to the overall effectiveness of the broad reforms in bankruptcy. I can assure my colleagues that our work on the tax rules will try to balance the interests of bankruptcy policy with tax policy and procedures.

Mr. BUTLER. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. MCCLORY).

Mr. MCCLORY. Mr. Chairman, I want to join in the salute to the members of our committee and to all those who have worked to produce this monumental piece of legislation; it is landmark legislation in my opinion.

I would like particularly to commend the distinguished chairman of the subcommittee, Mr. EDWARDS, and my colleague from California, Mr. WIGGINS, for their service on the Bankruptcy Commission which helped produce this legislation, and likewise the ranking member of the subcommittee, Mr. CALDWELL BUTLER, who has labored long and hard on this bill. I have had the privilege of serving as a member of the subcommittee during this Congress, and had to catch up, of course, with a lot of work that had been done during the previous 2 years by the subcommittee in the preparatory work for the stage that we are reaching here today.

I would like to observe this; that regardless of what the political philosophy of the members of the subcommittee appears to be, there is a genuine attitude of objectivity with respect to resolving the various issues that were involved in this legislation.

Whether a person philosophically embraced a liberal or conservative or moderate point of view, whether he appeared to come to the subcommittee with a prodebtor or procreditor attitude, or probusiness or prolabor, or whatever it happened to be, it seemed to me that the issue that was before us in each instance was resolved with tremendous objectivity, without partisanship, and without holding tenaciously to some particular personal individual point of view, but with the objective of presenting here legislation which is neither prodebtor nor procreditor.

While this bill recodifies a great many portions of the existing bankruptcy law, it also makes important changes in the bankruptcy law which should contribute to better administration and provide benefits to both creditors and debtors who have occasion to utilize the bankruptcy laws of our Nation.

I think the bill tries to eliminate the sort of private domains that have been controlled by a few who have capitalized on bankruptcy, frequently to the detriment of debtors and creditors alike. We have tried to eliminate those areas which have brought very serious criticism to the whole institution of bankruptcy. The bill does accomplish that, it seems to me, in a very effective way.

This legislation has been scrutinized very, very carefully, almost word for word. The result is something, Mr. Chairman, in which the House should take great pride as one of the major pieces of legislation to emanate from the Judiciary Committee.

I make these statements because they reflect my judgment that much long and hard work of the subcommittee and many others that has gone into the final package that has been put together. It received the unanimous vote of the subcommittee, and the nearly unanimous vote of the full committee.

I look forward to the prompt, expeditious, and hopefully favorable, action on this historic legislation. Thank you, Mr. Chairman.

Mr. EDWARDS of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank the distinguished gentleman from New Jersey and the distinguished gentleman from Illinois for their remarks on this important legislation.

Mr. Chairman, this has indeed been a long labor, and I am very glad to have the bill before the House today. I would like to underscore the remarks to the two gentlemen that many years have been involved in this bill. Personally, I have spent over 6 years on this legislation, since I was appointed by Speaker Albert to serve on the Commission on the Bankruptcy Laws of the United States, which became operational in 1971. Before proceeding into detail on what the bill does and why, I would like to sketch out its gestation period and its major provisions. Then the other members of the subcommittee will assist me in describing each of these major provisions in greater depth.

The last time the bankruptcy laws of the United States were revised was in 1938. As a matter of fact, the person who did it, in large part, was Mr. Justice Douglas, before he was on the Supreme Court. To give you an idea of what has happened since that time, in 1946, there were 10,196 new bankruptcy cases. But after World War II, there was a bankruptcy explosion, until in 1967, there were new filings of 208,329 cases, and in 1975, there were 254,454 new cases.

Today, the system is badly in need of repair. This was pointed out in the Senate hearings and the House hearings in 1968 and 1969 that led to the creation of the Commission on the Bankruptcy Laws; by an in-depth study of the bankruptcy laws by the Brookings Institution published in 1971; and then by the Bankruptcy Commission itself, which was established in 1970, and on which my colleague CHUCK WIGGINS and I served. Mr. Chairman, the Subcommittee on Civil and Constitutional Rights, which I chair, confirmed the findings of all these previous studies during our 35 days of hearings on this legislation. During those hearings, we heard from over 100 witnesses, and we went into the matter in great depth. We learned that the bankruptcy system was not operating very well.

Well, what is wrong with the current system? Why are we here at all today?

The most serious problem is the court system itself. It is not a real court. It operates under the district court, which is perhaps more concerned with its own pressing business than with bankruptcy. I am not going to go into this issue of the new court system which is the heart of the bill. I understand that my colleague from Virginia, the ranking Republican, Mr. BUTLER, will explain the reasons why the bill must have the new court system. Briefly, however, the bill separates the existing bankruptcy courts from the district courts. The relationship between the two courts has not been a happy one, and this bill will correct that. The bill establishes the bankruptcy courts as in-

dependent of the district courts under article III of the Constitution. This is very important, because the nature of the work bankruptcy courts do is such that we want to make sure that we establish a real court, as contemplated by the Constitution, and not the subordinate system that exists today.

Well, in addition to the court system, what else is wrong with bankruptcy today?

The Brookings Report and the Bankruptcy Commission found that creditors were not getting enough money out of bankruptcy proceedings to make it worth their while to participate in attempting to recover their money. As a result, the administration of bankruptcy cases was left to professional administrators who do not act for the benefit of creditors, whose money is involved, but only for their own benefit. This is the infamous "bankruptcy ring" we have heard so much about. The bankruptcy system essentially had gotten out of control of the creditors, even though it was designed to be controlled by creditors.

There is little we can do to make creditors participate when they do not want to, but we can protect their interests by more careful supervision of bankruptcy administration than exists today. That is part of the reasons that we have proposed the United States trustee system—to handle the administrative matters that arise in bankruptcy cases when creditors are not there to handle them for themselves, and to supervise the people employed by the bankruptcy system to insure that it operates for the benefit of those whose money is involved—the creditors.

We do, however, try to make it possible for creditors to recover more in bankruptcy cases. First, and most important, we make it easier for debtors to repay their debts under the supervision and protection of the bankruptcy laws. I will go into that more in a minute.

Second, we give the bankruptcy trustee greater powers to recover assets that may have been fraudently transferred before bankruptcy or that may have been preferentially transferred before bankruptcy. In addition, the change in the bankruptcy court system and the increased jurisdiction of the bankruptcy court will enable the trustee to recover many more assets for creditors that he cannot recover today because he has to seek recovery in other courts, such as State courts or Federal district courts, where the process is too slow to make it worth his while.

The second thing that the Brookings Report and the Commission found was that the debtor, while he might get a discharge in bankruptcy and be released from his debts, because of loopholes and difficulties with the law, he could find himself with a discharge that was not much good. He still would find after discharge that he owed too much money through nondischargeable debts or debts that he had been forced to reaffirm. Or he did not have enough property for a fresh start—the exemptions provided by the bankruptcy laws were inadequate. I understand that the gentleman from Massachusetts, Mr. DRINAN, will explain these things in more detail.

Then there is another problem in current law for the personal bankrupt. We found that most of these people truly want to repay their debts. But the procedure for repayment for individual debtors, chapter XII, isn't working well. Its scope is too limited—the requirements for eligibility are too narrow. This bill makes the repayment procedure available to more people by expanding the eligibility from "wage earners" to any individual with regular income. This will enable the self-employed individual, the individual on a fixed income, and others to use the protection of chapter 13 for working out a repayment plan for their debts.

We also change the procedure somewhat to make the chapter 13 procedure easier to use. The requirement that creditors consent to the repayment plan is deleted. We feel that if the debtor makes an effort to repay his creditors, the creditors should not be able to say that the plan does not propose to pay enough or that it does not do other things that the creditors want. The debtor should be able to go ahead with the plan anyway. Then we also remove the penalty in current law for a debtor that is not able to repay his debts in full. This penalty has deterred many debtors from attempting a partial repayment plan and sent them into straight bankruptcy instead. Both the debtor and his creditors are the losers there.

These changes will give personal debtors the protections they need to repay their debts, free from the pressure of creditors who may not be willing to give the debtor a chance to try to work things out. We found that most individual debtors that wind up in bankruptcy are there for causes beyond their control, such as illness, accidents, or job layoffs. They are not deadbeats, but are honest citizens who need the fresh start that the bankruptcy laws can provide. That is why we do everything we can in this bill to facilitate repayment plans, and for those debtors that are just too far over their heads to attempt a chapter 13 plan, that is why we give them the full protections of the bankruptcy laws, without the loopholes that have made bankruptcy an ineffective remedy and have frustrated the fresh start for many consumer debtors.

Now for businesses, we make it easier for them to repay their creditors, too. Current law has three different reorganization chapters for businesses. For the business debtor and its attorney, this presents a difficult choice. For the business, it is worse, because none of the three chapters offers the full scope of bankruptcy powers that a business could use to reorganize and pay its creditors rather than going into straight bankruptcy, under which creditors usually get very little.

These procedures were written in 1938. The credit economy and credit law and practices have changed significantly since then, but the reorganization provisions have not kept up with the changes. The three different procedures are difficult, confusing, and unworkable. Some reorganizations are defeated simply because the procedure and the substantive law is inadequate to deal with the problem of the business that is in trouble. Once again, we take from the wealth of experience that has been accumulated over the last 40 years in business reorganizations.

We consolidate the three reorganization chapters into one flexible chapter. It gives the debtors the combined powers of the three current chapters, and gives creditors the combined protections of the three chapters. For example, for debtors, the bill gives the court the power to stay creditors while the reorganization takes place, and the debtor is given the opportunity to work out an arrangement with all of his creditors, not just with some as too often happens under chapter XI of current law. For creditors, they are given the opportunity to have some input into the formulation of a reorganization plan, and if the debtor is too uncooperative, then creditors may propose their own plan, which is not usually permitted under current law. For both debtors and creditors, the requirements for a reorganization plan are made more flexible, and the court is given the power to confirm the plan even though some creditors do not like the plan, so long as the plan meets certain statutory criteria of fairness. This is very important. This way creditors get more than if the business went into straight liquidation.

It also will save more businesses, which will protect jobs and protect public and private investors.

These provisions are the heart of the bill, Mr. Chairman. Now I am not going to say that the bill is not controversial. You are going to hear from some that there should not be any significant changes in the bankruptcy courts. We studied that in depth, and I understand that Mr. BUTLER is going to discuss it some more. Let me just say that that issue is very important to the bill, and was proposed only after the most careful consideration of all the options available.

You will also hear from some financial institutions that the bill damages the consumer credit industry. We do not think so. We studied that issue too in great depth, and are confident that our decisions are the right ones.

Mr. Chairman, this is a good bill. It proposes a long awaited and sorely needed change in our bankruptcy laws. It has received the most thorough consideration. It was reported out of subcommittee by a vote of 7 to 0 after 42 hours of markup, and out of full committee by a vote of 23 to 8. This has been a bipartisan bill all along. It does what we set out to do, and I believe it does it well and fairly to all parties. It has taken as long as it has to bring this bill to the floor because we wanted to be sure that everything we were doing was the best thing, and we wanted to be careful that the bill would withstand careful examination. I strongly urge its adoption.

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

Mr. EDWARDS of California. I yield to the gentleman from Maine.

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

At this time I would like to take this opportunity to commend the gentleman from California (Mr. EDWARDS) and also the gentleman from Virginia (Mr. BUTLER) for the outstanding effort they have put into this measure. I hope that the full House, when the time comes, will reject the Daniels amendment that is going to be proposed tomorrow.

Mr. Chairman, on page 4 of the report submitted to the House there is reference to the reasons we ought to have independent bankruptcy courts. There is a reference made to the fact that it must operate under the supervision of an unconcerned district court.

Mr. Chairman, I would simply respectfully submit that it is not so much a question, at least as far as the State of Maine is concerned, of being unconcerned as of being overburdened.

I think this is the crux of the issue as to why it is essential that we create a separate, independent system for the bankruptcy court, not because the district court is not concerned about the situation, but because of various pieces of legislation that were passed by the House of Representatives, by this Congress, such as the Speedy Trial Act of 1974, requiring the accelerated disposal of criminal cases, because of the requirement that criminal cases take precedence over civil litigation, and because of the tremendous explosion of complex litigation, including antitrust cases, because of cases such as the Indian litigation now pending in various States, including Maine, so that there simply is not enough time for district courts to devote the kind of attention they need to the complexities of the bankruptcy litigation.

I just would like to see the record reflect that it is not a question of lack of concern or interest but a lack of time, a lack of expertise, and an inability to deal adequately with the complexities of bankruptcy issues, so I think that should stand corrected in the record.

Mr. EDWARDS of California. I thank the gentleman from Maine for his observations. There are, I believe, 399 district judges in the United States today. They are considerably behind in their work. We have not had an omnibus judge bill for a number of years. The new bill under consideration by the House Committee on the Judiciary provides presently somewhere around 81 or 82, or perhaps more, district judges, and I am sure it will be enacted very soon. It will be of great assistance to the district courts. However, one of the great attributes of the bankruptcy bill before us today is that in 1983 when new bankruptcy judges are appointed by the President, tenured judges, then the Chief Justice of the Circuit Courts can utilize these tenured judges to assist various districts where district judges are behind in their work, and it gives a certain amount of elasticity to the system that I think is very good.

Mr. COHEN. I was simply suggesting that we should not use the word "unconcerned" but rather "overburdened." It is not a matter of semantics, but I think a proper characterization of the problem.

Mr. EDWARDS of California. I thank the gentleman.

Mr. BUTLER. Mr. Chairman, I yield 2½ minutes to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Chairman, I would like to commend the Judiciary Committee for including a new consumer priority in this bill.

The bankruptcy laws were last overhauled in 1938, before credit buying became so common. In recent years, we have witnessed some of the largest business bankruptcies in history—W. T. Grant is just one example. All customers who held "Grant's script" have essentially lost their deposits. Recognition for the consumer creditor is long overdue.

Under present law, consumers, as "general unsecured creditors," are allowed to collect what is left of the bankrupt's estate after all other creditors have been taken care of. This bill will give consumers standing—after secured creditors, administrative expenses, and wages but before taxes.

The consumer priority was cosponsored by 59 Members of the House and several of our colleagues in the Senate. It is endorsed by the Consumer Federation of America, the National Association of Attorneys General, and the New York State Bar Association. The consumer priority is a small provision in this comprehensive reform bill. It is limited in scope, but it will mean a great deal to consumers who make deposits for goods and services which are not provided before a business goes bankrupt. As director of consumer affairs in New Jersey, I heard from hundreds of consumers who were surprised to be caught in this situation. Now they will have a chance to recover their assets.

The consumer priority is an important step, but there is still a problem. Bankruptcy proceedings are extremely complex, and it is difficult for the individual consumer creditor to follow the legal proceedings. Consumer claims are seldom large enough to justify hiring an attorney. In many cases, attorneys general have been allowed to intervene in bankruptcy proceedings on behalf of consumers. However, this is left to the discretion of the court. In one Massachusetts case, In Re Colonial Realty Investment Co., about 3,000 consumers lost about $14 million due to fraudulent real estate dealings. The attorney general's office was not allowed to intervene when the company filed in bankruptcy.

In its report to the House, the Judiciary Committee recognizes this problem, but states that—

> The general policy followed in the bill is to leave procedural matters to the Rules of Bankruptcy Procedure, promulgated by the Supreme Court to govern practice and procedure in bankruptcy cases . . .

The report also states that—

> It is assumed, however, that the bankruptcy (rules) will make appropriate provision for notice and intervention in order that the rights of widely-dispersed and ill-represented consumer creditors will be protected.

Mr. Chairman, I believe the intent of Congress is clearly stated in the committee report. I believe it is imperative that the bankruptcy rules be modified so that attorneys general, and perhaps State and local consumer protection offices as well, will be allowed to intervene on behalf of consumer creditors. This should not be left to judicial discretion. It should be clearly spelled out in the rules.

In my view, the attorney general should also be allowed to initiate an adversary proceeding in a bankruptcy case. It is my understanding that Wisconsin has been allowed to do this on behalf of consumers in the Kennedy and Cohen case. But this is also left to the court's discretion and should be spelled in the rules.

Mr. Chairman, I would be grateful for your comments.

Mr. BUTLER. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I would like to join with the others in praising the work of the chairman of our subcommittee, his diligence and patience over the years that we have been working on this matter, and the very professional performance that has maintained and directed us through. I am pleased and proud to be a part of this work. I would also like to join in praising the excellent staff who spent many long hours working on this legislation. In particular I commend Kenneth N. Klee and Richard Levin who together with Alan Parker, Tom Breen, and Tom Boyd were instrumental in the drafting of this monumental legislation.

More people in the United States have a direct contact with the Federal judiciary through the bankruptcy courts than through any other means. Bankruptcy impacts on more people and a greater portion of our economic life than any other aspect of our Federal judicial system. During the course of a year, more people in this country are affected by bankruptcy cases than by all other Federal civil and criminal litigation combined.

In fiscal 1976, there were 246,000 bankruptcy cases as compared with 130,000 civil cases and 41,000 criminal cases filed in the district courts. Of the bankruptcy case load, 15 percent were business bankruptcies, a good portion of which were filed as chapter cases. By contrast, complicated civil litigation in the district court seems to be far less prevalent. During fiscal 1976, only 2,200 securities, commodities, and exchange cases were filed, and only 1,500 antitrust cases were filed in Federal courts; on the other hand, 10,000 social security, 13,000 personal injury, and 20,000 prisoner petition cases were filed in the district courts.

Within each bankruptcy case, several adversary proceedings and contested matters serve as minitrials of their own, magnifying, I think, the significance of the 246,000 bankruptcy cases by at least tenfold. Most civil cases involve two or three parties. By comparison, a bankruptcy case involves one or two debtors and often hundreds of creditors. In fiscal 1976, over 9 million creditors were scheduled in bankruptcy cases. This figure does not reflect the millions of creditors that filed claims or failed to file claims be-

cause the possibility of recovery was slight.

Bankruptcy cases often impact entire communities; and occasionally the entire Nation. Cases pending in bankruptcy courts in October 1976 involved over $27 billion in scheduled assets, and nearly $43 billion in scheduled liabilities. The W. T. Grant case involved assets of over $600 million and liabilities of $1.1 billion. It affected the jobs of 80,000 employees, the investments of 70,000 public investors, and the rights of millions of consumers.

Another large bankruptcy case, such as Penn Central, affects the lifestyle and jobs of countless Americans. The possibility that municipalities may have to seek relief under the Bankruptcy Act indicates the enormous importance of this legislation.

The problem will not go away. The 246,000 cases filed in 1976 represent a 24-fold increase over the 10,000 cases commenced in fiscal 1946. The court system and substantive laws drafted in 1898 and revised in 1938 are clearly inadequate to deal with the dramatic change that has taken place in our credit economy since World War II.

Just a brief word of history here. The gentleman from California (Mr. EDWARDS) has mentioned earlier that the basic bankruptcy law we are working with now is an 1898 law. There was a substantial revision in 1938. If we are on a 40-year cycle, then 1978 is an appropriate time for this revision.

But even if we do not have a cycle, we have to recognize the substantial changes that have taken place since 1938. The tremendous impact of bankruptcy legislation today indicates that changes are necessary in our bankruptcy laws.

One of the substantial changes that has taken place relates to the commercial law of the Nation. The Uniform Commercial Code was not the law in 1938; it is now the law in all of the States of the Union. There have been substantial changes in securities regulations since 1938. Our commercial practices have changed tremendously.

A basic characteristic of our consumer society in this country and of our economy today is the broad expansion of consumer credit. This problem was not among us in 1938; although bank practices have adjusted to the changes in consumer problems in this country, the bankruptcy law has not.

The need for change is apparent; the tremendous impact that I have emphasized before is also upon us. The bill itself is over 300 pages long and many in this Chamber will doubtless find it overwhelming at first glance. It is for that reason that Chairman EDWARDS and I will attempt to review for you the history of the Federal role in bankruptcy, as well as the most important provisions of this legislation.

The Congress derives its jurisdiction in bankruptcy from article I, section 8, clause 4 of the Constitution, which grants Congress the power to establish "* * * uniform Laws on the subject of bankruptcies throughout the United States;".

Historically, bankruptcy proceedings have been available only to "traders" or merchants whose businesses carried with them the threat of financial collapse. Such was the practice in the England of Henry VIII. The first bankruptcy legislation, passed by the Sixth Congress in 1800, extended coverage to "* * * banker(s), broker(s), factor(s), underwriter(s), (and) marine insurer(s)." It was extended to all persons in 1841. In that same year, the purpose behind the Bankruptcy Act was altered somewhat. Before 1841, and in England before 1800, bankruptcy was designed primarily for the benefit of creditors. After the 1841 act, the rehabilitation of the debtor became an object of congressional concern. In 1898, the act was rewritten to, among other things, apply to anyone residing in this country. Jurisdiction over adjudications in bankruptcy was granted to the U.S. courts; namely, the district courts, and procedures were outlined in a wholesale recodification of the previous three acts.

In 1937, Congressman Walter Chandler of Tennessee introduced H.R. 12889 which, when enacted on June 22, 1938, became the last major amendment to the 1898 act. The Chandler Act, as it came to be called, revamped chapters X–XII in an attempt to put the reorganization procedures of the act into a more judicial posture. It provided improved "relief" provisions for individual and agricultural compositions and a carefully prepared plan for corporate reorganization. It also attempted to increase the efficiency in administration by extending the terms, jurisdiction, qualifications, and duties of referees. With the passage of this act, referees became more like judges in their functions and responsibilities, and less like special masters.

On July 24, 1970, the Congress passed Senate Joint Resolution 88, which later became Public Law 91–354, thereby creating the Commission on the Bankruptcy Laws of the United States. Its directive was to "study, analyze, evaluate, and recommend" changes in the 1898 act. The documented cause for this legislative concern was the increase in bankruptcies during the previous 20 years by more than 1,000 percent, administrative problems which seemed to dictate reevaluation of the law, the effect of the "credit age" on the act and the limited experience and understanding of the act by both the Federal Government and the Nation's commercial community. The Commission's charge included, in the words of its report, consideration of "* * * the basic philosophy of bankruptcy, its causes, possible alternatives to the present system of bankruptcy administration, the applicability of advanced management techniques to administration of the act, and such other matters as the Commission should deem relevant to its assigned mission."

The Commission's report was filed on July 30, 1973, and was published in two parts. Part I contained the Commission's findings and recommendations and part II a proposed draft bill. This proposal was introduced as H.R. 10792 in the 93d Congress by Chairman EDWARDS and the ranking minority member of the subcommittee, CHARLES WIGGINS. The National Conference of Bankruptcy Judges, with continuous consultation with subcommittee staff, proposed an alternative version of its own. Chairman EDWARDS and Congressman WIGGINS felt it worthy of simultaneous consideration and introduced it also, as H.R. 16643.

In the 94th Congress, these bills were again introduced as H.R. 31 and 32, respectively.

Hearings on the bills took place for a full year, from May 1975, until May 1976. During that span we met 35 times, listened to more than 100 witnesses and, in the process, compiled a hearing record of more than 2,700 pages. Chairman EDWARDS inserted numerous views on the bankruptcy problem in the RECORD and all committee chairmen were solicited for their comments. No sequential referrals were requested.

Drafting began a month after hearings were completed and continued through the summer of 1976 and into the fall. On October 1, our subcommittee staff sent a preliminary draft to the National Bankruptcy Conference, which was the principal author of an earlier revision in 1938, and to the National Conference of Bankruptcy Judges. The former included Federal judges, lawyers, and academicians. From November to December, members of these organizations came to Washington for a series of meetings with our staff. We can document 13 full days of meetings on the form the new draft would take. Literally hundreds of additional hours of consultation took place via the telephone. By Christmas Day the process was completed and on January 4, 1977, with the commencement of this 95th Congress, Chairman EDWARDS and I introduced H.R. 6. Since that time the subcommittee has received numerous further comments from the bankruptcy bench, the bar, and the classroom.

On March 14 of this year, following reorganization, the membership of the subcommittee gathered to receive over 100 pages of briefing materials as a prelude for markup. A week later, on March 21, we began markup in earnest, meeting on 22 separate mornings and consuming 42 hours of discussion and debate. By the time we were finished, on May 16, every subsection of H.R. 6 had been examined and reexamined. Congressman DRINAN collected the changes which had developed during this process and submitted them to the subcommittee as an amendment in the nature of a substitute. Its practical form was as a working print. By the time we reported out, by a 7-to-0 vote, H.R. 6, as amended, staff had prepared over 30 memoranda on various portions of the bill and the subcommittee had considered over 120 amendments, of which over 100 were eventually adopted in the Drinan substitute.

After reporting H.R. 6, a motion was made to authorize staff to prepare appropriate technical amendments as a prelude to introducing a clean bill, which later, on May 23, became H.R. 7330. However, we received still further input from

the bankruptcy community and prepared to revise our clean bill once again.

On June 13, a lengthy constitutional memorandum on article III bankruptcy courts was circulated to all members of the Judiciary Committee. A 700-page briefing book discussing virtually all 300-plus sections of the bill, including a section-by-section analysis, was distributed to all Members on July 11, the date the second clean bill, H.R. 8200, was introduced by the combined membership of the subcommittee.

The full Judiciary Committee met to consider the clean bill on July 14, 15, and 19. After these days of debate, H.R. 8200 was reported by a vote of 26 to 3. On August 3, we learned that certain technical tax-related amendments would have to be made and the bill was accordingly recommitted and reconsidered. On September 8, the bill was rereported, this time by a vote of 23 to 8. During full committee, six amendments were accepted, three refused, and those which passed were incorporated into an amendment in the nature of a substitute.

On October 12, by voice vote, without dissent, H.R. 8200, which we have before us today, was granted a 2-hour open rule by the Rules Committee. The only other major statute which has remained unrevised for a longer period than the Bankruptcy Act is the Interstate Commerce Act passed in 1887.

There are a number of problem areas that have developed in the course of the recent examination undertaken in our subcommittee and in the hearings we held.

The chairman has touched on them lightly. I will mention them again, if I may.

An example of a complicated problem which has developed concerns our so-called chapter cases under the three chapters dealing with the reorganization of debtors, particularly business debtors. The problem has developed as to which chapter is more appropriate, and there are flexibility problems. This has resulted in countless delays and dissipation of energy in determining the appropriate chapter under which a case should proceed. The effect, of course, of any delay is a dissipation of the assets of the estate by attrition, which cannot benefit anyone. There are many other problems with reference to the disposition of straight bankruptcy cases today.

Under the Bankruptcy Act, the U.S. bankruptcy district courts are the bankruptcy courts. The bankruptcy courts appoint referees, called bankruptcy judges, under the bankruptcy rules, to a term of years. The bankruptcy judges handle nearly all the cases and matters in bankruptcy. Their orders are final unless reviewed on appeal and reversed by the district judge.

Delegation of issues to special masters, called referees, has evolved since 1898 to the point where the bankruptcy judges amount to what is a separate system. Though the court system is separate, it is not equal to the district court system and the judges and lawyers are treated accordingly.

The problems of litigation are every bit as significant as most Federal court litigation. I am sure you will concede that the W. T. Grant case is every bit as significant as the problem of corporal punishment of a fourth-grade student.

But, the impossible conflicts in which judges are placed by the statute are oppressive. The mixture of judicial and administrative functions under present law often require a bankruptcy judge to resolve a dispute with respect to which the judge has information from ex parte contacts or exercise of his administrative duties. For example, the judge may preside at the first meeting of creditors and conduct the examination of the debtor only to be later called upon to resolve a dispute concerning facts revealed during that examination.

The judge may grant a debtor in possession ex parte authority to enter into a contract subject to certain limitations and then be faced with a resolution of the dispute concerning the propriety of that contract or the meaning of the terms of that contract. A judge placed in either of these positions jeopardizes his reputation as an unbiased arbiter and his effectiveness as an adjudicator.

In addition to improper exposure on legal issues, the judge confronts procedural conflicts that are equally difficult. In many instances, the judge appoints the trustee. The judge is then called upon to resolve disputes between the trustee and the third parties. Not only does this situation create an apparent judicial bias, in many cases the evidence is that it gives rise to actual bias in some areas of the country.

The ex parte contracts of the judge, and appointment of the trustees are facets of a larger problem. The way the Bankruptcy Act is set up, the administrative duties of the judge cause the judge to identify himself with the debtor and his problem. The judge who participates in negotiating contracts, who works with the debtor and union to avoid a strike, and who advises the trustee or debtor on an ex parte basis concerning management of a business can hardly be expected to render an impartial decision.

When creditors elect a trustee in straight bankruptcy, a different problem arises. The creditors' attorneys exact their influence to elect friendly trustees or committees in order to pluck the plum of counsel to the trustee or counsel for the committee, as the case may be. This creates the so-called bankruptcy ring with all the implications that might fall from that connotation.

Deficiencies also arise with respect to other personnel in the bankruptcy court. Recent consolidation of the offices of clerk of the district court and clerk of bankruptcy court in many districts has severely weakened the control bankruptcy judges have over their clerical people. Even under an unconsolidated system, the bankruptcy judges have too little control over the administration of their courts.

You can see the implications of that when a conflict arises. Consolidation of the clerks' offices has intensified that problem, because bankruptcy and district court clerks are housed in the same location. The district court judges are then able to divert their better qualified clerks to the processing of their business.

Aside from the issues pertaining to the personnel who service the bankruptcy system, the volume of litigation in the bankruptcy courts is a source of continuing concern. The number of people and the dollar amounts involved are staggering. I have already mentioned the 250,000 cases pending in October 1976, involving the 250,000 debtors, 9 million scheduled creditors, and $27 billion in scheduled assets. Bankruptcy judges deal with issues that involve millions of dollars and frequently dozens or hundreds of jobs of employees of struggling companies.

Bankruptcy judges are constantly called upon to decide the effect of bankruptcy on the overburdened consumer. Will his debts survive bankruptcy and continue to plague him? What property will he be permitted to keep; what property is subject to liens; will the debtor be granted a discharge at all? These decisions are important, both personally and financially, to thousands of creditors and debtors.

They are real issues that in the absence of bankruptcy would have to be decided by either a Federal district or State court. They are not routine administrative determinations easily categorized or processed.

In spite of the important work done, much of the litigation today concerns the subject of jurisdiction. Bankruptcy courts are courts of limited jurisdiction and may resolve disputes concerning property over which the court has neither title nor possession only by consent. Essentially, the jurisdiction of the bankruptcy court today is an in rem jurisdiction limited to property in either the constructive or actual possession of the debtor. In the absence of constructive or actual possession, issues involving the bankrupt estate or between the bankruptcy trustee and creditors can only be resolved in the bankruptcy court with the consent of the litigating parties.

The proposed legislation would expand the jurisdiction of the bankruptcy court to resolve all disputes affecting the bankruptcy estate. The importance of this is to remove from the bankruptcy court so much of the wasted effort with regard to the jurisdiction of the bankruptcy court and also to make available a quicker resolution of the problems which arise in the bankruptcy court.

We cannot expand this jurisdiction of the bankruptcy court to resolve these disputes without imposing upon the bankruptcy court the exercise of judicial power, which as you know under article II of our Constitution, is reserved to courts presided over by tenured judges.

We need a court that is independent of the district courts. We cannot resolve the problems that we want to resolve in the bankruptcy area without having an independent bankruptcy court. We also need to give that court adequate powers to do its job. And we cannot give it those powers, and the jurisdiction it needs, once it is independent, unless we also tenure the judges of that court. I think that is important.

The independent court is the solution which has been agreed upon by everybody, all of the three groups which studied this problem: The National Bankruptcy Conference, the Bankruptcy Commission, and the bankruptcy judges themselves, through their conference, and of course finally, our subcommittee.

In summary, Mr. Chairman, I would like to make two points. The first point is that the independence of the bankruptcy court is perhaps the most significant single improvement that has been universally recommended.

The point that I will not labor too much, but I would like to repeat, is that 250,000 cases before the bankruptcy court with 9 million creditors involved means that the bankruptcy court impacts on more people in the United States, more citizens of this country, than any other aspect of the Federal judiciary, out of all proportion.

Now we have to resolve the problems that come before the bankruptcy court. They are every bit as significant in terms of dollars, in terms of litigants and in terms of the lives and property and jobs affected as the questions which ordinarily come before a district court. It is important, I think, therefore, that the jurisdiction of the bankruptcy court be of equal dignity with the district courts and the other courts, because unless you do so, unless you elevate the status of of the judges to the quality of the problems that are before them, then you are going to get second-rate judges; you are going to get second-rate solutions to problems; and you are going to get second-rate justice.

That is the first point which I would like to make.

The second point is that the jurisdiction of the bankruptcy courts today is limited, because they are not tenured judges and separate courts. If we are going to resolve all of the problems affecting a bankruptcy estate, we cannot follow existing law because it limits the bankruptcy courts to what amounts to an in rem jurisdiction, what is in possession of the bankruptcy estate.

We think it important not to dissipate the energies of the court in resolving jurisdictional problems, but to enable it to address itself to all of the other problems so they can be resolved quickly and effectively, and that means an expansion of jurisdiction. In expanding that jurisdiction you cannot expand the jurisdiction of the bankruptcy court into these areas without an exercise of judicial power under article III of the Constitution.

If you exercise the judicial power, then the court that exercises that power must have independent tenured judges. That, I think, is the controlling constitutional question in this area.

Now, in creating the independent court, we cannot trespass on the President's right to appoint the judges. We can create a new court and separate new judges, but there is no way we can fold in existing judges into that new court.

So we have provided for a transition period of 5 years so that the terms of existing judges continue effectively under the present appointment system until 1983. At that time we will have determined by other procedures exactly how many bankruptcy judges are needed, and the appointment power under article II of the Constitution is vested in the President. He will then appoint the new judges.

The independent article III court is what is called for here. I think it is the appropriate solution to this problem. We have considered it long and carefully and I urge upon you the acceptance of this legislation and the principles which it involves.

Briefly, I would like to outline for you the means by which we came to believe that article III status, and its accompanying life tenure, is constitutionally mandated.

At the outset, let me say that when we surveyed this issue, BOB MCCLORY and I were both strongly against the creation of more judges, especially tenured ones. We have come to believe, after the extensive study which I will outline shortly, that within permissible constitutional boundaries, there is simply no alternative way to act.

As I mentioned earlier, Senate Joint Resolution 88, enacted by the Congress on July 24, 1970, created the Commission on the Bankruptcy Laws of the United States. Its mission was to recommend new ways to improve the bankruptcy system in this country in order that it might be more equitable both to debtors as well as creditors. Much has changed in the way we have conducted business during the past 25 years or so since the act was last altered in a substantial way.

In 1973, the Commission's report was filed and one of its most significant recommendations was the creation of an independent bankruptcy court. Specifically, it recommended that—

(N)ew bankruptcy courts be created to have jurisdiction of all controversies arising out of a proceeding under the Act and all controversies between a trustee in bankruptcy on behalf of the estate of any third party.

As you can see, that recommendation covers a broad range of judicial powers. In fairness, I should note that the Commission's recommendations were also for a court to be created under article I of the Constitution, the legislative article, as opposed to article III, the judicial article. Judges were to hold office for 15 years under their recommendations. It is also fair to note that the constitutional issue was not explored deeply at that time. Everyone involved made the assumption, as we did, that broad judicial powers could be exercised by an article I court.

The bankruptcy judges themselves also favored an independent court. In a July 13, 1977, letter from Judge Conrad Cyr, president of the National Conference of Bankruptcy Judges, noted that—

. . . no controversy whatever exists over the proposal to establish a separate bankruptcy court among the bankruptcy bench and bar, those who know and work in and with the bankruptcy system.

He also noted further that—

Very nearly seven years after [the revision process began], the Judicial Conference of the United States, without prior study or consideration, resolved to oppose the creation of a separate bankruptcy court. * * * If ever there was doubt as to the need of a separate bankruptcy court, the recommendations of the Judicial Conference ad hoc committee on H.R. 6 have removed it.

The National Bankruptcy Conference similarly endorsed our efforts. In a letter dated February 11 of this year, the conference fully supported the independent bankruptcy court proposed by H.R. 6. I should note that the National Bankruptcy Conference has a diverse membership representing the entire United States and including active and retired referees in bankruptcy, bankruptcy professors from leading law schools, and practicing lawyers.

On April 2, 1976, the constitutional issue surfaced unexpectedly. In his prepared statement, William T. Plumb, a partner in the well-known law firm of Hogan & Hartson here in Washington, and earlier a consultant to the Commission, commented:

Except in instances where Congress enjoyed powers of local government [as in the case of the District of Columbia], or extra-territorial jurisdiction over citizens overseas [as in the case of military courts], the actual instances in which legislative courts have been upheld have involved matters between the government and others, where the sovereign power might as properly have been exerted to resolved disputes administratively without resort to any court.

The previous model for the bankruptcy court as an article I court such as the Tax Court. But as Mr. Plumb noted in this regard:

. . . the Tax Court affords no clear precedent. (It) can determine liability only against the taxpayer, who voluntarily invokes its jurisdiction, or against the United States which, through Congress, has consented to it.

Subsequent to Mr. Plumb's testimony, Chairman RODINO wrote nine constitutional authorities. Those responding were Brice Clagett, of the law firm of Covington & Burlington here in Washington, and who argued the landmark case of Buckley against Valeo, with which we are all familiar; Erwin Griswold of Jones, Day, Reavis & Pogue, and a former Solicitor General in the Nixon administration; Thomas Krattenmaker of Georgetown Law Center, who assisted in the litigation of Palmore against United States, the Supreme Court case which upheld the article I status of the District of Columbia Court System; Jo Desha Lucas of the University of Chicago Law School; Paul Mishkin of the University of California (Berkeley) Law School; Terrance Sandalow of Michigan Law School; David Shapiro of Harvard Law School; Herbert Wechsler of Columbia Law School; and Charles Alan Wright of the University of Texas Law School. Only Professor Griswold and, to a lesser extent, Professor Shapiro, felt article I status could be achieved. All, including these gentlemen, felt the question to be one of complex constitutional importance.

After reviewing these replies, and studying a 73-page brief prepared by counsel, a unanimous subcommittee felt that article III status for bankruptcy judges was constitutionally required. Ac-

cordingly H.R. 6, introduced in January of this year by Chairman EDWARDS and myself, was structured along these lines.

On July 14, 1977, the Department of Justice, which opposes article III status as a matter of policy, not constitutional law, released a lengthy report on H.R. 7330, the first clean bill to emerge after subcommittee markup. In its report, the Department, while calling for the Congress to avoid article III status, nevertheless admitted that—

> . . . upon the present state of the record, regardless of how Palmore is read, the Constitution requires that the bankruptcy court contemplated by H.R. 7330 (which is the same court contained in H.R. 8200) be an Article III court.

Thus we have a dilemma of sorts. While there are those of us who would love few things more than to be able to avoid more presidentially appointed judges, there stands in our way the Constitution and its requirement that the "judicial power" must be exercised by courts of the United States under article III. There simply is no other way. If we are to make the bankruptcy courts independent, and virtually every witness has begged that they be so, we must grant them independent status. This is the belief also, as I have noted, of the bankruptcy judges themselves who, interestingly, stand to eventually lose their jobs to Presidential appointees.

This bill serves no purpose whatsoever if the independence of the bankruptcy courts is removed; it is that lack of independence which has placed the bankruptcy courts in the lamentable position they now hold. To maintain their ancillary status would be to gut the bill and, in effect, erase the 6 years of work and study which went into its preparation.

Mr. EDWARDS of California. Mr. Chairman, I would like to add to the statement of the gentleman from Virginia. He has stated the problem with the current bankruptcy court system very well, and the reasons why we chose the course of action we did. I must say that we did not start out where we are. We understand that going to an article III bankruptcy court is a significant change from the current system. However, after consideration of all the evidence that we heard—over 2,700 pages of testimony during our hearings alone, and numerous other evidence from letters, from the Commission report, and from the Brookings report—we concluded that this court system was the only one that could solve the serious problems confronting the bankruptcy system today.

But the other portion of the solution is just as important. I am referring to the U.S. trustees, which are created by the bill. The Brookings report and the Bankruptcy Commission both recommended that an independent agency be created to handle bankruptcy cases. There is so much administrative work that bankruptcy judges do now that is inappropriate for a judge to do, and we relieve them of those duties. But someone has to supervise the administration of bankruptcy cases. We did not feel that it would be wise or appropriate to create a separate agency or bureaucracy to do that. We opted for a much smaller, less expensive solution—the U.S. trustees.

This system has the advantage that it is decentralized, and much more responsive to local needs. Bankruptcy is something that varies very much in different areas of the country, and it is important that those who supervise the administration of bankruptcy cases be locally based. There will be one U.S. trustee in each judicial district (though the bill permits the same individual to serve for more than one district). However, we do give the system some central direction by having the Attorney General provide general coordination, supervision, and assistance to the activities of the local U.S. trustees.

This system has another advantage, too, and one that is very important to the purposes of the bill. The current system suffers from too much contact between bankruptcy judges and bankruptcy trustees. Bankruptcy judges appoint trustees today, and then must review their actions. The judges must consult closely with the trustees in the administration of bankruptcy cases, and the judges must supervise the trustees generally to make sure that they are doing their jobs properly. The close relationship that develops between judges and trustees is one of the most discrediting factors in the current bankruptcy system. It gives rise to a terrible appearance of partiality when the bankruptcy judge must rule on litigation in which the trustee is one party, and in some instances, it gives rise to actual bias as well.

The U.S. trustee system that we propose is placed completely out of the control of the judicial side of the bankruptcy system. We separate the judicial and administrative functions in bankruptcy, and we place the administrative functions out of the control of the bankruptcy judge so that the same conflict that exists now will not arise again. This is one of the important changes in the administrative system for bankruptcy cases, and one that will go very far to insuring that the system is a fair one.

Some will say that placing the U.S. trustees in the executive branch is bad for several reasons. We considered those reasons indepth. They say that there is a conflict of interest, because the executive has to prosecute claims against estates, and the same officer will be controlling both the U.S. trustee and the prosecution of the claims. That is a red herring. The U.S. trustee will be serving as trustee in individual cases only where there are no assets involved. In those cases, there will rarely if ever arise any dispute about claims against the estate. The real conflict is in the current system where a party to litigation (the trustee) and the judge in that litigation are under the control of the same individuals, and where they work closely together. That is the conflict that we are trying to rid the system of.

They will also say that bankruptcy is inherently judicial, and that the executive should not be involved in bankruptcy cases. The Brookings Institute and the Bankruptcy Commission both proposed executive branch agencies to handle bankruptcy cases. Chief Justice Warren, in a speech in 1962, suggested that it would be entirely appropriate for bankruptcy to be handled in the executive branch.

Mr. Chairman, I understand that an amendment will be offered to place the U.S. trustees side by side with the bankruptcy courts. We will oppose this attempt, because it will lead us right back to the problems we have today.

Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Massachusetts (Mr. DRINAN), a member of the subcommittee, who has been a faithful member on this legislation and has made a giant contribution to this matter.

Mr. DRINAN. Mr. Chairman, I want to join the general acclaim for this bill. I have given 57 long and exciting mornings of my life to this bill, and consequently I am inclined to think that it is acceptable. I also want to thank the chairman and ranking minority member of the subcommittee for their diligence and their counsel.

Let me, Mr. Chairman, speak briefly to three points in the bill that have not been addressed. Chairman EDWARDS, I believe, touched on the important bankruptcy policy of providing a fresh start, especially for those seriously overburdened debtors that are not able to use the new, improved chapter 13. There are some terrible loopholes in current law that impair the fresh start, and we close them with this bill.

First let me speak of reaffirmations. This has been a practice that has led to notorious results. By the law of the States, which govern the effect of the bankruptcy discharge, a new promise to repay any part of a debt that was discharged in bankruptcy revives the debt completely. Experienced creditors have developed ways to induce debtors into reaffirmations of discharged debts. Consequently, the poor debtor, thinking that he had a discharge and a fresh start, found that he in effect inadvertently had reaffirmed some of his debts, and he comes out of bankruptcy not much better than when he went in. He still has debts plaguing him, and he does not have a complete fresh start.

We, therefore, have made reaffirmation impossible. A debtor may, if he is stricken by his conscience, repay the creditor, but that is not subject to enforcement in a court by the creditor. It has to be strictly voluntary.

Let me speak secondly of false financial statements. This is another area that has created severe problems for the individual debtor. Very frequently, the person entering into a transaction where he is going to pay on credit or where he is going to borrow money, is told by the prospective creditor to provide a list of debts. Then he is told to list only the most important debts. Inadvertently, the debtor leaves out some of those debts, and subsequently the creditor will say that there was a fraudulent practice. One bankruptcy judge had this to say about these financial statements:

> It is time to brand these so-called "financial statements" taken under these circumstances by their proper name—pieces of

paper prepared at the direction of loan company officials for the sole purpose of charging borrowers with issuance of false statement and intent to deceive in the event petitions in bankruptcy are later filed.

The Bankruptcy Commission proposed that these debts should not be excepted from discharge at all, and that they should be totally eliminated. We took a less radical view. We said that these claims may be brought into court so that the creditor can try to prove fraud if there is real fraud, but that if the creditor sues on this and if the debtor prevails, that he has the right to recover his counsel fees and expenses, such as a day that he has lost from work.

We have made this mandatory on the judge. It may be that some would feel that the award of counsel fees and costs should be discretionary, but I think that that would cut the heart out of this particular reform. The judge, by statute, will be required to give to the debtor the expenses that he has had. If we say that this is only discretionary, we are back to square one. We are back to the situation where the creditors can threaten the debtor with litigation, and get the debtor to settle even in cases where there is no fraud. The only way to provide the protection is to make the provision mandatory, to eliminate the uncertainty.

Let me speak next of exemptions. Under current law, the bankruptcy law gives the debtor whatever exemptions the State law provides. They define what property, such as a homestead, personal effects, and so on, that the debtor can keep to get a fresh start after bankruptcy. Unfortunately, these have been very inadequate in many States. For example, Pennsylvania has not revised its basic exemption law since 1849. These laws are inadequate, and defeat the basic Federal policy of providing a fresh start for debtors in bankruptcy. So we provide an alternative in this bill. We provide that the debtor can take Federal exemptions instead of his State's exemptions. This will keep many debtors from complete desolation after bankruptcy, and will insure the fresh start.

Now we followed the proposed Uniform Exemptions Act proposed for the States by the American Law Institute, and the Federal exemptions are very close to what the uniform law proposes.

Mr. Chairman, I just want to conclude by saying that this is a very balanced bill. There are some things that help debtors in this bill, but as Chairman EDWARDS pointed out, there are many things for creditors too. This bill is not pro-debtor nor pro-consumer. It follows the two basic principles involved traditionally in the long history of Anglo-American bankruptcy law.

First, we want to give a fresh start to the debtor; in all the writings on bankruptcy, this is the essence of bankruptcy. Let this poor individual discharge his debts. Ever since the mid-1800's, we do not put him in jail for debts he cannot pay. Give him a fresh start.

Second, treat all creditors substantially alike. We have sought to follow those two principles, and I think as never before, in this really monumental legislation, we have struck that balance.

We have brought bankruptcy out of the status of being a stepchild or an orphan in the Federal system. We have sought to give decency and dignity to the 250,000 people and the 9 million creditors who every year are involved in this system.

Mr. BUTLER. Mr. Chairman, I yield such time as he may consume to the gentleman from Nebraska (Mr. THONE).

Mr. THONE. Mr. Chairman, I rise for the purpose of engaging the gentleman from the Judiciary Committee in a brief colloquy.

As a member of the Committee on Agriculture I am constrained to point out that the trust provision contained in new section 206 of the Packers and Stockyards Act is of critical importance to those of us who represent livestock producers. I note a statement on page 368 of the Report of the Judiciary Committee that this bill does not affect that provision. Nevertheless, livestock producers around the country would like assurance that the operation of section 206 will not be impaired.

As the Members will recall, it was barely a year ago that we enacted my bill (H.R. 8410), now Public Law 94-410, which contains a number of strengthening amendments to the Packers and Stockyards Act, including section 206. That bill and particularly that provision sprang directly from the concern of the Members over the terrible losses which befell livestock producers throughout the country as a result of the failure of American Beef Packers and several other large meat packers in the past 2 or 3 years. In the case of American Beef alone, thousands of livestock producers were left unpaid for more than $20 million worth of livestock which they had sold in good faith on a cash basis to this packer. Similar losses have attended the failure of other packers. I have seen families of my constituents ruined by these failures.

For this reason it is essential that we have the assurance of the gentleman from the Judiciary Committee that this bill will not in any way interfere with the operation of the trust provision or the other amendments made by Congress in Public Law 84-410 to strengthen the ability of the Secretary of Agriculture to deal effectively with these problems.

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

Mr. THONE. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I thank the gentleman for raising this point and I can assure the gentleman that, as stated on page 368 of the report, this bill does not interfere in any way with the Secretary's administration of the trust provision or, for that matter, the balance of Packers and Stockyards Act or the act of July 12, 1943.

Mr. THONE. I thank the gentleman.

I thank the Members in the Chamber here for hanging on each and every word.

Mr. EDWARDS of California. Mr. Chairman, I yield such time as he may desire to the distinguished gentleman from Missouri, the former chairman of the State Legislature of Missouri (Mr. VOLKMER).

Mr. VOLKMER. Mr. Chairman, I too would like to voice my support of this legislation. I have only been on the subcommittee working on this bill during this Congress, and thus did not participate in the hearings during the 94th Congress that led up to H.R. 8200. But I did have experience in private practice with Federal bankruptcy law, and I can say from personal experience the problems that H.R. 8200 solves are real ones, and the solutions that are proposed are good solutions. I participated in the markup of this bill in subcommittee, and I can say that it was a very thorough, and well thought out piece of legislation.

The bankruptcy courts are in bad shape today. They need improvements. The halfway measures that I understand are to be proposed by an amendment to the bill will just not do the job. The upgraded court system is essential to the proper operation of the bill.

The U.S. trustee system is also essential. The conflict of interest that exists in the present system is simply unfair to creditors that come in contract with the bankruptcy courts. I think that the way the bill approaches the administrative problems in bankruptcy cases is a very significant and worthwhile improvement over what we have today.

I am especially pleased with the changes in the substantive law as well. These improvements are necessary and the improved chapter 13, the improved fresh start for the debtor, and the improved corporate reorganization chapter have been shown by experience to be necessary.

But there is one issue that I would like to address in more detail. That is the treatment of educational loans. I understand that an amendment will be offered to single out student borrowers for discriminatory treatment under the bankruptcy laws.

I would oppose the amendment. I believe that, even though we have, under the present law enacted before I was a Member of this Congress, under the Higher Education Act, a provision that guaranteed student loans would not be dischargeable in a bankruptcy for a period of 5 years. It is my understanding that this was enacted with the understanding that the GAO would then make a study to determine how bad the abuse, if any, there was, so that we might have the analysis as we consider the bankruptcy revision.

We now have that study.

The results of that study show us that of the federally insured portion of those loans that are defaulted, discharge under bankruptcy is a very small percentage of the loss. Bankruptcy has accounted for only 4 percent of the total losses, and 4 percent of claims paid under the student loan program.

Therefore it is my impression that very few of the persons who are getting these loans are apt to go bankrupt. Very few are doing so for the purpose of trying to alleviate themselves from repaying these

loans. There is no question in my mind that for those who do file under bankruptcy, it is usually for other purposes and other reasons. As we all know, the whole purpose of a bankruptcy is to enable a person to get a fresh start. Now if they have a $4,000 or $5,000 loan hanging over their head, they are not getting that fresh start. However, under the circumstances, it is simply wrong to single out one class of borrowers for discriminatory treatment. It violates the two most fundamental principles of bankruptcy, as Mr. DRINAN mentioned: Give the debtor a fresh start, and treat all creditors equally. The amendment would deny a fresh start, and would give certain creditors a preferred position over other creditors. I strongly support the position taken in H.R. 8200.

There is one other issue I would like to discuss, Mr. Chairman, that concerns the interaction between the bankruptcy laws and two agricultural laws: The Perishable Agricultural Commodities Act and the Packers and Stockyards Act. There has been some conflict between the policies of each. I offered an amendment during the full committee consideration to resolve the conflict in an equitable fashion, and I understand that there will be two more amendments offered today to pick up some things that were missed in that full committee amendment and I support those corrective amendments. I am only bringing this up to show the cooperative attitude that the authors of this bill have maintained, and the objective examination they have given to every item in the bill. As my colleagues have said, this matter was given very thorough and professional treatment. The handling of the conflict with the agricultural laws is just one fine example of that. It is for these reasons that I support this bill. It is a fine effort, and should lead to significant improvements in the bankruptcy system and laws.

Thank you, Mr. Chairman.

Mr. BUTLER. Mr. Chairman, I yield 8 minutes to the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Chairman, let me at the outset express my respect for the chairman of the subcommittee, the gentleman from California (Mr. EDWARDS), and also my respect—and I mean this very sincerely—my respect for the gentleman from Virginia (Mr. BUTLER), the ranking minority member, and the other members of the subcommittee. I acknowledge to begin with that they have spent many, many hours drafting a bill that I think is a substantial improvement over the existing bankruptcy laws, and contains very many meaningful reforms.

Yet, nevertheless, I must strongly disagree with the policies underlying the judicial and administrative framework that would be created by this measure. The first problem which is of particular concern to me is H.R. 8200's adulteration of the Federal judicial structure in the name of bankruptcy reform.

Title II of the bill would newly create an independent judicial bureaucracy of some 200 courts to handle nothing but bankruptcy cases, although it is true that the bankruptcy judges, if they were not employed with bankruptcy, could be utilized for other purposes. Judges appointed to serve in the specialized article III courts would be given benefits far exceeding those enjoyed by the bankruptcy judges today. Their term of office would be extended from 6 years to life, during their good behavior. Their salaries would be increased by some $6,000 per year, to $54,500. They would have at least two additional employees in their service. Their physical facilities would be expanded, and their retirement benefits would be greatly changed, far beyond the benefits provided for a Member of Congress.

Let me just say it is my understanding they would be treated similarly to the way district judges are now treated, which would mean that if they were age 70 they could take retirement if they had worked for 10 years at full salary, or they could retire at age 65 if they had worked for 15 years at full salary.

To illustrate the magnitude of these increased retirement benefits after attaining only 10 years of service, they would receive this kind of a full salary retirement benefit and instead of having to contribute to their pensions, which they now must do, at the rate of something over $3,000 per year, these would be noncontributory pensions.

They would also be given the periodic cost-of-living increases.

Stating what should now be readily apparent, the cost of H.R. 8200's administrative and judicial framework, in my opinion, would be staggering. The Congressional Budget Office conservatively estimates the price tag for this legislation to be a net increase over current costs of more than $50 million annually. Adding this net increase to current costs of about $38 million per year, the total price tag of the bankruptcy system mandated by this legislation would approach $90 million per year.

The cost of these new article III courts is not justified by any theory of judicial administration, in my opinion. In fact, this measure would set a bad precedent at a time when the modern trend in jurisprudence is toward simplification and generalization of court jurisdiction and not toward specialization. It should be noted that the concept of a specialized article III court structure was not endorsed by the blue-ribbon Commission on Bankruptcy at the conclusion of its 2-year study of this subject matter. Indeed, even the original proposal of the National Conference of Bankruptcy Judges did not make such a recommendation. Article III status for bankruptcy courts has been opposed by numerous organizations and individuals, including the Chief Justice of the United States, the Attorney General and the Department of Justice, the U.S. Judicial Conference, the American College of Trial Lawyers, and virtually every Federal judge in the Nation. This is not the kind of support that warrants the spending mandated by H.R. 8200.

The second problem of concern to me is title II's placement of the Office of U.S. Trustee within the Department of Justice, something which was mentioned to me by the gentleman from North Carolina (Mr. GUDGER) relating to what could be very serious conflict-of-interest situations which will frequently arise.

As a major litigant in many bankruptcies, the Department of Justice should not be called upon to perform the additional inconsistent role of supervising the bankrupt's estate through the Office of U.S. Trustee. Rather, the trustee should be placed under the general supervision of the U.S. Judicial Conference.

I understand that when H.R. 8200 is read for amendment, my colleague, the gentleman from California (Mr. DANIELSON) will offer a substitute to title II—he is offering it on my behalf, as well—which will remedy the problems which I have just discussed, while preserving the laudable reforms of this legislation. I, of course, will wholeheartedly support his efforts, and I encourage my colleagues on both sides of the aisle to listen carefully to the debate that follows and lend whatever support they can to this revision in H.R. 8200.

Mr. Chairman, I include at this point the following correspondence:

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., October 11, 1977.

Hon. TOM RAILSBACK,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN RAILSBACK: I understand that you and Congressman Danielson intend to offer two floor amendments to H.R. 8200, the proposed bankruptcy reform legislation, which would strike from the bill provisions which would create an Article III bankruptcy court and which would establish within the Department of Justice the Office of U.S. Trustee. Both of these amendments are consistent with the position taken by this Department in its March 16th letter to the Subcommittee and its July 14th letter to the full Committee.

The Department of Justice has consistently opposed the creation of a separate Article III bankruptcy court which, in this case, would have broader jurisdiction than our Federal courts of general jurisdiction, the district courts. We have likewise opposed the placement of the proposed U.S. Trustees within the Department of Justice. This Department, which is a major litigant in many bankruptcies, should not be placed in the incongruous position of supervising bankrupt estates. Deletion of these two provisions will enable this Department to withdraw its objectives to this most important legislation.

I hope that this statement of our views will be helpful.

Sincerely,

GRIFFIN B. BELL,
Attorney General.

SUPREME COURT
OF THE UNITED STATES,
Washington, D.C., August 29, 1977.

Hon. ROBERT W. KASTENMEIER,
Chairman, Subcommittee on Courts, Civil Liberties, and the Administration of Justice, Committee on the Judiciary, U.S. House of Representatives.

DEAR MR. CHAIRMAN: I very much appreciate the subcommittee's invitation to participate in its hearings on the State of the Judiciary and Access to Justce. I commend you and the members of your subcommittee for undertaking a wide-ranging review of the problems facing the federal judicial system, preliminary to developing a legislative agenda in furtherance of the ultimate goal,

delivery of justice to all. Because I consider Congressional concern with the larger issues facing the courts a matter of highest importance, I am pleased to accept your invitation to express some thoughts, which I hope are relevant.

It may be well to begin by reaffirming familiar major premises. From the earliest days of the Republic, justice has been a preeminent concern of our people. The preamble to the Constitution gives priority to establishing justice, ahead of the blessings of liberty. The pledge of allegiance, too, links justice with liberty and serves to remind each succeeding generation that justice for all remains a national aspiration of the highest importance. These old familiar propositions need to be recalled on occasion. As is so often true, however, the reality has fallen short of the aspiration, and there has been widespread discussion of how we, as a nation, might best reduce if not eliminate the gap. Your hearings are providing a valuable focus for this commentary and criticism and an appropriate forum for constructive assessment of resultant proposals.

To an aggrieved litigant seeking redress, the formal right to file a complaint and to become a party to a lawsuit is an empty promise if we fail to provide the "wheels" to deliver justice. And we have failed in many areas. Even a fair award four or five years delayed is drained of much of its value. And when the ultimate recovery is largely consumed in the expense of litigation, the system must be adjudged to have failed. Unfortunately, such failures are not isolated instances, both in state and federal courts. Happily, the new National Center For State Courts has already done much to expand the capacity of state courts. With close to 175,000 new cases filed in * * *

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Simon Rifkind, a former federal judge and now a distinguished practitioner, made the same point at the Pound Revisited Conference, only last year. He enumerated the qualities we seek in our judges, judges charged with deciding difficult issues of far-ranging significance, and added: "If the judicial office is to attract people possessed of the qualities I have enumerated, it must be endowed with considerable prestige. The greater the number, the less the prestige. The less the prestige, the less the public respect, an essential ingredient of a satisfactory judicial system."

As you know, the Judicial Conference of the United States, and any number of circuit conferences, have spoken out sharply and with virtual unanimity, against the proliferation of Article III judges by a change in status of our present bankruptcy referees—a totally unnecessary and unwarranted step which will cost many millions of dollars per year. Some have misunderstood the nature of the objections. In part, the Judicial Conference view lies in the concern expressed by Frankfurter and repeated by Rifkind. Adding hundreds of specialized Article III judges at one fell swoop, in addition to the normal growth necessitated by the increase in caseload, cannot fail but to have an adverse effect on the institution as a whole. This is the warning of the Judicial Conference; this is part of its concern. Moreover, such a drastic change in the fabric of the federal judiciary is hardly required by the advantages sought to be gained. But this involves a longer more detailed discussion than is appropriate here.

Bankruptcy referees aside, unlimited expansion of the federal courts is not an acceptable solution. Neither assembly-line justice, nor a rapid expansion of the size of the federal judiciary beyond anything presently contemplated, with the concommitant dilution of prestige and, I fear, quality, can be the answer.

* * * * *

In this connection there is a lesson to be learned from history, one which illustrates the need to deal in the realities as best we can perceive them. Prior to the enactment of the Judges' Bill in 1925, the Supreme Court fell so far behind in its docket that it was perhaps justly criticized for not properly fulfilling its assigned role. The Congress responded to Chief Justice Taft's call with by-now familiar 1925 legislation which relieved the Court of much of its mandatory jurisdiction. There were many who then protested that access to the Court was being denied to litigants. In a formal sense, the argument had superficial appeal, but access in theory which in fact impedes or precludes the delivery of justice makes no sense. Happily, the spurious opposition in 1924–25 did not prevail, and Congress wisely chose to accord the indisputable realities a higher priority than dubious theory. In the hindsight of more than a half century of experience there is universal acceptance of that choice as a wise one by the Congress.

I close as I began, with warm appreciation for the opportunity to join with you in your concern with the larger issues which must be faced in fashioning the future of the federal judicial system. Whatever differences there may be among men of good will regarding the means of assuring the reality of justice for all, I know we are united in our commitment to that end.

Cordially and respectfully,

WARREN E. BURGER.

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

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

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague's yielding.

I have heard just today from several interested lawyers in California, and they inform me that the gentleman from Illinois (Mr. RAILSBACK) is also an author of the Danielson amendment; is that true?

Mr. RAILSBACK. That is true, and I am proud of it.

Mr. ROUSSELOT. So it should be called the Danielson-Railsback amendment?

Mr. RAILSBACK. I will accept that.

Mr. ROUSSELOT. And the gentleman is totally for that proposal?

Mr. RAILSBACK. Yes, I am.

Mr. ROUSSELOT. Mr. Chairman, I appreciate the gentleman, who is my next door neighbor, yielding.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. RAILSBACK) has expired.

Mr. BUTLER. Mr. Chairman, I yield 2 additional minutes to the gentleman from Illinois (Mr. RAILSBACK).

Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Virginia.

Mr. BUTLER. Mr. Chairman, I have asked the gentleman to yield just to make one point.

The cost of the retirement is a matter as to which the gentleman obviously has some expertise.

There is a difference in salary as between the bankruptcy judge, presently called a referee on some occasions, and the U.S. district judge of $6,000. In addition to that, there is a contributory pension plan to which the United States contributes some $3,500.

Mr. RAILSBACK. That is per year, I understand.

Mr. BUTLER. That is per year. And that is for each one of the bankruptcy judges.

Mr. RAILSBACK. The gentleman is correct.

Mr. BUTLER. And, of course, the U.S. district court judge has no contributory plan under those circumstances. So the differential would be closer to $2,500, would it not?

Mr. RAILSBACK. I will try to respond accurately.

Mr. BUTLER. Is the gentleman saying, "Yes, but——"?

Mr. RAILSBACK. No, I am saying, "No, but——".

It would seem to me that the difference, which incidentally is not calculated in the study on page 467 of the report, which I commend to all the Members and which does contain a cost analysis, can be computed. I would think that the total retirement cost that would result from the bill after the article III judges are appointed would be something on the order of $3 million or $4 million per year. I intend to have that information tomorrow.

Mr. BUTLER. Mr. Chairman, in order that we may complete this colloquy, it is a fair statement, though, is it not, that the cost is the differential between the salary of the referee, as far as this is concerned, and the salary of the judge, and however we compute it, we can reasonably expect that the differential would remain the same?

Mr. RAILSBACK. That is not my understanding. In other words, the bankruptcy judges now will not get anything like the full salary retirement benefits they will receive once they become article III judges. As a matter of fact, what happens now is that they pay in about $3,500 a year or something more than $3,000, and even though they contribute now and they will not later, they actually do not receive as much now as they will.

Mr. BUTLER. Mr. Chairman, the gentleman has been working on this matter for some little time, but I understand he cannot tell me that the differential between the two salaries is not the basis. Can the gentleman give me a figure?

The CHAIRMAN. The time of the gentleman from Illinois (Mr. RAILSBACK) has again expired.

Mr. RAILSBACK. Mr. Chairman, I appreciate the gentleman's asking me the question.

Mr. EDWARDS of California. Mr. Chairman, I yield 5 minutes to our distinguished colleague, the gentleman from California (Mr. DANIELSON), a member of the Committee on the Judiciary.

Mr. DANIELSON. Mr. Chairman, I thank the subcommittee chairman for yielding this time to me.

The first thing I wish to do is to take advantage of this opportunity to commend my most distinguished colleague, the gentleman from California (Mr. EDWARDS), the ranking minority member of the subcommittee, and in fact all the members of the subcommittee for a tremendous job in revising the bankruptcy laws. They have needed revising.

I think the committee has done an excellent job, and I am going to be proud to support the bill and shall do so with all diligence once we have made what I consider to be a couple of necessary corrections.

It pains me very much to have to offer an amendment to a bill that was reported out by a subcommittee chaired by the gentleman from California (Mr. EDWARDS), because I have tremendous respect for him.

He has given me a good deal of guidance and assistance here in the Congress. I trust, come what may on this bill, that relationship will continue.

Mr. Chairman, I would like to point out very briefly why I am going to be offering my amendment. I would like to state at the inception that I do not intend to discuss the rest of the bill because I have absolutely no quarrel with it and can only commend it.

However, there are two points in the bill with which I must disagree and which I could not allow to stand without trying to correct what I consider to be an understandable misconception on the part of the subcommittee.

The first of these two points is that this bill will create a special bankruptcy court under article III of the Constitution, with all that that entails—lifetime tenure, inflexibility, the inability to reduce the structure of this bankruptcy forum when there is a singular case which would justify it, and as my colleague, the gentleman from Illinois (Mr. RAILSBACK), has pointed out, the fact of noncontributory pensions, which is a fact, as we all know, in the judicial branch. The article III courts, in my opinion, are repugnant to the current trend to have single forums of general jurisdiction.

Mr. Chairman, those of us who have practiced bankruptcy law know that the bankruptcy forums work very well by the referral of bankruptcy matters to referees, who are particularly skilled and who handle nothing except the insolvency matters.

The other point which I will seek to amend is the provision of this bill under which it creates a new government job. Some of us may take offense at that, and I do not. This is the job of the U.S. trustee. I think he will serve a useful purpose, but what I do not like is this, and I think it is repugnant to our constitutional system: The U.S. trustee will take the part, generally speaking, of a supervising trustee functions in all bankruptcy cases. He will be on the Government payroll. He will have assistant trustees, if necessary; but the trustee is acting. He takes custody. He becomes the legal title holder of the estate of the bankrupt. He takes custody of the bankrupt's estate. He is an arm of the court. He must be an arm of the court. Under the bill as it is drafted, this U.S. trustee, paradoxically speaking, is going to be an employee of the Attorney General, in the executive branch. The Attorney General in the executive branch of the Government is going to be appointing and directing the activities of an arm of the court.

Mr. Chairman, I am a dedicated believer in separation of powers under our Constitution; and I can no more stand to have the executive branch filling a function in the judicial branch than I could to have either the executive or the judicial branch fulfilling a function of supervisor here in the legislative branch.

Mr. Chairman, we must keep these branches of the Government separated.

My amendment simply does not tinker with the bulk of this bill. I say "my amendment." It is mine and that of the gentleman from Illinois (Mr. RAILSBACK).

It does not tinker with the basic structure of the bill, but it will preserve the present structure under which the bankruptcy court is an adjunct of the U.S. district court. The so-called bankruptcy judges will be members of the judicial branch, but they will not have lifetime tenure. They will not be tenure judges, as is a U.S. district court judge today.

Second, the U.S. trustee would be, under my amendment, appointed by the judicial branch, as he properly should be since he is an arm of the judicial branch.

The CHAIRMAN. The time of the gentleman from California (Mr. DANIELSON) has expired.

Mr. EDWARDS of California. Mr. Chairman, I yield 2 additional minutes to the gentleman from California.

Mr. DANIELSON. Mr. Chairman, I thank the gentleman.

I am going to go really fast here.

I hope that the Members who took a look at the CONGRESSIONAL RECORD will take a peek at page 465 of the committee report which tells us what the costs are going to be under the committee bill. We cannot save all of them under the Danielson-Railback amendment. We can save about $20 million to $25 million per year, a very sizeable sum.

Mr. Chairman, on page 466 of the committee report there is also a projection with respect to retirement, and I think the Members ought to take a little bit of a look at that.

Lastly, I would like to have them read, if they will, please, the statement of Judge Shirley M. Hufstedler, of the U.S. Court of Appeals for the Ninth Circuit, who appeared before one of our subcommittees. I have her comments in the committee report at page 543. She points out the fact that we simply do not need this article III court.

In concluding here, I would like to state that the Danielson-Railsback amendment is supported by the Attorney General, Mr. Bell, the Department of Justice, the Judicial Conference of the United States, the Chief Justice of the United States, the Judicial Councils in each and every circuit of the U.S. courts, the American College of Trial Lawyers, and many others.

Letters to this effect are as follows:

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., October 11, 1977.

Hon. GEORGE E. DANIELSON,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN DANIELSON: I understand that you and Congressman Railsback intend to offer two floor amendments to H.R. 8200, the proposed bankruptcy reform legislation, which would strike from the bill provisions which would create an Article III bankruptcy court and which would establish within the Department of Jusitce the Office of U.S. Trustee. Both these amendments are consistent with the position taken by this Department in its March 16th letter to the Subcommittee and its July 14th letter to the full Committee.

The Department of Justice has consistently opposed the creation of a separate Article III bankruptcy court which, in this case, would have broader jurisdiction than our Federal courts of general jurisdiction, the district courts. We have likewise opposed the placement of the proposed U.S. Trustees within the Department of Justice. This Department, which is a major litigant in many bankruptcies, should not be placed in the incongruous position of supervising bankrupt estates. Deletion of these two provisions will enable this Department to withdraw its objectives to this most important legislation.

I hope that this statement of our views will be helpful.

Sincerely,

GRIFFIN B. BELL,
Attorney General.

AMERICAN COLLEGE
OF TRIAL LAWYERS,
Los Angeles, Calif., October 7, 1977.

Congressman GEORGE E. DANIELSON,
House of Representatives, Rayburn HOB,
Washington, D.C.

DEAR CONGRESSMAN DANIELSON: Pursuant to the recommendation of its Pound Revisited Committee, on August 5, 1977, the Board of Regents of the American College of Trial Lawyers adopted the position of the College in opposition to those proposals incorporated in H.R. 8200, 95th Congress, which would convert bankruptcy courts into separate, specialized courts under Article III of the United States Constitution and convert referees in bankruptcy to bankruptcy judges with tenure and status of United States district judges.

We oppose the creation of separate bankruptcy courts for the reasons that such specialized courts are unnecessary, would create additional unwarranted expense and would be contrary to sound court organization, as found and recommended by the American Bar Association Commission on Standards of Judicial Administration, Standards Relating to Court Organization (1974). See Standard 1.10, Unified Court System: General Principle, and Standard 1.11, United Court Structure.

We oppose the conversion of referees in bankruptcy to Article III tenure and status as the unnecessary creation of specialized judges when, as now, there is pressing need for the authorization of additional district judgeships to provide for increased general case loads, both civil and criminal, in the respective federal districts. The conversion of referees in bankruptcy to Article III judges would only multiply the number of persons entitled to be addressed as federal judge. We also oppose wholesale appointments which would certainly short-circuit the existing machinery for selection of federal judges, including the review by the American Bar Association of persons under consideration for such appointment.

Accordingly, the American College of Trial Lawyers urges that those aspects of H.R. 8200 not be enacted into law.

Respectfully submitted,

THOMAS E. DEACY, Jr.,
Chairman,
Pound Revisited Committee.

I believe that with the proper amendment to this bill we will have an excellent improvement in the bankruptcy laws, and at that time I will certainly work for its adoption.

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

Mr. DANIELSON. I yield to the gentleman from Virginia.

Mr. BUTLER. I thank the gentleman for yielding.

I was interested in the gentleman's amendment. We have regularly had great cooperation from the gentleman from Illinois (Mr. RAILSBACK) and we received from time to time drafts of an amendment. We have been worrying about the Railsback amendment, and all of a sudden it is the Danielson amendment. We got a draft this morning much different from the one we got yesterday and somewhat different from the one we got last week, but is the one we got this morning the one that it is now?

Mr. DANIELSON. I will tell the gentleman if he would like to add the name of BUTLER to the names, I will accept that.

Mr. BUTLER. A rose by any other name would smell the same.

Mr. DANIELSON. It would smell just as sweet. I have on my desk an extra copy, and if the gentleman would like to have it, I will be sure to get it to him.

Mr. BUTLER. I am interested in the chronology of the amendments.

Mr. DANIELSON. If I may interrupt, I have lodged a copy of the amendment with the Clerk of the House. I will be pleased to provide the gentleman with an additional copy, which I do have with me, and it is only the bottom line that counts. The bottom line is the amendment that we have filed with the Clerk.

Mr. BUTLER. If the gentleman will yield further, I am very much interested in that and, of course, the number of drafts, but what I am asking is, is the one we got this morning the final draft? I want to congratulate the gentleman on the rapidity with which he has been able to circularize this draft this morning among that long list of people who approved his amendment. I think that is a remarkable piece of work, but I would expect nothing less from my colleague, the gentleman from California.

Mr. DANIELSON. The difficult we do immediately. I do thank the gentleman for his comments.

Mr. EDWARDS of California. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I note that on page 190 of House Report 95–595 then is an erroneous reference respecting the priority of certain taxes. The report states that taxes which are fines or penalties are not entitled to priority "even" to the extent of actual pecuniary loss. The word "even" is more properly replaced by the word "except"; the explanation should indicate that section 507(6) of H.R. 8200 is intended to deny priority status to tax claims that are fines or penalties except to the extent of actual pecuniary loss.

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

Mr. BUTLER. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Chairman, I will be extremely brief. I intend to support the Danielson-Railsback amendment in whatever form it finally emerges, but I would remind my colleagues that Shapespeare rewrote "Hamlet" a few times, I am told, so the final draft will be, I am sure, a work of art.

I do rise simply to state that I am overwhelmed—and I mean that seriously—with the magnitude of the job that this committee has done on a very difficult and unglamorous job. The total revision of the Bankruptcy Code is truly a monumental achievement. It does not attract much press attention. No one will win a Pulitzer prize writing about the long hours that were spent in reviewing what is essentially dull material, but vital material, because the relationship between debtor and creditor is extremely important in the business of justice.

I am proud to serve with these gentlemen on this important committee. Kenneth N. Klee, Alan Parker, Richard Levin, and Tom Breen also deserve the highest praise for their professional dedication in what I say has not been the most pleasant nor the most spectacular nor exciting job but one which is very much a part of justice.

When I consider that last year we produced a comprehensive revision of the copyright law that was a monumental achievement and then this year we have produced the bankruptcy law, indeed the Judiciary Committee is in my judgment the best committee in Congress.

Mr. BUTLER. Mr. Chairman, I yield to the gentleman from Massachusetts (Mr. DRINAN) such time as he may consume.

Mr. DRINAN. Mr. Chairman, I wonder if the distinguished gentleman from Illinois (Mr. HYDE) would clarify what I think he is endorsing as the Danielson amendment. I have received and have in hand the final version of the Danielson-Railsback amendment, and it would be my feeling, having served for a long time on this subcommittee, that this cuts the guts out of the bill, that this eviscerates the most important things we want to do.

I certainly appreciate the kind words of the gentleman from Illinois (Mr. HYDE), because I happen to have served on the subcommittee that also produced the copyright bill and on this different subcommittee which has produced this bill. I wonder if the gentleman from Illinois (Mr. HYDE) would explain why he thinks the Danielson amendment is well advised.

Mr. HYDE. I think I disagree with my respected colleague. I do not think the Danielson-Railsback amendment eviscerates the bill at all. It enhances the bill. I think an adjustment of the relationship between debtors and creditors, which are substantial, in this bill covers many pages. The quality of that job is not dependent on whether we set up a whole new article III court. I think that is overkill and I am against it.

I think one of the problems with our country is that we have too many lifetime judges. We have State judges that do work of much more broad significance who are not appointed for life. I just think we can accomplish this without the expense or the shattering of precedent by establishing an entirely new article III court. But in no way does that diminish my admiration of the bill nor the effectiveness of the final product once the Danielson-Railsback amendment is adopted, as I expect it would be.

Mr. BUTLER. Mr. Speaker, I said that I had no further requests for time, but in light of this colloquy I would like to say a few more remarks along the lines of the remarks of the gentleman from Illinois (Mr. HYDE) and the gentleman from Massachusetts (Mr. DRINAN).

The gentleman from Massachusetts (Mr. DRINAN) is exactly correct. The effect of the Railsback amendment is to gut the bill. The reason it does is because it keeps the status of the bankruptcy courts where they have always been, and that is in a stepchild situation. It goes to the pervasive jurisdiction of the bankruptcy court which we would create.

The problem is that today the bankruptcy court has before it problems it cannot resolve because its jurisdiction is limited. It cannot decide matters before it except as they affect the property before it. So if there is a controversy between a bankruptcy estate and a third party in possession of property, then they have to go elsewhere.

The bill, H.R. 8200, gives the bankruptcy court pervasive jurisdiction, a jurisdiction to solve all the problems surrounding a bankruptcy estate, and in doing this we are exercising the judicial power which we cannot do except under an article III court, a tenured court under the Constitution.

But this is the real effect of this bill and the value of this bill. What the Danielson amendment would do is take away the pervasive jurisdiction of the courts and put them back in the position they are today.

There was not a single person who testified before our subcommittee and the Bankruptcy Commission who did not tell us that this is what we really needed: a bankruptcy court independent of the district court.

The Danielson amendment would put us back where we are and destroy what we have done and put the bankruptcy court in a position where it cannot solve all the problems we have given them the power to do under this bill.

So do not be confused that the Railsback-Danielson amendment is just a little old amendment.

I did not always take this approach. I got to this point after examining this entire bill and realized that if we are going to do these things and have the kind of bankruptcy process indicated by the facts before us, then we have to have tenured judges. We cannot emasculate the judges and not give them the powers they ought to have if we want them to solve the bankruptcy problems. The people who work on those problems day to day are unanimously for our bill. They support the separate court and they support the article III court.

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

Mr. BUTLER. I yield to the gentleman from Massachusetts.

Mr. DRINAN. Mr. Chairman, I commend the gentleman for his eloquence. I think it is fair to say that all members of the subcommittee and subsequently the members of the Committee on the Judiciary were reborn, if that is the right phrase, to the conviction that the gentleman from Virginia so eloquently stated.

We realize this may be a new concept for lawyers and nonlawyers alike. As a result, the staff and members of the subcommittee have issued a 73-page supplemental report explaining precisely the issues addressed so cogently and persuasively by the gentleman from Virginia (Mr. BUTLER). I would commend this to my colleagues.

Mr. Chairman, the Danielson-Railsback amendment would undo everything we have sought to do in the upgrading of the bankruptcy court.

Mr. Chairman, I think it is fair to say that among lawyers and among others, they have not had a very elevated view of the bankruptcy court today. That is wrong, because the bankruptcy court touches more lives than all the other Federal courts in this country. If American citizens go to the bankruptcy court and feel they have been mistreated, if they are delayed because their petitions must go back and forth to the district court judge because the referee or the bankruptcy judge does not have jurisdiction, this is not good for the administration of justice, because this is justice delayed.

I would join in the eloquent plea of the gentleman from Virginia (Mr. BUTLER) and say that the Danielson-Railsback amendment must be defeated. If it is not defeated, then the whole work of the Judiciary Committee and the outside commissions and many people over a long period of time would be defeated.

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

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

Mr. HYDE. Mr. Chairman, I just want to say the gentleman from Massachusetts talked about being born again or being reborn to this bill, which reminds me that the Attorney General of the United States, Mr. Griffin Bell of Georgia, supports the Danielson-Railsback amendment. I think in that context is important to note that those of us who do support the Danielson-Railsback amendment have the support and are in the company of the Attorney General of the United States.

Mr. BUTLER. Mr. Chairman, in the presence of all these reborn folks, I think it is an appropriate time to yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill as an original bill for the purpose of amendment.

Mr. EDWARDS of California. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. ROSTENKOWSKI) having assumed the chair, Mr. SIMON, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 8200) to establish a uniform law on the subject of bankruptcies, had come to no resolution thereon.

PERMISSION FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES TO HAVE UNTIL MIDNIGHT FRIDAY, OCTOBER 28, 1977, TO FILE CERTAIN REPORTS

Mr. BEILENSON. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries may have until midnight Friday, October 28, 1977, to file certain reports.

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

There was no objection.

LIMITING ACTIVITIES OF FEDERAL EMPLOYEES IN INSPECTIONS OF MEDICAL RECORDS

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

Mr. SATTERFIELD. Mr. Speaker, during consideration of medicare-medicaid antifraud and abuse legislation recently, it became evident that Federal officials, agents and employees, especially those at HEW, are actively engaged in requiring the production of and inspecting individually identifiable medical records of citizens without their knowledge or consent, regardless of whether such citizen is or is not receiving medical treatment at Government expense. There is every indication that this practice will expand dramatically during the next few years.

Accordingly, I am introducing today a bill to limit the activities of Federal officers, employees and agents in such inspections and disclosures of medical records. The purpose of this measure is to protect and preserve the right of a citizen to confidentiality of his medical records.

This bill stems from a belief in the fundamental right to confidentiality of one's medical records and the corresponding belief that inspection of a medical record without the consent of the patient, especially when the inspection is by the Federal Government or its agents, generally violates that right.

I am especially troubled by changes in the character and security of medical records in the past several years which have resulted from the ready availability of copying and recording equipment and an increase in the use of computers. As a result of this new technology individually identifiable health records may be no longer in the sole possession of one's physician but may be duplicated, in whole or in part, and held by various entities, such as clinics, laboratories, hospitals and other health care facilities, insurance companies, schools and business concerns, none of which share in the physician-patient relationship, which is the historic basis and chief safeguard of medical record confidentiality.

I have been startled and disturbed by the extent to which the Federal Government is presently engaged in delving into private, identifiable medical records, in an apparent effort to exploit what they perceive is a gold mine of information, with little or no regard for intrusions upon personal privacy.

I realize that there may be specific circumstances when the individual right to privacy must be subordinated to an immediate need to protect the public, as in the case of contagious diseases, epidemics, and certain research. I realize also that the key questions in this regard concern who shall have the authority to make that decision and the criteria upon which it should be made.

I believe my bill would provide a reasonable and effective method for dealing with these situations in a way which is compatible with the recent report of the Privacy Commission.

It would establish a clearly defined mechanism by which an objective, impartial determination of those instances when the need to protect public health in general transcends the right to individual privacy. The bill would leave that decision with the chief public health official of that State in which the medical record is situated, or to a State official who is authorized by State law to inspect such records, thus limiting present activities of Federal officials and employees by placing the ultimate decision in the hands of officials who are not employed by the Federal Government, who understand both the physician-patient relationship and the responsibility assumed by public health officials to protect the public health of all citizens.

In addition, my bill provides for access to such information in emergency situations endangering life and would permit limited inspection of the records of medicaid and medicare patients in order to audit the services provided to such patients and verify payments demanded from the Federal Government. Inspections pursuant to the investigation and prosecution of medicare or medicaid fraud and abuse would also be permitted.

Finally, my bill would not alter present law dealing with the confidentiality of medical records in the possession of the Defense Department and the Veterans' Administration, nor would it impair judicial processes.

I believe the situation is critical and that Congress should act without delay to insure against the continued violation of this right to confidentiality.

SELECT COMMITTEE ON THE COMMITTEE SYSTEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANDERSON) is recognized for 10 minutes.

Mr. ANDERSON of Illinois. Mr. Speaker, today, I am reintroducing, with a group of bipartisan cosponsors, a resolution to create a Select Committee on the Committee System to study and make recommendations on the realinement and modernization of our House committee structure. This resolution is virtually identical to title VII of the Obey resolution (H. Res. 766) with the exception that our resolution specifies that no more than 7 of the 13 select committee members shall be from the same political party. I originally introduced this as House Resolution 841 on October 18, 1977, with Representatives RHODES, MICHEL, DEL CLAWSON, FRENZEL, LOTT, and COUGHLIN. Today's reintroduction brings the total list of cosponsors to 46.

Mr. Speaker, the last major overhaul of our committee system took place with the Legislative Reorganization Act of 1946. In the 93d Congress we made a renewed effort at updating and realining our committees through the Select Committee on Committee Reform chaired by the gentleman from Missouri (Mr. BOLLING). The product of that select committee was House Resolution 988, the Committee Reform Amendments of 1974. While that resolution would have vastly improved our present chaotic jurisdictional tangle, it was unfortunately replaced by a much weaker Democratic caucus substitute that left present jurisdictions virtually intact. Since that time I think many Members have come to regret the rejection of the Bolling-Martin reforms. While the substitute resolution did adopt the select committee's proposal for the referral of legislation to more than one committee, the fact that we did little to rationalize committee jurisdictions has resulted in numerous multiple referrals that have only tended to confuse and delay the legislative process while increasing conflicts between committees. This disorder has forced the Speaker to appoint more ad hoc committees and has also resulted in the creation of more select committees. We have also witnessed an almost anarchic proliferation of subcommittees. All this has not only produced a legislative system with little rhyme, reason, direction or control, but has spread Members so thin with numerous committee assignments that they have little time to devote to any. This in turn can only result in reduced deliberation, expertise and quality at the committee stage of the legislative process.

Mr. Speaker, under the terms of our resolution, the Select Committee on the Committee System would be directed to conduct "a thorough and complete study with respect to the operation and implementation of rules X and XI of the Rules of the House of Representatives including committee structure of the House, the number and optimum size of committees, the appropriate committee and subcommittee assignments per Member, their jurisdiction, the number of subcommittees, committee rules and procedures, media coverage of meetings, staffing, space, equipment, and other committee facilities." The select committee would report back its findings and recommendations to the House not later than July 1, 1978. Hopefully, the Rules Committee and the House could then act on these recommendations prior to the adjournment of the 95th Congress so that the reforms could be in place by the beginning of the 96th Congress in January of 1979.

Mr. Speaker, at this point in the RECORD I include a list of cosponsors of my resolution to create a Select Committee on the Committee System:

COSPONSORS OF RESOLUTION CREATING A SELECT COMMITTEE ON THE COMMITTEE SYSTEM

Mr. Anderson of Illinois, Mr. Rhodes, Mr. Michel, Mr. Del Clawson, Mr. Frenzel, Mr. Lott, Mr. Coughlin, Mr. Abdnor, Mr. Armstrong, Mr. AuCoin, Mr. Carr, Mr. Carter, Mr. Cleveland, Mr. Corcoran of Illinois, Mr. Derwinski, Mr. Downey, Mr. Duncan of Tennessee, Mrs. Fenwick, Mr. Findley, Mr. Goodling, Mr. Gradison, Mr. Guyer, Mr. Hagedorn, Mr. Horton, Mr. Hyde.

Mr. Kindness, Mr. Lagomarsino, Mr. McClory, Mr. McEwen, Mr. McKinney, Mr. Mann, Mr. Marks, Mr. Mitchell of New York, Mr. Nolan, Mr. Panetta, Mr. Pressler, Mr. Pritchard, Mr. Quayle, Mr. Regula, Mr. Sebelius, Mr. Simon, Mr. Steers, Mr. Stockman, Mr. Vento, Mr. Winn, Mr. Edgar, Mr. Krueger.

ROLE OF THE HOUSE OF REPRESENTATIVES IN THE DISPOSAL OF AMERICAN TERRITORY AND PROPERTY IN THE PANAMA CANAL ZONE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. METCALFE) is recognized for 60 minutes.

Mr. METCALFE. Mr. Speaker, as chairman of the Subcommittee on the Panama Canal, I have followed the course of negotiations with Panama with great interest.

The signing of the Panama Canal Treaty and the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal on September 7 at the headquarters of the Organization of the American States, culminates 13 years of negotiations between our country and Panama. Discord over some of the basic terms of our relationship with Panama has existed ever since the signing of the Hay-Bunau Varilla Treaty in 1903. Of course, that discord will not disappear completely and immediately under the proposed treaties, but these are agreements in which the United States may take a great deal of pride. These treaties accomplish two important objectives: First, the treaties recognize that, as territorial sovereign, the Republic of Panama has an important role in the operation and management of the canal area; and second, the treaties recognize the vital interests of the United States in the Canal Zone.

In my opinion, the treaties fully protect those vital interests. Our national strength will be enhanced by ratification.

There are some in this body who are opposed to any meaningful change in our present treaty relationship with Panama. These Members have been in the forefront of those arguing that article XIII, paragraph 2 of the treaty signed by the President on September 7 that—

> The United States of America transfers, without charge, to the Republic of Panama all right, title and interest the United States of America may have with respect to all real property, including nonremovable improvements thereon. . . .

Is in violation of article IV, section 3, clause 2, of the Constitution of the United States.

The point should be stressed that one can support the new treaty relationship with the Republic of Panama and, at the same time, maintain that the form of the treaty is in violation of article IV, section 3, clause 2. This Member does just that.

Mr. Speaker, the Panama Canal Subcommittee, which I chair, held 3 days of hearings just before the August recess to examine the vital interests of the United States in the Panama Canal Zone. The testimony given during the 3 days of hearings has convinced me that a new treaty relationship defining the future form of the U.S. presence on the Isthmus is essential.

Brig. Gen. Irwin P. Graham, representing the Joint Chiefs of Staff, stated in testimony before the subcommittee:

> The Joint Chiefs of Staff believe that the preferred way to protect and defend the canal, thereby insuring its use when needed, is in conjunction with a cooperative Panama motivated by its own vested interest in protecting the waterway.

Further, General Graham stated that—

> I have not considered the Panama Canal, as a vital installation. I use the word "vital" very carefully in the strict context that you defined it, as necessary to the survival of our country.

On the third day of these hearings, the Honorable William D. Rogers, former Assistant Secretary of State for Inter-American Affairs, set forth in some detail the reason for a new treaty. He said:

> In my judgment those who are interested in maintaining peace and peaceful relations within the hemisphere ought to be in favor of a modernized treaty relationship between the United States and Panama. Latin America has been the most conflict-free region of the world historically. We have been very fortunate. There have been very few wars which have touched this hemisphere. The Panama Canal is by all odds the one point in this hemisphere most likely to produce violence in the near term future. Clearly, in my judgment, a modernized treaty relationship is a contribution to peace.

I am, however, most concerned that the Panama Canal Treaty to govern the canal until the year 2000 does not contain a provision which requires the House of Representatives to assent to the transfer of U.S. property and territory in the Canal Zone to the Republic of Panama. Article IV, section 3, clause 2 of the Constitution grants Congress the power to dispose of territory and other Federal property. That section states:

> The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States . . .

The Supreme Court has ruled on numerous occasions that the grant of power

contained in that provision is exclusive. *U.S.* v. *Gratiot*, 14 Pet., 39 U.S. 526 (1840); *Cross* v. *Harrison*, 16 Har., 57 U.S. 164 (1853); *Alabama* v. *Texas*, 347 U.S. 272 (1954).

I am aware that the Attorney General and the legal adviser of the Department of State have expressed the opinion that territory and property may be disposed of by treaty. Those opinions, while well-reasoned and well-written, reflect the ideas of the executive branch on the balance of power between the executive and the legislative branches of Government.

In the last decade, many Members of this body have stated a commitment to the cause of reasserting the strength of Congress. The framers of the Constitution, to assure that no single branch of our Government would become all-powerful, established separate branches of government. It is interesting to note that Members of the House of Representatives have, for almost two centuries, steadfastly asserted the right and duty of the House to participate in the disposition of American territory by treaty.

In February of 1816, House managers sought to explain the differences between Senate and House conferees on a bill concerning the regulation of commerce between Britain and the United States. In their report, they noted some areas of apparent agreement. While the House did not claim that implementing legislation was necessary for most treaties, the Senate appeared:

> . . . to acknowledge the necessity of legislative enactment to carry into execution all treaties which contain stipulations requiring appropriations, or which might bind the nation to lay taxes, to raise armies, to support navies, to grant subsidies, to create States, or to cede territory; if indeed this power exists in the government at all.

In May 1868, the House Foreign Affairs Committee reported on a proposed treaty with Russia. The committee stated that the House had the power to determine whether a treaty exceeded the scope of the treaty power—and if it was found to exceed the scope, the House could act on its own to make its interest felt, and:

> . . . would be justified not merely in withholding its aid, but in giving notice to foreign nations interested that it would not be regarded as binding upon the nation, in passing laws for its abrogation, and preparing the state for whatever consequences might attend its action.
>
> The House would be justified in such action in regard to any treaty which should change the character of the government; bring into the Union and confer political powers upon large populations incapable of self-government, whose participation in its affairs would imperil our institutions and endanger the peace and safety of the people; which should *alienate territory*, surrender political power to any other government . . ." (emphasis supplied)

More directly, in each previous disposal of Canal Zone territory and property to the Republic of Panama, the executive branch has sought House consent or conceded that implementing legislation was needed. The chairman of the Senate Foreign Relations Committee made the following comments during the debate over cession of territory in the zone to Panama in 1942:

> Those who are opposing the measure object because the matter is brought before the Senate in the form of a joint resolution. They say it should be in the form of a treaty.
>
> Mr. President, I am and have been and in the future shall continue to be ardent in my maintenance of the integrity and the rights of the Senate of the United States in all its proper functions as a branch of the Government; but the matter covered by the joint resolution has to be passed by the Congress sooner or later in some form, for the simple reason that under the Constitution of the United States, Congress alone can vest title to property which belongs to the United States. The Constitution itself confers on Congress specific authority to transfer territory or lands belonging to the United States. So, if we had a formal treaty before us and if it should be ratified, it still would be necessary for the Congress to pass an act vesting in the Republic of Panama the title to the particular tracts of land; because "the Congress" means both bodies. The House of Representatives has a right to a voice as to whether any transfer of real estate or other property shall be made either under treaty or otherwise. 88 Cong. Rec. at 9267.

The House Committee on Foreign Affairs, on page 10 of House report 68–1659, "Favoring Membership of the United States in the Permanent Court of International Justice," stated:

> While it is not argued that the House should act upon all treaties or upon slight occasion, yet because it may be deemed to express the preferences of the people represented more adequately than any other body, there is not only a right but a duty to express itself upon certain important international policies.

By the Indian Appropriation Act of 1872 (16 Stat. 544, 546, c. 20), the Congress brought to a close the practice of concluding agreements with the Indian tribes by treaty. The House objected to the manner whereby land was transferred to the Indians. Debate surrounding passage of that provision was intense. During the debate on the bill, Congressmen Shanks and Sargent made these comments:

> Mr. SHANKS. Mr. Chairman, having heard the statement of the gentleman from Oregon, (Mr. Smith) I am not willing to let this matter pass without putting in my denial on this floor of the position which the gentleman has taken. I do not believe, sir—and I announce here my firm conviction of what I say—I do not believe that the treaty-making power of this Government can part with one foot of the soil of this country without the sanction of Congress. I am not willing that the broad statement which he has made upon this floor shall pass without putting in my protest against the declaration of the right of the treaty-making power to sell the soil of this country. 97 Cong. Globe 764, 41st Cong. 3rd Session, Jan 26, 1871.

And now is it not within the legislative power of Congress to take money from the National Treasury? It is not within the legislative power of Congress, under the Constitution, to determine whether our domain shall be ceded to foreign nations or not? If, as the able gentleman from Wisconsin (Mr. Paine) argued last year, when this question was up, it be conceded that money may be taken from the Treasury, when the guardianship of the public money is placed in the hands of Congress by the Constitution, and that our domain may be given up to roving bands of Indians in large areas for all time to come, under the treaty-making power as it is called, and without the consent of Congress, then, by the treaty-making power they may repeal our laws regulating naturalization; they may regulate the issue of the United States bonds; give away our right to regulate commerce between the States, disarm our soldiers, abolish our Navy, bind us to declare war; they may, in short, invade every province which, by the Constitution of the United States, is placed within the jurisdiction of Congress. For there are no provisions more clear in the Constitution than those which provide that Congress shall appropriate the public money in order that it may be legitimately expended, and that it may deal with all these questions which affect the occupancy of the public domain. Id. at 766

After the Senate and House conferees had agreed to the final form of the legislation, and prior to passage of the bill, Members of the House discussed its significance:

> Mr. BECK. Mr. Speaker, having been on the committee of conference with the gentleman from California (Mr. Sargent) and the gentleman from Kansas, (Mr. Clarke), I desire to say that the House, in my judgment, has gained almost everything that it had a right to expect. All the valuable amendments which we supposed could properly be introduced into an Indian appropriation bill are retained, although some of them had been stricken out by the Senate, and the others had been changed, though not materially altered. In the bill as it now stands, while not ratifying any previous treaties made with the Indians, though we concur in carrying out the stipulations of existing legislation, there is a distinct agreement between the two Houses that from this time henceforward there shall be no more Indian treaties made by the Senate; that they will not treat the Indians in that regard as a people with whom they have a right to make treaties without consulting the House of Representatives; and that whatever is done shall be done by the Congress of the United States, by both Houses acting in the passage of laws. 99 Cong. Globe at 1811 41st Cong. 3rd Sess. March 1, 1871.
>
> Mr. LAWRENCE. I have not had an opportunity to examine this bill as it comes from the committee of conference; but I understand that it does not in terms or in legal effect ratify any past Indian treaty or treaties; and I understand further that it prohibits the making in future of any further Indian treaties. I regard this as the grandest triumph, for the past ten years, in the interest of the people, and in the interest of the power of the popular branch of Congress over this subject. I have given some attention in Congress for several years past to the subject of so-called Indian treaties. I believe I was the first in this Hall to affirm that all such treaties attempting to dispose of public lands were void. I am gratified to find that the Senate at last has abandoned all claim of right to make Indian treaties. The question may now be regarded as settled. A great question of constitutional law has been settled, at least so far as Congress can settle it. The result is that hereafter the land policy of Congress cannot be broken up and destroyed by Indian treaties. Henceforth the homestead policy is to become the fixed policy of Congress. Id., at 1812.

When the Senate conferees reported to that body, Senator Davis remarked:

> . . . Now, there is ingrafted upon this appropriation bill by this report of a committee of conference a provision dictated by the House of Representatives to the Senate in a spirit of unauthorized arrogance and in repudiation of the history and the practice of

the Government not only from its formation but from the settlement of the country by the colonists of making Indian treaties and giving to those Indian treaties the same obligation and validity that treaties with foreign independent powers have All this principle and doctrine of treaties, all the obligation and validity of treaties, are repudiated for the future by a provision so ingrafted, like a branch upon a tree, on this appropriation bill. It is an utterly vicious and ill-advised proposition. There is no truth in it, there is no justice in it, there is no sound policy or statesmanship in it; it is a monstrous proposition that ought to receive the rejection of every Senator, of every man of justice and philanthropy in the land. And yet in this extraordinary and astonishing report of a committee of conference the conferees on the part of the Senate have consented that upon this appropriation bill those time-honored principles of making treaties with the Indians from the first settlement of the country under the old Articles of Conferation and from the beginning of the Government under the present Constitution, shall all be repudiated and expunged. 99 Cong. Globe at 1821.

From comments of the proponents and opponents of that legislation, it is clear that all parties recognized what that legislation implicitly accomplished—a recognition that the disposal power is vested in Congress, not the President and the Senate.

The House of Representatives has also played a major role in the acquisition of U.S. territory and property.

On March 1, 1845, a joint resolution consenting that the Republic of Texas "be erected into a new State in order that the same may be admitted into the Union" was approved by the President. On December 29, 1845, the joint resolution for admission was approved. Both of these resolutions had been introduced in the House. A treaty of annexation had been previously rejected.

In 1898, Hawaii was annexed by resolution of Congress. The resolution originated in the House after rejection of a treaty of annexation.

Mr. Speaker, precedent clearly indicates that the House has consistently guarded its constitutional prerogatives under article IV, section 3, clause 2. We would be derelict in our responsibility if we do not insist on a separate vote in the House on the transfer of property to the Republic of Panama.

Mr. Speaker, it is my strong belief that the House must continue to assert its right and responsibility in this matter.

Therefore, I am introducing a House resolution which calls upon the Senate to consent to the ratification of the proposed treaty with Panama with the reservation that U.S. territory and property in the Canal Zone be disposed of only by act of Congress in accordance with article IV, section 3, clause 2 of the Constitution.

ECONOMIC POLICY: THE FED AND THE WHITE HOUSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 5 minutes.

Mr. REUSS. Mr. Speaker, the White House and the Federal Reserve are at it, each blaming the other for the queasy state of our economy.

In a sense, they are both right.

The Fed for many months has let the money supply get out of control, with a money growth target of 4 to 6.5 percent, and a performance of something like 10 percent. Naturally, both the stock market and capital investment are down, because investors and businessmen fear that the Fed, having lurched out of control on the money supply, will lurch back into severe monetary tightness. Recent efforts by the Fed to atone for its feckless performance over the last 6 months by raising short-term interest rates have added to the uneasiness, since these belated efforts at restraint have raised interest rates more, and more sharply, than if moderation in money growth had been pursued earlier.

Unquestionably, the Fed's techniques are inadequate. Its present method of lagged reserve accounting and its seasonal adjustment of the money supply, coupled with its slowness to bring the discount rate parallel to the Federal funds rate—all have contributed to the uncertainty.

As for the administration, we see it backing inflationary measures ranging from a food price-raising farm policy to its misguided "cargo preference" legislation. Instead of concentrating on a jobs-now program centering on the millions of chronically unemployed, mostly young, in our pockets of urban and rural poverty, administration spokesmen continue to vie with each other in thinking up new budget-busting tax cuts for business. In this respect, there seems little difference between the administration and Dr. Burns, who keeps urging a "bold tax policy" of favors for big business.

It would be good for the Republic if both Dr. Burns and White House officials would cool it. Let the press office forgo its Martin Luther role, and stop tacking attacks on the Fed on the White House bulletin board. Let Dr. Burns spend less time preening himself as the Nation's No. 1 inflation fighter, and instead demonstrate convincingly that the Fed knows what it is doing in monetary policy.

Specifically:

First. The administration should launch a massive attack on structural unemployment, and get the needed fiscal stimulus from that rather than from the vast trickle-down tax reductions it keeps talking about.

Second. The Federal Reserve should:

Become more open, stop suppressing dissent, and remember that its Board of Governors has seven members, not one.

Announce that the excess of new money already created beyond its projected target is herewith blanketed into the money supply as a permanent one-time catchup, and thus end fears that the Fed will attempt to compound its monetary mishaps by a drastic squeeze in the months ahead.

For the period ahead—for which the Fed will be announcing its targets in the next few days—slightly raise the increasingly important M_2 target over its present 7- to 9.5-percent band—with appropriate adjustments in the other aggregates.

For the period ahead, work on two objectives—to keep the aggregates from exceeding the band, and to prevent further rises in short-term rates. Focusing on both these goals will best prevent drastic departures from either one.

Closely watch velocity, and adjust the targets if and when a significant change in the velocity trend line appears.[1]

Solicit outside help in examining current Fed methodology as to lagged reserve requirements and seasonal adjustment of the money supply.

TRADE POLICIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. DENT) is recognized for 60 minutes.

Mr. DENT. Mr. Speaker, this morning I went to the White House for a meeting with the President and his advisers on the crisis facing the American steel industry, its workers, and those communities whose economic life blood depend on steel. Members of the House steel caucus and I listened to the President's people talk about the problem, but we heard very little about solutions.

For the past 20 years, Mr. Speaker, I have been on this floor warning my colleagues about the coming crisis. For 20 years I have attempted to alert the American people about this fallacy called free trade and its disastrous effects on our industrial capacity. For two decades I have preached that this Nation cannot survive on consumption and distribution alone, but also requires a strong and vibrant production base.

Until recently I have been ignored and dismissed as a "protectionist." It took the shutting down of American steel plants to awaken some of my colleagues to the stark reality that we are engaged in an international economic war with countries who do business under different sets of rules, with different priorities, and with different values.

Mr. Speaker, the question of international trade and international economic relations is the single greatest issue confronting this Government, this Congress,

[1] It is a mistake for the Administration to cite signs of tapering off in the rate of increase in the velocity of money for just one quarter as a justification for rapid money growth. Monetary policy should not try to anticipate, and to compensate for, short-run changes in velocity. These cannot be reliably predicted. There is not yet enough evidence of a possible drop in velocity from its trend over the long run to justify a call for rapid money growth. Velocity during the summer quarter, the last available figure, was unchanged from the previous quarter. But it was up 3.1 percent from the summer of 1976 to the summer of 1977, in line with its long-run trend of 3.2 percent a year. Sudden, unexpected large increases in money supply such as occurred this summer can result in temporary decreases in velocity, because it takes a while for people and businesses to actually spend the extra money. When they do, however, velocity should get back on track, unless people lose confidence and stop spending.

and the American people. The question and its resulting problems must be addressed and new solutions proposed. The steel crisis is merely symptomatic of a larger problem involving our entire industrial economy which I believe is threatened by outdated international trade and investment policies which are predicated more on diplomatic and political considerations than on the economic necessities of our people.

Unless we the leaders begin to seriously address the problem, I am convinced that those who must bear the burden, the growing ranks of unemployed production workers, will take their case to the streets and the ballot box for resolution.

Mr. Speaker, I have been given permission by Charles Walters, Jr., the author of "Unforgiven: The Biography of an Idea," to quote extensively from his work on the relationship between international trade and the American agricultural and industrial economy since World War I. The parts of the book that follow are taken from Mr. Walters' own analysis, the testimony of former Georgia Commissioner of Agriculture Tom Linder, and the collected speeches of former Pennsylvania Congressman Louis T. McFadden. I recommend the entire book to those of my colleagues whose own districts have suffered the results of this crazy policy called "free trade" and to those of you who, somewhere down the road, no doubt will meet face to face with constitutents who have lost their jobs and future to diplomacy and politics:

The Cassandras of history always rise so that this truth be given, and the beast of muddy brain always kills them, "unforgiven!" Those who stand up to be "unforgiven" can be found at almost any stopping point along the way. When the American nation was first formed, a man named Alexander Fraser Tyler wrote of the decline and fall of the Athenian Republic—

A democracy cannot exist as a permanent form of government. It can only exist until the voters discover they can vote themselves largess out of the public treasury. From that moment on the majority always votes for the candidate promising the most benefits from the public treasury with the result that democracy always collapses over a loose fiscal policy, always to be followed by dictatorship.

As have a hundred others, Tyler saw that the life cycle of democracy depends on free holders, on people who are independent economically as well as politically. And yet, at the end of the last decade, Ferdinand Lundberg was forced to ask, in the opening lines of The Rich and the Super-Rich, "How has this process been contrived of stripping threadbare most of the populace, which once at least owned small patches of virgin land?"

This is a story of death and wars and inflations and depressions. At one point I started to tell it in an epistolary manner, that is as a series of documents with only a rare assist from the editorial pencil, as the following few entries suggest.

Extract of testimony by Georgia Commissioner of Agriculture Tom Linder before the House Ways and Means Committee, 1947, as reprinted in a Georgia Department of Agriculture booklet entitled "Trade Treaties and International Control."

When England, France, Holland and Italy became involved in World War I against the central powers, the international bankers, especially J. P. Morgan and Company of America, the Rothschilds of England (and other international bankers) together with their associates, were called upon to loan large sums of money to the Allies, including England, France, Holland and Italy. Loans from these international bankers totaled approximately $15 billion in American money. At that time $15 billion was almost an unheard of sum of money.

By the summer of 1916, it became apparent that left to themselves, the Allies would lose the war and the central powers would be victorious. In the summer of 1916, the campaign for the election of a President for the United States got under way . . .

Wilson was elected in November with great shouts of rejoicing among the people that America would not be involved in a war . . .

When the United States entered world War I, in addition to the great loss of wealth, human life and suffering involved by the United States, we were called upon to loan approximately another $15 billion from the public treasury to these same European countries. The net result was that the Allies were indebted to the international bankers $15 billion and to the United States government another $15 billion. They could not pay either at that time.

The international bankers looked over the world and saw the hopelessness of collecting the money from the hungry and naked people of Europe. The only place international bankers could get their money was from the taxpayers of the United States.

Accordingly, in 1919, while Mr. Wilson was still President, the newspapers of this country, with one accord, began a campaign demanding that the war-torn countries of Europe pay us what they owed us. . . . The cry that "Europe pay us what she owes us" was a very popular cry. The newspapers did not take the trouble to explain who the "us" was who was to be paid. The burdened taxpayer of America naturally thought that he was the "us" that was to be paid.

No one took the trouble to explain to the taxpayer that he would be worse off if he got paid than he would if he did not get paid. No one took the trouble to explain that this country having a balanced economy could not collect in goods without having to pay for those goods all over again.

The taxpayer was accustomed, when someone paid him a debt, to go to the bank and get the money. He had no conception of the vast difference between collecting a debt here at home and the collection of a debt from a foreign country.

Consequently, the taxpayer who believing that he was the "us" that was to get the money fell for the trap, and became himself one of the loudest to demand payment of those debts.

The United States had no need for foreign goods. Our factories were capable of turning out all the manufactures that we needed. Our farmers were capable of producing all the food, fiber and feed that we needed. Our labor supply was adequate for every purpose. Our economy had become adjusted to a high level of prices and volume.

We were enjoying the best economical experience of our history. Nobody was being hurt except the international bankers who had loaned their money to England, France, Holland and Italy. If we had followed the sane course, we could have marked off those war debts and kept our own national economy on a high scale and have told the international bankers to go jump in the ocean.

Instead of doing this, we lowered the tariff bars and we started importing goods, merchandise and commodities to collect the war debts. From 1919 to 1929, over a period of 11 years, according to government figures, we imported goods to a total of more than $43 billion. By the time Mr. Coolidge was going out of office, it was apparent to all students of national and international economy that the American economic set-up had been wrecked by these wild imports. Mr. Coolidge being an astute student of national and international economy, stepped out from under with the memorable phrase, "I do not choose to run."

Direct quotation notes from speeches by Congressman Louis T. McFadden of Pennsylvania, delivered before the Government Club, New York City, April 7, 1930; before the Bethesda, Maryland Chamber of Commerce, December 7, 1931; and before the House of Representatives, December 20, 1930, February 14, 1931 and May 4, 1933, as printed in the "Congressional Record" and in "Collective Speeches of Congressman Louis T. McFadden."

The Germans signed the armistice agreement after a long series of negotiations between President Wilson and the German Chancellor in October. These negotiations ended in a peace agreement which was binding on both sides when the armistice came into effect. It provided for reparation payments which were less than a fourth of the sum afterwards fixed by the London ultimatum . . .

The official peace conference convened late in January, and in the meantime . . . conquest of Germany by the slow pressure of a food blockade, carefully concealed from the President and the trans-Atlantic audience, was well under way . . . By the end of March the land and sea blockade of Germany was doing its work. The German Government asked upon what terms the blockade would be lifted and food supplied, and a conference was arranged at Brussels to fix these terms. Germany delivered up all the gold in the Reichsbank and all the negotiable securities . . . and accepted the obligation to pay reparations in an indefinite sum and for an indefinite future to be fixed by her conquerors. In return she received a contract for the delivery in her ports of a fixed quantity of grain and foodstuffs per month for a definite number of months. Thomas Lamon and Norman Davis were the American members of this commission . . .

The Germans carried out the terms of this agreement, but the peace conference did not. There was fear that if food now reached Germany she might reject some of the terms agreed upon and those yet to be imposed. No food ships, therefore, were allowed to dock at German ports until after the treaty of Versailles was signed on June 28, 1919. . . .

(The U.S.) Senate did not ratify the treaty of Versailles, and in declining to ratify the treaty it incidentally declined to ratify the war settlement with Germany . . . But as the years passed, the supreme war council, not discouraged, continued to stage the elaborate drama of German reparations for the benefit of the trans-Atlantic audience . . . the London ultimatum of 1921 . . . created negotiable German reparation bonds in the sum of $33 billion belonging to the Allied States with a view to disposing of them chiefly in the United States . . .

It was to the American public then that the bulk of the German reparation bonds were to be sold, and to accomplish this purpose a systematic falsification of historical, financial and economic fact was necessary in order to create in America a state of mind that would make the sale of the bonds successful . . .

The hypnotic trance in which the paid American publicists, the political college professors have lived . . . enabled the international financiers to use their voices and pens to keep the political deception alive. Because the definite allied postwar policy has been to secure the quick return from America of the gold stock lost by Europe in the war . . .

In proportion as the United States increas(ed) its holdings of German reparation bonds, the allied Governments decreas(ed) their holdings of them, for it (was) from the allied Governments that the American investors (bought) bonds . . . What was done in the London ultimatum, the Dawes plan, and the Young plan leaves small doubt that it was the intention of the makers of the treaty of Versailles that American investors in these bonds should pay the German indemnity to the allied states in cash . . .

Someone had asked Mr. Ogden Mills what caused the depression (of the 1930s). He answered quite truthfully, "The Federal Reserve lent so much money abroad that it broke down the system.

THE FUTURE OF THE SAFE BANKING ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. ST GERMAIN) is recognized for 5 minutes.

Mr. ST GERMAIN. Mr. Speaker, we must now face the realities of the legislative clock. Despite all of the efforts of the Subcommittee on Financial Institutions, there simply will not be sufficient time to complete markup on H.R. 9600, the Safe Banking Act, this session.

After next week, we understand, the House will meet only every third day and will consider only the energy conference report during the remainder of the session.

Therefore, I will not schedule further markups this session on H.R. 9600. The bill will be the first priority in the second session.

The fight for the Safe Banking Act clearly is not over—it has just begun. I am convinced—as much as I have been convinced of anything in my 17 years on this committee—that the Congress will enact meaningful—substantive—banking reform before it sine dies next year.

For 2 weeks, we had hoped that the logjams in the subcommittee would break and that we would be able to move this bill through the committee and on to the floor under the legislative wire.

Instead, we have been faced with slowdowns, filibusters, intervening votes on the floor and, at times, other committee priorities. It has not been an atmosphere conducive to quick resolution of a major bill.

We also have to face the fact that this subcommittee—and this legislation—have been at the eye of a bank lobbying effort seldom matched in the history of the committee.

The House has been flooded by mail from literally thousands of banks and much of this mail has been filled with distortions and highly misleading statements about the effects of the bill. It is a nationwide campaign being orchestrated through the Washington offices of the American Bankers Association under the guise of "grassroots" opinion.

Our subcommittee telephone lines have been jammed with calls from Members beseiged by this mail and personal visits from bankers—Members concerned about the effects of the bill. Happily, much of this concern has peaked and Members are beginning to place the bankers' scare tactics in context and realizing that no legitimate banker—intent on carrying out his charter—has anything to fear from the reforms of the Safe Banking Act.

In recent days, we have had a number of productive conferences with officials of the Carter administration. I am hopeful that these continuing conferences will produce administration support for a number of the substantive reforms in the Safe Banking Act.

Despite the confusion created by the intense lobbying efforts, I am convinced that there is a majority in this committee for the major provisions of H.R. 9600 and that this will become apparent when we return in January. I am deeply appreciative of the support which I have received in the subcommittee from many Members, particularly Mr. ANNUNZIO, Mr. HANLEY, Mr. PATTERSON, Mr. CAVANAUGH, and Ms. OAKAR and people like Mr. MINISH, Mr. MITCHELL, and Mr. BLANCHARD at the full committee level.

During the hearings, some of the bank supervisors—surprisingly—suggested that they needed more time to collect data on banking conditions in the United States. This period between sessions will give the regulators full opportunity to do just that and when we come back in January they will no longer have any excuses—real or imagined—for failure to address the Safe Banking Act.

Just as importantly, the recess period will give the subcommittee additional opportunity for intensive factfinding on banking problems. It will also provide the members of the subcommittee ample opportunity to read in detail each of the bills and substitutes before us and hopefully this will end the charade of line-by-line reading which has so slowed the subcommittee over the past 2 weeks. In short, the subcommittee should be able to move in an expeditious manner just as soon as we return in January.

Once again, I am thoroughly convinced that a majority of the Congress and a majority of the American people want a banking system that is safe, sound and responsive. I am convinced that we have a working majority for efforts to limit abusive self-dealing by bank insiders. I am convinced that we have a working majority to end the unfair and dangerous practices of allowing bank insiders to draw down funds through endless overdrafts. I am convinced that we have a working majority for disclosure—for the right of depositors, stockholders and the public to know what is happening to their money. I am convinced that we have a working majority that is for competition and against incestuous anticompetitive interlocking arrangements in the financial community. I am convinced that we have a working majority for regulation of the sale and manipulation of bank stock and against the kinds of scandals which this subcommittee found in the Texas-rent-a-bank schemes. I am equally convinced that we have a working majority to tighten the loose operations of bank holding companies. And I believe that this committee and the Congress is ready to give the American public the right to privacy of their personal banking records. And I am convinced that the mutual savings banks industry should have full consideration of their long efforts to gain Federal charters for their institutions.

There is nothing radical in the Safe Banking Act. As its title implies, this bill would provide safe banking that truly meets community needs.

PEACE CORPS REFORM BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. BONKER) is recognized for 10 minutes.

Mr. BONKER. Mr. Speaker, the introduction of the Peace Corps reform bill represents both a culmination point and a new beginning in establishing the Peace Corps as a uniquely valid and vibrant expression of "the best that is in us." The bill brings to a close an era in which the Peace Corps under ACTION lost much of its vitality and sense of purpose as it increasingly succumbed to the numbing process of bureaucratization and political manipulation. At the same time the bill provides a new beginning for the Peace Corps by establishing it as an independent public foundation with control over its operations, a renewed mandate focusing on the needs of the poorest sectors of developing countries, and a new emphasis on promoting a spirit of volunteerism in international and host country agencies.

The Subcommittee on International Development has been conducting hearings on the future of the Peace Corps. Most of the witnesses have felt rather strongly that the merger with ACTION in 1971 was a mistake; that an independent Peace Corps is essential if it is to regain its unique identity and commitment in helping the less fortunate around the globe. Further support for reorganization comes from an Aspen Institute report commissioned by ACTION last year, on the "Future of the Peace Corps," which recommended a "fresh start" by establishing the Peace Corps as a public corporation. Reorganization is also compatible with President Carter's decision to achieve more efficiency in the Federal Government. The independent status of a public service would insulate the Peace Corps from possible political manipulation which has occurred in past years, and remove several bureaucratic impediments which exist within an orthodox Government agency such as ACTION.

We have delayed introducing this bill several months to allow the leadership of ACTION more time to formulate its policies and programs with respect to the future of the Peace Corps. Unfortunately, it has taken over 8 months simply for a new Peace Corps director to be appointed. Perhaps it would be unrealistic to expect the leaders of ACTION to take steps on their own initiative which would cause them to lose an important program from within their jurisdiction. However, arguments provided thus far in favor of the status quo do not go to the heart of key issues addressed in the

bill. Within ACTION, the Peace Corps remains susceptible to political manipulation and politicization. Bureaucratic impediments associated with the personnel system, recruitment operations, and program implementation will also remain.

By introducing the Peace Corps reform bill at this time it is our intention that Congress be presented with a viable option as it determines the status of the Peace Corps. The bill will help focus attention on important issues surrounding the future of the agency. Given the importance attached to the Peace Corps by the American public, the Peace Corps deserves nothing less than a fresh start.

The bill follows:

H.R. 9774

A bill to restate the purpose of the Peace Corps, to establish the Peace Corps as a Government foundation, and for other purposes

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Peace Corps Reform Act".

STATEMENT OF FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) there are compelling reasons for establishing the Peace Corps as an independent organization, including—

(A) the need for the Peace Corps to be an innovative, creative, and flexible institution in order to successfully restore its vitality, establish its unique identity, and faithfully carry out its purpose;

(B) the danger that political and bureaucratic impediments exist within an orthodox Government agency such as ACTION or any new such agency which tend to compromise the essential and unique purposes and functions of the Peace Corps and which substantially reduce its effectiveness; and

(C) the need for independent recruitment, training, and personnel operations;

(2) the Peace Corps should concentrate its efforts with respect to—

(A) meeting the basic needs of those living in the poorest areas of developing countries;

(B) improving and promoting international volunteerism and voluntary action in host countries;

(C) increasing opportunities for cooperation and coordination with private and public, bilateral and multilateral organizations involved in development; and

(D) recruiting for the Peace Corps Americans from all social and economic levels, with special attention given to recruiting older citizens and youth whose talents and energies are under-utilized, in order to attract the most dedicated and committed volunteers to meet the specific needs of host countries.

(b) It is therefore the purpose of this Act to restate the purpose of the Peace Corps, and to establish the Peace Corps as an independent Government foundation in order to effectively fulfill that purpose.

RESTATEMENT OF PURPOSE OF PEACE CORPS

SEC. 3. Section 2 of the Peace Corps Act (22 U.S.C. 2501) is amended to read as follows:

"DECLARATION OF PURPOSE

"SEC. 2. The Congress of the United States declares that it is the policy of the United States and the purpose of this Act to promote world peace and friendship through a Peace Corps, which shall assist the least advantaged people in interested countries and areas, by providing men and women of the United States qualified for service abroad and willing to serve, under conditions of hardship if necessary, to help the peoples of such countries and areas in meeting their needs for trained manpower and strengthening their own development programs, to further a spirit of voluntary action, and to help promote a better understanding of the American people on the part of those served and a better understanding of other peoples among Americans.".

ESTABLISHMENT OF PEACE CORPS FOUNDATION; POWERS; TERMINATION

SEC. 4. (a) There is created as an agency of the United States of America a body corporate to be known as the Peace Corps Foundation (hereinafter in this Act referred to as the "Foundation").

(b) The Foundation shall carry out the purposes of the Peace Corps Act.

(c) In addition to those powers and authorities set forth in Section 10 of the Peace Corps Act, the Foundation, as a corporation—

(1) shall determine and prescribe the manner in which its obligations shall be incurred and its expenses;

(2) may, as necessary for the transaction of the business of the Foundation and without regard to the provisions of Title 5, United States Code, governing appointments in the competitive service or relating to classification and General Schedule pay rates, employ and fix the compensation of a professional and administrative staff which does not exceed ten percent of the total volunteer force placed abroad at any one time, nor shall more than one-third of the Foundation's professional and administrative staff be assigned in the United States.

(3) shall be entitled to the use of the United States mails in the same manner and on the same conditions as the executive departments of the Government;

(4) may, with the consent of any board, corporation, commission, independent establishment, or executive department of the Government, including any field service thereof, avail itself of the use of information, services, and facilities thereof in carrying out the provisions of this Act;

(5) may sue and be sued, complain, and defend, in its corporate name in any court of competent jurisdiction; and

(6) shall have such other powers as may be necessary and incident to carrying out its powers and duties under this section.

(d) The Foundation shall terminate on September 30, 1987. Upon termination of the corporate life of the Foundation, all of its assets shall be liquidated and, unless otherwise provided by Congress, shall be transferred to the United States Treasury as the property of the United States.

BOARD OF DIRECTORS

SEC. 5. (a) (1) The authority for the operations of the Foundation shall be vested in a board of directors (hereinafter in this Act referred to as the "Board") composed of seven members appointed by the President, by and with the advice and consent of the Senate as follows:

(1) Three members shall be appointed from among senior officers and employees of agencies of the United States concerned with development programs abroad, or United States citizens serving in multilateral international development agencies.

(2) Four members shall be appointed from private life from among United States citizens knowledgeable in development and volunteer programs abroad.

The President shall designate one of the four members from private life as chairman and one of such members as vice chairman.

(2) The Board shall meet at least four times in each year.

(b) Members of the Board shall be appointed for terms of five years, except that of the members first appointed two shall be appointed for terms of three years and two shall be appointed for terms of four years, as designated by the President at the time of their appointment. A member of the Board appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term; but upon the expiration of his term of office a member shall continue to serve until his successor is appointed and shall have qualified. Members of the Board shall be eligible for reappointment.

(c) Members of the Board shall serve without additional compensation, but shall be reimbursed for actual and necessary expenses, and for transportation expenses, when engaged in their duties on behalf of the Foundation.

(d) The Board shall direct the exercise of all the powers of the Foundation.

(e) The Board may prescribe, amend, and repeal bylaws, rules, and regulations governing the manner in which the business of the Foundation may be conducted and in which the powers granted to it by law may be exercised and enjoyed. A majority of the Board shall be required as a quorum.

(f) In furtherance and not in limitation of the powers conferred upon it, the Board may appoint such committees for the carrying out of the work of the Fundation as the Board finds to be for the best interests of the Foundation, each committee to consist of two or more members of the Board, which committees, together with officers and agents duly authorized by the Board and to the extent provided by the Board, shall have and may exercise the powers of the Board in the management of the business and affairs of the Foundation. The Board may establish the number which constitutes a quorum for any such committee.

ADVISORY COUNCIL

SEC. 6. (a) There shall be established in the Foundation an Advisory Council composed of the following members:

(1) Four members to be appointed by the President from among individuals having international stature as leaders in relations between developing and developed countries. One member shall be a citizen of an African country, one member shall be a citizen of a Latin American country, one member shall be a citizen of an Asian country, and one member shall be a citizen of a Near Eastern country.

(2) Two members to be appointed by the President who are Members of the House of Representatives, and two members to be appointed by the President who are Members of the Senate.

(3) One member to be appointed by the President, in consultation with the Board, from among officers and employees of the Agency for International Development.

(4) One member to be appointed by the President from among officers and employees of the State Department.

(5) One member to be appointed by the President from among officers and employees of the United Nations.

(6) The Vice President of the United States who shall be Chairman of the Advisory Council.

(b) The Advisory Council shall evaluate the policies of the Foundation with respect to programs abroad and advise the Board with respect to such policies, particularly as such policies relate to volunteerism and development. The Advisory Council shall meet at least twice each year.

(c) Members of the Advisory Council shall receive no compensation for their services but shall be entitled to reimbursement in ac-

cordance with Section 5703 of Title 5, United States Code, for travel and other expenses incurred by them in the performance of their functions under this section.

DIRECTOR OF THE PEACE CORPS

SEC. 7. (a) The Board shall appoint for a term of five years a Director of the Peace Corps and a Deputy Director of the Peace Corps. A Director or Deputy Director may be removed or reappointed at the Board's discretion.

(b) The Director shall direct such operations of the Peace Corps as the Board may authorize. The Deputy Director shall have such duties as the Board may assign.

(c) The Director shall be compensated at the rate of basic pay in effect for level IV of the Executive Schedule under section 5315 of title 5, United States Code. The Deputy Director shall be compensated at the rate of basic pay in effect for level V of the Executive Schedule under section 5316 of such title.

COORDINATION OF PROGRAMS

SEC. 8 The Foundation shall establish procedures to maximize cooperation and coordination with the programs of other volunteer and development organizations, including the Agency for International Development, the United Nations, private voluntary organizations and volunteer agencies of host countries. From time to time the Foundation shall submit to the President, the Secretary General of the United Nations and other appropriate authorities recommendations for improving the coordination of such programs.

GENERAL PROVISIONS

SEC. 9. (a) The Foundation shall be a nonprofit corporation and shall have no capital stock. No part of its revenue, earnings, or other income or property shall inure to the benefit of its directors, officers, and employees and such revenue, earnings, or other income, or property shall be used for the carrying out of the corporate purposes set forth in this Act. No director, officer, or employee of the corporation shall in any manner directly or indirectly participate in the deliberation upon or the determination of any question affecting his personal interests or the interests of any corporation, partnership, or organization in which he is directly or indirectly interested.

(b) When approved by the Foundation, in furtherance of its purpose, the officers and employees of the Foundation may accept and hold offices or positions to which no compensation is attached with governments or governmental agencies of foreign countries.

(c) The Foundation shall establish a principal office in or near the District of Columbia. The Foundation is authorized to establish branch offices in any place or places in or outside the United States in which the field operations of the Peace Corps are conducted, in any of which locations the Foundation may carry on all or any of its operations and business.

(d) The Foundation, including its franchise and income, shall be exempt from taxation now or hereafter imposed by the United States, or any territory or possession thereof, or by any State, county, municipality, or local taxing authority.

(e) The Foundation shall be subject to the provisions of the Government Corporation Control Act.

AMENDMENTS TO TITLE I OF THE PEACE CORPS ACT

SEC. 10. (a) Sections 3 and 4 of the Peace Corps Act (22 U.S.C. 2502 and 2503) are hereby repealed.

(b) Section 5 of the Peace Corps Act (22 U.S.C. 2504) is amended—

(1) in subsection (c) by striking out "$125" in each place it appears and inserting in lieu thereof "$150";

(2) in subsection (e) by striking out in the last sentence "Subject to such conditions as the President may prescribe, such" and inserting in lieu thereof "Such";

(3) in subsection (f)(1)—

(A) in subparagraph (A) by striking out "852(a)(1)" and inserting in lieu thereof "851(a)"; and

(B) in subparagraph (B) by striking out "except as otherwise determined by the President,";

(4) in subsection (f)(2)—

(A) by striking out "and voluntary leaders",

(B) By striking out "respective", and

(C) by striking out "sections 5(c) and (6)(1)" and inserting in lieu thereof "section 5(c)";

(5) in subsection (g) by striking out ": *Provided*, That" and all that follows through "any volunteer so detailed or assigned" and inserting in lieu thereof "; except that no volunteer may be assigned to carry out secretarial or clerical duties on the staffs of the Peace Corps representatives abroad. Any volunteer detailed or assigned under this subsection";

(6) by amending subsection (i) to read as follows:

"(i) The Foundation may at any time terminate the service of a volunteer. No volunteer may serve more than five years in any 10-year period unless the Director of the Peace Corps under special circumstances personally approves an extension of not more than one year on an individual basis.";

(7) in subsection (k)—

(A) by inserting "(1)" after "(k)"; and

(B) by adding at the end thereof the following new paragraph:

"(2) In order to carry out programs referred to in paragraph (1), the Foundation shall establish an organization to be composed of former Peace Corps volunteers, the primary purposes of which shall be (A) to assist those individuals returning from service as Peace Corps volunteers in their readjustment in the United States, particularly with respect to employment opportunities, (B) to maintain contact with all former volunteers in order to solicit useful information from, and provide information and assistance to, such volunteers, and (C) to encourage private and public organizations to employ former volunteers, particularly with respect to the skills acquired by such volunteers.

(8) in subsection (m) by inserting "spouses and" after "The"; and

(9) by striking out "President" in each place it appears and inserting in lieu thereof "Foundation".

(c) Section 6 of the Peace Corps Act (22 U.S.C. 2505) is repealed.

(d) Section 7 of the Peace Corps Act (22 U.S.C. 2506) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking out "the President may employ" and all that follows through "Government" and inserting in lieu thereof "the Foundation may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, employ or assign persons, and may enter into agreements, with any agency of the United States, for the employment or assignment of officers or employees of such agency", and

(ii) by striking out ", except that policymaking officials shall not be subject to that part of section 1005 which prohibits political tests;" and inserting in lieu thereof a period;

(B) by amending paragraph (2) to read as follows:

"(2) The Foundation may request the President to, and the President may upon such request, assign to the Foundation to carry out functions under this Act any Foreign Service Reserve officer, any Foreign Service staff officer or employee, any alien clerk or employee, or any other officer or employee of the United States Government other than Foreign Service officers. The President may not assign any person, under this paragraph or under the Foreign Service Act of 1946, except upon the request of the Foundation."; and

(C) in paragraph (3) by inserting after "section 5941 of title 5, United States Code" the following: "(notwithstanding the exception contained therein relating to Government-controlled corporations)";

(2) by striking out subsection (b);

(3) in subsection (c)—

(A) by redesignating such subsection as subsection (b),

(B) by striking out "or (2)" in the second sentence, and

(C) by striking out "President in his discretion" in the last sentence and inserting in lieu thereof "Foundation in its discretion";

(4) by adding at the end of such section 7 the following new subsection (c):

"(c) No person employed or assigned under subsection (a) to perform functions under this Act may be so employed or assigned for more than five years in any 10-year period unless the Director of the Peace Corps under unusual circumstances only personally approves an extension of not more than one year on an individual basis."; and

(5) by striking out "President" in each place it appears and inserting in lieu thereof "Foundation".

(e) Section 8 of the Peace Corps Act (22 U.S.C. 2507) is amended—

(1) in subsection (a)—

(A) in the first sentence by inserting before the period at the end thereof the following: ", except that such training shall be conducted primarily by officers and employees of the Foundation or of other Federal agencies", and

(B) in the second sentence—

(i) by striking out "respectively" and "and volunteer leaders", and

(ii) in the second sentence by striking out "the respective terms 'volunteers' and 'volunteer leaders'" and inserting in lieu thereof "the term 'volunteers'";

(2) by striking out "President" in each place it appears and inserting in lieu thereof "Foundation"; and

(3) by striking out subsection (c).

(e) Section 9 of the Peace Corps Act (22 U.S.C. 2508) is amended by striking out "the President may make provision for" and inserting in lieu thereof "the Foundation may employ (to carry out activities in the United States or abroad) and fix the compensation of foreign nationals (except that no such foreign national may be so employed for more than five years in any 10-year period), unless the Director of the Peace Corps under special circumstances personally approves an extension of not more than one year on an individual basis, and the Foundation may provide for".

(f) Section 10 of the Peace Corps Act (22 U.S.C. 2509) is amended—

(1) in subsection (a)—

(A) by striking out "President" and inserting in lieu thereof "Foundation"; and

(B) in paragraph (2)—

(i) by striking out "Secretary of State" and inserting in lieu thereof "Foundation", and

(ii) by striking out ": *Provided*, That not more than one hundred and twenty-five Peace Corps volunteers or volunteer leaders shall be assigned to international organizations as described in this section";

(2) in subsections (b), (d), and (e) by striking out "President" and inserting in lieu thereof "Foundation";

(3) in subsection (c) by striking out "sections 5 and 6" and inserting in lieu thereof "section 5"; and

(4) in subsection (f) by striking out "as the President shall direct or" and insert in lieu thereof a comma.

(g) Section 11 of the Peace Corps Act (22 U.S.C. 2510) is amended by striking out "President" and inserting in lieu thereof "Foundation".

(h) Section 13 of the Peace Corps Act (22 U.S.C. 2512) is amended—

(A) in subsection (a)—

(i) by striking out "President" and inserting in lieu thereof "Foundation", and

(ii) by striking out "the per diem equivalent of the highest rate payable under section 5332 of title 5, United States Code" and inserting in lieu thereof "$100 per day"; and

(B) in subsection (b) by striking out "as a member of the Council authorized to be established by section 12 of this Act or".

(i) Section 14 of the Peace Corps Act (22 U.S.C. 2513) is amended—

(1) in subsection (a) by striking out "In" and inserting in lieu thereof "At the request of the Foundation in"; and

(2) in subsections (b) and (c)(3) by striking out "President" and inserting in lieu thereof "Foundation".

(j)(1) Section 15(a) of the Peace Corps Act (22 U.S.C. 2514(a)) is amended by striking out "for the procurement of supplies and services" and inserting in lieu thereof the following: "(1) for the procurement of such equipment and other supplies and services as are necessary to carry out Peace Corps activities abroad (including procurement from foreign sources) and (2)".

(2) Section 15(d)(11) of such Act (22 U.S.C. 2514(d)(11)) is amended by inserting before the semicolon the following: ", with respect to persons assigned under section 7(a)(2) of this Act".

(k) Section 19(a) of the Peace Corps Act (22 U.S.C. 2518(a)) is amended—

(1) by striking out "President" and inserting in lieu thereof "Foundation"; and

(2) by striking out "he" and inserting in lieu thereof "the Foundation".

(m) Section 22 of the Peace Corps Act (22 U.S.C. 2519) is amended to read as follows:

"Sec. 22. No volunteer or any other person employed or assigned to duties under this Act may, except upon the request of the Foundation to the appropriate agency or officer of the United States, be investigated to insure that the employment or assignment of such volunteer or person is consistent with the national interest.".

(n) Section 24 of the Peace Corps Act (22 U.S.C. 2521) is amended by striking out "No person shall be assigned to duty as a volunteer" and inserting in lieu thereof "No volunteer or any other person employed or assigned to duties".

(o) Section 24 of the Peace Corps Act (22 U.S.C. 2522) is amended—

(1) in subsection (g) by striking out "5(b), 5(m), and 6(2)" and inserting in lieu thereof "5(b) and 5(m)";

(2) by redesignating subsections (c) through (g) as subsections (d) through (h), respectively; and

(3) by inserting after subsection (b) the following new subsection:

"(c) The term "Foundation" means the Peace Corps Foundation.".

AMENDMENTS TO TITLE III OF THE PEACE CORPS ACT

SEC. 11. Section 401 of the Peace Corps Act (22 U.S.C. 2501a) is amended—

(1) in subsection (b)(1)—

(A) by striking out "Activities carried out by the President" and inserting in lieu thereof "The Peace Corps Foundation is encouraged to engage in activities to carry out the purposes set forth in subsection (a) of this section. Activities engaged in by the Foundation in furtherance of clauses (1) and (2) of such subsection"; and

(B) by striking out the second sentence;

(2) in subsection (b)(2)—

(A) by striking out "$350,000" and inserting in lieu thereof "five percent of the annual Peace Corps appropriations"; and

(B) by inserting before the period at the end thereof the following: ", except that such share may not exceed one-half of the total cost of such programs or activities"; and

(3) by striking out subsection (c).

AMENDMENTS TO DOMESTIC VOLUNTEER SERVICE ACT OF 1973

SEC. 12. Section 401 of the Domestic Volunteer Service Act of 1973 (87 Stat. 405) is amended—

(1) in the fourth sentence by striking out "two Associate Directors" and inserting in lieu thereof "an Associate Director";

(2) in the fifth sentence—

(A) by striking out "One such" and inserting in lieu thereof "Such"; and

(B) by striking out ", and the other such Associate Director" and all that follows through the end of the sentence and inserting in lieu thereof a period;

(3) in the sixth sentence by striking out "no more than two Assistant Directors" and inserting in lieu thereof "an Assistant Director"; and

(4) in the seventh sentence—

(A) by striking out "Each such" and inserting in lieu thereof "Such"; and

(B) by striking out "Associate Director" and inserting in lieu thereof "Associate Director".

AMENDMENTS TO OTHER ACTS

SEC. 13. (a)(1) Section 912(3) of the Internal Revenue Code of 1954 is amended—

(A) by striking out "or volunteer leader" and "or 6";

(B) in subparagraph (A) by striking out "or section 6(1);

(C) in subparagraph (B) by inserting "and" after the comma; and

(D) by striking out subparagraph (C) and redesignating subparagraph (D) as subparagraph (C).

(2) Section 3401(a)(13) of such Code is amended by striking out "or 6(1)" and by striking out "or volunteer leader".

(3) Section 3121 of such Code is amended—

(A) in subsection (i)(3) by striking out "or volunteer leader" and by striking out "or 6(1)"; and

(B) in subsection (p) by striking out "or volunteer leader".

(4) The first sentence of section 3122 of such Code is amended by striking out "or volunteer leader".

(5) Section 6051(a) of such Code is amended in the third sentence by striking out "or volunteer leader".

(b)(1) Section 205(p)(1) of the Social Security Act (42 U.S.C. 405(p)(1)) is amended by striking out "or volunteer leader".

(2) Section 209 of such Act (42 U.S.C. 409) is amended in the fourth paragraph by striking out "or volunteer leader" and by striking out "or 6(1)".

(3) Section 210(o) of such Act (42 U.S.C. 410(o)) is amended by striking out "or volunteer leader".

(c)(1) Section 8142 of title 5, United States Code, is amended—

(A) in subsection (a)—

(i) in paragraph (1) by inserting "and" after the semicolon;

(ii) by striking out paragraph (2) and redesignating paragraph (3) as paragraph (2); and

(iii) in paragraph (2), as redesignated by clause (ii), by striking out "or volunteer leader"; and

(B) in subsection (c)(2) by striking out "a volunteer leader referred to in section 2505 of title 22, or" and by striking out the comma after "section 2504 of title 22".

(2) Section 8332 of title 5, United States Code, is amended—

(A) in subsection (b)—

(i) in paragraph (5) by striking out "or volunteer leader";

(ii) by amending subparagraph (A) to read as follows:

"(A) a volunteer is deemed receiving pay during his service at the rates of readjustment allowances payable under section 2504(c) of title 22; and"; and

(iii) in subparagraph (B) by striking out "or volunteer leader" in each place it appears; and

(B) in subsection (j) by striking out "or volunteer leader" in each place it appears.

(d) The amendments made by this section shall not apply with respect to service as a volunteer leader before the date of the enactment of this Act.

TRANSITION PROVISIONS

SEC. 14. (a) The assets, liabilities, contracts, property, and records employed, held, used, or arising from the functions transferred by the amendments made by this Act are hereby transferred to the Foundation. Any unexpended balance of appropriations to carry out the purposes of the Peace Corps Act and other funds available for such functions are authorized to be transferred to the Foundation. Unexpended funds transferred under this subsection shall only be used for the purposes for which the funds were originally authorized and appropriated.

(b)(1) The Foundation, in employing personnel to carry out the purposes of this Act and the Peace Corps Act, shall give priority to personnel employed on the effective date of this Act exclusively with the Peace Corps.

(2) Any volunteers serving in the Peace Corps on the effective date of this Act shall be entitled to continue to so serve unless such service is terminated by the Foundation.

SAVINGS PROVISIONS

SEC. 15. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred by the amendments made by this Act after the date of enactment of this Act, and

(2) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Foundation, a court of competent jurisdiction, or by operation of law.

(b) The provisions of this Act shall not affect any proceedings pending at the time this Act takes effect with respect to functions transferred by the amendments made by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have

been discontinued or modified if this Act had not been enacted.

(c) Except as provided in subsection (e)—

(1) the provisions of this Act shall not affect suits commenced prior to the date this Act takes effect, and,

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of any department or agency with respect to functions transferred by the amendments made by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency with respect to functions transferred by such amendments, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act.

(e) If, before the date on which this Act takes effect, any department or agency, or officer thereof in his official capacity, is a party to a suit with respect to any function, transferred to the Foundation, then such suit shall be continued with the Foundation substituted.

REFERENCE

SEC. 16. With respect to any functions transferred by the amendments made by this Act and exercised after the effective date of this Act, reference in any other Federal law to the President with respect to functions so transferred shall be deemed to refer to the Foundation.

AUTHORIZATION OF APPROPRIATIONS

SEC. 17. There are authorized to be appropriated to the Foundation to carry out its functions under this Act and the Peace Corps Act, for the three-year period beginning on October 1, 1978, and ending on September 30, 1981, the sum of $300,000,000, except that not more than $500,000 of any sums appropriated for such three-year period may be expended under section 13 of the Peace Corps Act.

Mr. TSONGAS. Mr. Speaker, I have cosponsored the Peace Corps Reform Act to encourage discussion, recently begun in the International Development Subcommittee, on the future of this organization.

I served in the Peace Corps in the early 1960's when the Peace Corps goals and the ideals of its volunteers meshed to make the cross-cultural experience a particularly worthwhile one.

I have never missed an opportunity to encourage young people to join the Peace Corps, not only for what they can try to accomplish to help other peoples of the world, but even more important for what they will learn and bring back to the United States in the way of better understanding of the people and objectives of other nations. This so-called third mission of the Peace Corps has always been the most realized and most effective in promoting world peace.

Those of us who served in the Peace Corps of the 1960's feel that much of the vitality of the organization was lost when it merged with ACTION. A more realistic appraisal probably is that two administrations with little enthusiasm for Peace Corps could hardly be considered a climate for its continued development. It is reasonable to allow a new and friendly administration a chance to make a Peace Corps within ACTION work. I have met with ACTION Director Sam Brown and respect his efforts to gain time to determine whether the Peace Corps should continue as part of ACTION. However, I hope this bill begins a round of discussions on the future of the Peace Corps. There are many ideas, beyond the independent foundation approach which are worthy of consideration and may well be part of a final bill. Particularly noteworthy is the inclusion of Third-World leaders on an advisory council and a renewed effort to work with other nations volunteer programs in offering multilateral development assistance.

My primary objective in these coming months will be to find the best combination of ingredients that will permit the Peace Corps to grow to meet the challenges of the 1980's and to retain the integrity that comes from the unique independence with which it was first created.

FUNDING FOR SANTA CRUZ HARBOR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PANETTA) is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, today I am introducing legislation authorizing all funding needed to allow the Secretary of the Army, acting through the Corps of Engineers, to conduct the necessary studies to find a permanent solution to the annual blockage of the entrance to the small craft harbor in Santa Cruz, Calif.

Under current low, the harbor district would be obligated to pick up 35.1 percent of the cost of any such study. But clearly, the continuing crisis of keeping the harbor open is a responsibility of the Corps of Engineers. It is a corps problem requiring a corps answer developed at corps expense. My bill relieves the taxpayers of the harbor district of any financial burden in the effort to find a permanent solution.

The harbor is a major recreational and economic resource for Santa Cruz County. Yet, every winter for approximately 10 years, the entrance channel has filled with sand, making it completely inaccessible to the commercial fishermen and other boaters who use the harbor for docking and shelter.

In meetings with the fishermen, small-craft owners, harbor officials, and State and local officials, since the beginning of this year, I have come to learn firsthand how frustrating this situation has become to all involved. The harbor remains closed for up to 5 months at a time, and is cleared each year only after a dredging operation has been set up at considerable expense. This is not only an inconvenience to local residents who must pay taxes for the harbor, it is also a great financial burden on the local fishing industry.

As one who has spent most of his life in a fishing community, I personally know of the difficulties encountered by commercial fishermen—the weather, the struggle for a decent catch, competition from larger fishing boats, the heavy costs of operating fishing vessels, and so on. Having their boats locked in a sand-clogged harbor at the opening of the fishing season should not and must not be added to these problems.

With the cooperation of the Corps of Engineers along with State and local officials, an effort is now being made to respond to this crisis. As a result of a series of meetings held this year, the corps is moving on several fronts:

It has committed to a multiyear dredging contract rather than a year-to-year contract in order to insure that clearing of the harbor can begin immediately and be accomplished with experience and proper equipment.

The corps is experimenting with a sand bypass pump at the harbor mouth which, if proven successful, could save millions of dollars on maintenance dredging throughout the country.

In addition, the corps has entered into a contract with a private engineering firm which will recommend several solutions to the problem with the eventual goal of designing a permanent bypass system eliminating the need for annual dredging. At the same time, it has begun studies of the basic causes of the problem with the use of wave, beach, and hydrographic surveys.

The corps is to be commended for these actions. But I believe this effort should not be pursued at local taxpayers' expense, and the corps agrees. It is the responsibility of the Federal Government to insure that a permanent solution is found.

This legislation will provide full funding of the studies, after which the Secretary of the Army, acting through the Chief of Engineers, will report the results to Congress and recommend a permanent course of action.

Over the last 10 years, literally millions of dollars have been spent in an effort to keep the harbor open. This situation and the attendant costs are intolerable. A permanent answer must be found. It is my hope that this legislation is the beginning of that answer.

AMTRAK CRISIS IN MONTANA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Montana (Mr. BAUCUS) is recognized for 10 minutes.

Mr. BAUCUS. Mr. Speaker, we in Montana are facing a transportation crisis due to the recent cutbacks on our Amtrak routes. As of September 7, our passenger rail service has been reduced by nearly 50 percent.

My district was one of the first effected by Amtrak's cutbacks. By now, many of my colleagues have also experienced severe cutbacks, and it is my understanding that Amtrak is planning additional service curtailments for late fall—cuts which will affect virtually every congressional district.

Because of the concern that these actions have generated—both here in Congress and among our constituents—I would like to discuss some of the actions which I have undertaken in attempting to understand the basis for these cut-

backs, and my efforts to restore full Amtrak service in Montana.

Montana has been threatened with cutbacks on her southern route—the North Coast Hiawatha—since its inception. Therefore, I submitted testimony to the House Appropriations Committee's Subcommittee on Transportation when they were considering Amtrak's budget last spring. In this testimony I stated our need in Montana for Amtrak, and I also requested that they be sensitive to our special needs as a rural State with vast distances between towns.

The statement follows:

STATEMENT OF CONGRESSMAN MAX BAUCUS

Mr. CHAIRMAN. I would like to thank you and the members of your subcommittee for providing me with this opportunity to testify on the transportation needs of western Montana

The geographic arrangement of my district makes adequate intercity transportation crucially important. My district spans an area some 250 miles wide and 650 miles in length. In addition, the major population centers within this area are far apart.

AMTRAK

Each year since I arrived in Congress, Montana has had to fight to retain its southern Amtrak route. This route, running from Chicago to Seattle, connects five of my State's major cities, and offers the only rapid intracity transportation between them and many other small towns along the route. It is my hope that, rather than continuing this battle with Amtrak, they will move ahead on their original plans for this route and expand it to daily services rather than continuing it on its present schedule of three runs per week.

In addition, it is my hope that Amtrak will consider operating a new north-south route within Montana. This would serve as an invaluable link between Montana and her neighbors to the south, as all current Amtrak routes within Montana run in an east-west direction.

In short, I am asking that there not be any major curtailments in Amtrak appropriations this year. Rather than cutting back, I see many areas for useful expansion of the rail system.

Amtrak has requested $534 million this year. The Ford budget included $490 million for Amtrak, and President Carter has restored $10 million to that amount. This $500 million represents the amount that Amtrak needs in order to continue operating at its present level. It is my hope that we can remove the possibility of route closures by appropriating a minimum of $500 million as requested by President Carter, and, perhaps, add on a portion of the original request for new routes.

However, Congress proceeded to give Amtrak only $488 million, a $12 million cut from President Carter's request. It was as the result of this shortfall that Amtrak claims it was forced into making severe service reductions.

It came as a great shock to both me and many other Montanans when Amtrak notified us in August of their plans to curtail Montana's service. There had been no public hearing on this matter and no prior notification that cutbacks were being considered. To clear up some of the confusion, I requested Amtrak to explain to us how the decision to cut back in Montana was reached, and what criteria were used. With jobs hanging in the balance, I felt that it was crucial that Amtrak fully explain its actions.

AUGUST 22, 1977.

Mr. PAUL H. REISTRUP,
President, Amtrak,
Washington, D. C.

DEAR MR. REISTRUP: I am writing to strongly protest the Amtrak Board's recent decision to cutback service on both of our two Montana routes. This cutback is an unfair blow to a rural area that depends on rail transportation. I also think the cutback is not economically justified.

It has yet to be shown that reducing the frequency of service will cut costs or increase ridership. We in the West need service that will provide same day return for local visits, and a reduction in service will serve to induce people to seek out other, more convenient modes of transportation. In addition, costs will not decrease in proportion with the decrease in service. Fixed costs will remain the same, and stationmanagers, information operators and maintenance crews will still be needed on a daily basis. Also, with a shortened schedule, the train crews will have to be housed overnight as they await the next train returning them to their home base

In addition, I would like the following information from you:

1) A detailed economic justification for the cutback.

2) A firm date for when the cutback will be ended if cost and ridership figures do not show a major economic advantage.

3) Current cost and ridership figures with your projections of what will be saved if ridership does not suffer, your projections of how ridership will suffer, and what will be saved if ridership suffers according to your projections.

4) A detailed explanation of what social and environmental factors will be taken into account and how they will be weighed into your decision.

I would appreciate your answer as soon as possible, and, in no event, later than the end of this month.

With best personal wishes, I am
Sincerely,

It was not until the cutbacks had gone into effect that Amtrak responded to my request, on September 8.

SEPTEMBER 8, 1977.

Hon. MAX BAUCUS,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN BAUCUS: Mr. Reistrup has asked me to reply to your letter concerning the reduction of service through Montana.

We anticipate the annual savings from the reduction in frequency on the Empire Builder and the North Coast Hiawatha will total $7.5 million. We do not expect additional housing costs for crews to be significant, as many overnight at one end already.

We have not yet established a firm date for a resumption in frequency on these routes. We will watch ridership patterns and revenue projections along both routes very carefully.

We did not make a study of the social and environmental factors as this was simply a matter of budgetary restraints.

I will have to obtain the answer to your third question from another office and will be back in touch with you on that at a later date.

If I may be of further assistance, please contact me.

Sincerely,

BRUCE PIKE,
Vice President, Government Affairs.

It is appalling that Amtrak stated that it made these cutbacks based wholly upon economic savings and with total disregard of human costs. Since Amtrak would not fully discuss its actions and the types of information they had available to use, it was necessary to call upon them to come before Congress and this committee to provide answers to all of the questions which Members of Congress had concerning the cutbacks, and also to state how much additional funding it would take in order to resume full schedules along all Amtrak routes. This was stated in a letter I wrote to Amtrak on September 14.

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 14, 1977.

Mr. BRUCE PIKE,
Vice President for Government Affairs,
Amtrak, Washington, D.C.

DEAR MR. PIKE: Thank you very much for your response to my letter soliciting adequate information on Amtrak's decision to cut drastically back on its Montana routes.

I find it inconceivable that Amtrak could reduce routes in this way for a rural area such as Montana that is so dependent on rail transportation without taking into account any of the social and environmental factors involved in the problem. I also find it difficult to understand how such a decision could be made without immediate access to current cost and ridership figures with your projections of what will be saved if ridership does not suffer, your projections of how ridership will suffer, and what will be saved if ridership suffers according to your projections. It's ridiculous to link projected savings to current ridership levels if, in fact, the cutbacks will in and of themselves produce lessened ridership.

I have two purposes in writing this letter. The first is to urge speedy compliance with my request of August 22nd for these ridership and financial figures and estimates. My second reason for writing is to strongly urge the National Railroad Passenger Board to come before the appropriate committees of Congress to explain your cutback actions in detail. I especially hope that you will be prepared to come before the House Appropriations Subcommittee on Transportation with a complete justification of your actions and a well-documented request for any additional funding you will require to restore these routes immediately. Drastic actions such as you have taken require immediate Congressional oversight. I hope that you will not wait to channel any requests through the Department of Transportation or through the Office of Management and Budget, but will vote to immediately come before us with whatever it takes to restore Montana's service.

I would appreciate an immediate response to my letter, both by responding to me and by taking action to come before Congress to explain what you have done and what you need.

With best personal regards, I am
Sincerely,

MAX BAUCUS.

In addition, I called upon my colleagues whose districts were also affected by the cutbacks on the routes that extend from Chicago, through Montana and on to Seattle, to join me in asking that the Transportation Subcommittee of the Appropriations Committee call a hearing. At this hearing, Amtrak would have to justify their actions, and bring out into the open all of the actions that Amtrak had taken and was planning to take, as the result of the funding shortfall. I was pleased to have so many of my colleagues join me in this successful effort.

Re Amtrak route cutbacks.

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 19, 1977.

Hon. JOHN J. MCFALL,
Chairman, House Committee on Appropriations, Subcommittee on Transportation, Washington, D.C.

DEAR MR. CHAIRMAN: Many constituents in our districts are facing severe transportation and economic crises due to the recent reductions along Amtrak routes serving our communities.

Amtrak officials publicly admit that these cuts were made without taking into account any social and environmental factors, and without an established timetable for evaluating and altering these cutbacks once their effects are determined. We simply cannot accept this sort of insensitive government action.

We are seeking your help. It is our hope that your Subcommittee will give prompt consideration to this matter by requiring Amtrak top officials to come before you and justify these cutbacks and detail their future plans for these routes. We also hope that you will seriously consider a supplemental measure which would permit a restoration of full service along all affected routes.

Thank you in advance for your prompt consideration of this most urgent request.

Sincerely,

Mark Andrews, Alvin Baldus, Max Baucus, Donald Fraser, Robert Kastenmeier, Mike McCormack, Joel Pritchard, Arlan Stangeland, John Cunningham, Ron Marlinee, Richard Nolan, Albert Quie, Henry Reuss.

The subcommittee graciously allowed me to sit with them and question Amtrak at its hearing in early October. This hearing proved to be quite an education and served to point out the complex nature of Amtrak's corporate structure, as well as its surprisingly limited accountability to Congress.

Because of the impact that the cuts are having in Montana, I requested that Amtrak president, Mr. Paul Reistrup, meet with me in my office to discuss the Montana situation following the hearing. He agreed, and as we met he consented to my interviewing him on tape, so that all concerned Montanans could have the benefit of his remarks.

AMTRAK TAPE

Hi, this is Max Baucus speaking. I have with me someone in my office who I think is probably on the minds of a lot of us in Montana—this is, Mr. Paul Reistrup, who is Chief Executive Officer with Amtrak. A lot of us in Montana, of course, are concerned about the recent cutbacks in Amtrak service through Montana from the daily service to, in some instances, four days a week and on another route, three days a week service. I'm going to be asking some questions and Mr. Reistrup's going to be answering them. We're going to have a discussion here, and we'll just take it from there.

* * * * *

MAX. I suppose, Mr. Reistrup, the bottom line question that all of us are asking in Montana is when can we get daily service restored in both the Northern and Southern routes in Montana?

PAUL. Well, we hope, Congressman, by next summer. This will be, of course, with totally new equipment by that time, even with the slippage in delivery. The question is dollars. We need dollars to do that. Amtrak is here to run trains, and we want to run them, but it costs money to do so.

MAX. So, as I understand it, then, you're before the Congress these weeks asking for a supplemental of approximately $56 million, is that correct?

PAUL. Yes.

MAX. And if Congress grants that supplemental of $56 million, in addition to the regular Amtrak budget which, I think for '78 is about $488 million, is that correct?

PAUL. Yes.

MAX. So, if we grant that supplemental increase, then we can expect service to be restored in Montana as well as other parts of the country, is that correct?

PAUL. Yes.

MAX. But it depends upon the $56 million?

PAUL. There would be very, very few operations that would not be fully restored, and those really are unnecessary trains that in the northeast today are only five minutes apart.

MAX. There is no way, then, that we could get a restoration of service before next summer with the supplemental, is there?

PAUL. If we did get the total supplemental, we probably could restore service by Easter time or perhaps at least April on the Northern route, the one through Havre, Montana. The Southern route has traditionally been tri-weekly off season and would not go to daily until summertime.

MAX. I see. But we could at least get the Northern restored to daily service with the supplemental increase of $56 million by next late winter, early spring?

PAUL. Well, let's say springtime because it really depends on the delivery of the new equipment. Once we start putting in the new trains, we want to have all of the trains (being used?).

MAX. Now, why do we need new equipment? What new equipment are you talking about?

PAUL. The new equipment are the so-called "Superliners." They are bi-level cars that are coming from the Pullman Company. The first new sleeping cars in over twenty years and they have electric heat . . .

MAX. Right now we have steam heat, is that right?

PAUL. Yes, and very unreliable. Those cars, some of them dating back forty years, are becoming really risky to operate in very cold climates.

MAX. What about other considerations? A lot of us in Montana understand that sometimes you have to make certain cuts because of economics; that is, sometimes an operation isn't as profitable as we'd like it to be. But in Montana, as in other parts of the West, we have vast distances with virtually no other transportation—airline service, for example, or bus service. Why isn't that a reason that we should continue daily service in Montana?

PAUL. Well, it is a factor, and really, the driving issue behind this change was to prevent the operation of steam which has become a very high risk and unreliable during the cold weather period. I might point out that the Western United States has had about a nine percent cut in train miles, including Montana. The very highly populated areas in the Northeast went a lot higher than that—fifteen percent average, and one line went as high as twenty-eight percent.

MAX. I see. Then what you're saying is you're telling all of us from Montana to write their Congressmen and Senators to get the money. You say that the bottom line is money. That's what it comes down to.

PAUL. Well, we would really rather see you on the trains because if we bring in the revenue, then we don't need as much money from Congress. But Congressional support is needed in this case.

MAX. A lot of Montanans, though, say sometimes the trains are not as clean as they should be. Do you run into that at all because I run into an awful lot of that when I talk to Montanans. During the August recess, in particular. One lady told me she got on in Havre and the ashtray was all over her seat. She got off in Minneapolis. Three or four days later she got back on the train to go back to Havre and she figured out she was in the same seat—the ashes hadn't been cleaned up! That's why people say they don't ride Amtrak.

PAUL. Well, I hope those were new ashes. I must say that a lot of this is due to losing trains. Anytime there is a thought of losing a train, we become a whipping boy. My rides out there have shown that those trains are some of the best in the country. I would rate them at the very, very top.

MAX. Well, I hope we can continue cleaning them up because you're right—the more people that ride the trains, the better. It's a two-way street, obviously. The better service that's provided, the more likely people will ride trains. It's just that simple.

PAUL. Yes.

MAX. Unfortunately our time is up. This is Max Baucus speaking with Mr. Paul Reistrup from Amtrak. We're trying to restore Amtrak service in Montana to daily service. Thanks a lot, Mr. Reistrup, and I hope next time we talk, we'll see trains running daily. Thanks an awful lot.

PAUL. Good to be with you.

The growing uproar over the method in which Amtrak made its specific cutback decisions prompted its authorizing committee to investigate the possibility that Amtrak needs stricter regulations governing cutback procedures. The Subcommittee on Transportation and Commerce of the Committee on Interstate and Foreign Commerce held such a hearing on October 13. It is the job of this subcommittee to draft legislation stating the guidelines under which Amtrak must operate.

The specific focus of this hearing was to scrutinize the criteria Amtrak used in making the cutbacks, with an eye toward drafting legislation which would include clear guidelines regarding service curtailments—guidelines which Amtrak would have to follow whenever they considered such action. This was a good opportunity for me to share with the subcommittee the results of my attempts to get to the bottom of Amtrak's actions in Montana.

REMARKS BY CONGRESSMAN MAX BAUCUS

Mr. Chairman, I would like to thank you for permitting me to appear before you today. I would also especially like to thank this subcommittee for their attempt to get to the root of the problems which Amtrak currently faces.

As a relative newcomer in dealing head on with Amtrak, I must confess that, quite frankly, I am appalled by the manner in which Amtrak handled its recent budgetary crisis.

It is the inconsistencies involved with the recent cutbacks—and the lack of my formalized manner of dealing with frequency reductions—which are my main concerns.

To cut routes frequency almost across the board is not ever consistent with President Reistrup's philosophy of how to run trains that make money. He has made no secret of his opposition to frequency reductions. And yet, rather than developing alternative procedure which would require this action only on a minimal basis in the face of economic cutbacks, we see Amtrak making across-the-board frequency reductions on all long distance trains. I am confused.

On August 22, I wrote to Mr. Reistrup and requested information about the basis on which service to my state was to be cut almost in half. I requested:

(1) A detailed economic justification for the cutback.

(2) A firm date for when the cutback will be ended if cost and ridership figures do not show a major economic advantage.

(3) Current cost and ridership figures with your projections of what will be saved if ridership does not suffer, your projections of how ridership will suffer, and what will be saved if ridership suffers according to your projections.

(4) A detailed explanation of what social and environmental factors will be taken into account and how they will be weighed into your decision.

I was dismayed by the response. On September 8, Amtrak replied with the following:

"We anticipate the annual savings from the reduction in frequency on the Empire Builder and the North Coast Hiawatha will cost $7.5 million. We do not expect additional housing costs for crews to be significant, as many overnight at one end already.

"We have not yet established a firm date for a resumption in frequency on these routes. We will watch ridership patterns and revenue projections along both routes very carefully.

"We did not make a study of the social and environmental factors as this was simply a matter of budgetary restraints.

"I will have to obtain the answer to your third question (ridership figures and projections) from another office and will be back in touch with you on that at a later date."

I further questioned Amtrak's reasons when they appeared before the Transportation Subcommittee of the Appropriations Committee. My main concern was that Amtrak had failed to figure in the human and social costs of reducing service in areas with almost no transportation alternatives. Amtrak again stated that the cuts were based purely on economic savings.

During that same meeting, Mr. Reistrup stated that 60 percent of the reason he sought the cuts along the Montana routes was because our new equipment had not yet arrived, and that he would not continue to operate older equipment during our harsh winters. Does this mean that our routes would have cut back regardless of Amtrak's economic problems? Again, I am confused.

Amtrak has established that Route and Service Criteria do not pertain to frequency reductions. I feel that it is now time that we in Congress either determine that they do apply, or develop a separate set of criteria for frequency reductions.

Congress has not met with much success in creating quasi-private institutions. Amtrak certainly does not come across as a shining example of how government sponsored corporations become profitable and operate without federal support, and I certainly see the need for new Congressional instructions for Amtrak.

I would like to thank Mr. Santini, who spoke yesterday on the need for a national transportation policy. I fully agree, and truly hope that passenger rail service can be a viable component of such a plan.

My constituents need Amtrak, but they also need consistent justifications concerning any changes in their Amtrak service. It is my hope that this subcommittee will take steps to insure consistency and accountability.

Thank you Mr. Chairman.

In early October it became clear that the Transportation Appropriations Subcommittee was not going to take up a measure for supplemental funding for Amtrak—funding which would restore service on routes which were recently cut back. The committee did not intend to provide Amtrak with the opportunity to come before the subcommittee and attempt to justify its request for an additional $56 million.

Fortunately, some of my colleagues were as upset as I was over the severe impact of Amtrak cutbacks. Our constituents deserve to have their questions answered, and to have the facts set straight regarding the wisdom of supplemental funds. Following an unusual course of action, a small group of my colleagues serving on the Rules Committee and I were successful in insuring full-scale hearings by the Transportation subcommittee. The Rules Committee threatened to hold up a large, multi-billion dollar supplemental appropriations bill if hearings were not guaranteed. I was the only member of the Appropriations Committee to publicly support this uncommon action by the Rules Committee. We prevailed in our efforts to obtain a guarantee for a hearing, and this hearing was held October 26.

STATEMENT OF CONGRESSMAN MAX BAUCUS

Mr. Chairman, thank you for allowing me to appear before your subcommittee today as you consider a matter of great importance to my fellow Montanans—the question of supplemental funds for Amtrak. Most of you are already aware of my keen interest in this matter, and I will try to make my remarks as brief as possible.

Amtrak cut service to Montana by nearly 50% during the first week of September as the result of inadequate appropriations. This has created a serious transportation crisis in my district.

While it remains to be seen whether Amtrak will be given the additional funds that it is requesting, I do know that Montanans need dependable, regular service connecting their towns. Anything less than daily service will not serve the needs of Montanans who use the trains in order to conduct business and return home the same day. It does not serve the needs of retailers who depend on daily shipments and ready access to our train stations during business hours. And it does not serve the needs of the long distance pleasure travellers who have to fight with a confusing schedule in order to plan their outings. All of this causes economic harm to Montana—in addition to the jobs that were lost as a direct result of the cutbacks.

I am not advocating unlimited funds for Amtrak. While I remain convinced that daily service is a necessity for my district, I realize that there are many perplexing questions which must be confronted when investigating Amtrak. While we consdier this short-term funding, we should also be looking beyond this immediate crisis and developing suggestions for changes which will make Amtrak more responsive to the needs of our citizens, and also more accountable to those who are paying their bills—the American taxpayer.

Amtrak comes before you today requesting $56 million, an amount which would bring them up to their full authorization. I realize that there are those who did not wish to further debate the question of supplemental funding for Amtrak, as Amtrak has become increasingly expensive, and we have some hard decisions to make regarding Amtrak's future.

The Transportation and Commerce Subcommittee of the Interstate and Foreign Commerce Committee held hearings a few weeks ago with an eye towards drafting legislation which will clarify Congressional intent with regard to use of Route and Service Criteria, and possibly including new, more explicit criteria which Amtrak will have to follow in making frequent reductions. I commend that Subcommittee for its actions, and hope to see the conclusions which were reached during the hearing take the form of legislation early next session.

In the meantime, the real losers in the recent rounds of Amtrak cutbacks are our citizens back home. They are the ones who must bear the burden of service cutbacks which were made purely on an across-the-board economic savings basis. Even with future Congressional instructions to Amtrak on cutbacks, without the $56 million to restore full service, I am not convinced that we will be able to insure that those routes currently affected by cutbacks will ever recover or be given a re-examination in light of the new criteria.

Yet we all know that it is not simply a matter of appropriating $56 million. We need to know what steps Amtrak has taken to develop for itself a better system for dealing with service reductions. We need to know what steps Amtrak is taking to evaluate the effects of the cutbacks. And we need to know what kind of guarantee the Amtrak Board will give us as to how these funds will be spent.

As a member of the Appropriations Committee, I will be paying close attention to your hearings today. As you focus your attention on Amtrak, I hope that you will also be mindful of the people we represent—whose lives have been disrupted by the cutbacks and who may never again see the rail transportation they need.

Thank you.

The battle for adequate rail service for our citizens is far from over, and I will continue to keep abreast of all new developments. I hope that the result of all of the discussion surrounding the Amtrak question will result in an efficient rail system that meets the needs of our citizens. In the meantime, I would like to thank all of my constituents who have supported me in my efforts, and who, like myself, have been unwilling to give up their hopes for a resumption of rail service in the very near future.

THE POST HAS SEEN THE LIGHT—DIMLY

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, it is unbelievable. The Washington Post has seen the light, dimly. The Post, staunch defender of the left, arch foe of conservatism, except for selling ads to free enterprise firms, has come out against sanctions in South Africa. Not only has the liberal Post declared against sanctions, but it has done so in a way that makes a lot of sense. It is doubtful that this type of editorial, in direct opposition to the pronouncements of Ambassador Andy Young, will be taken seriously in the United Nations. The U.N. with its overwhelming majority of have-not nations, would like to see South Africa dismembered, hung, drawn, and quartered, and the United States, too, for that matter. We are tolerated there only for our largesse. It is a good editorial. It should be reprinted in the CONGRESSIONAL RECORD and I submit it for that purpose.

SANCTIONS AGAINST SOUTH AFRICA?

For the administration, the question of whether the United States should join the United Nations' cry for economic sanctions, or penalties, against South Africa for its latest political atrocities is an exercise in the diplomatic math. Having linked relations with South Africa to Pretoria's domestic policies, the United States can't *not* react with-

out losing credibility at home, in black Africa and in Pretoria. To overreact, however, could diminish South Africa's necessary cooperation in the Rhodesia and Namibia crises and put its government into an even more perverse and embattled mood. The administration must also void taking a stance so far in front of general public opinion—which remains, we believe, ambivalent—that Pretoria will be able to exploit the gap.

We don't like sanctions. This has nothing to do with favoring apartheid. It has to do with the conviction that sanctions are a poor and possibly self-defeating tool to use against a system so powerfully entrenched. Only if sanctions were intensified close to the point of a declaration of war would they likely do more than embitter and solidify most whites. How will the international community care for the vulnerable blacks inside South Africa—and also outside, in Botswana, for example, or Lesotho—who would be the first and principal victims? To start down the sanctions road is not what a responsible government ought to do just to satisfy its outrage or to keep up with the international Joneses. The effect on the people meant to be moved and helped is the first thing to keep in mind.

South Africa is no banana republic in which, if Washington chose, it could blow the system down. It resembles the Soviet Union in the sense that its white rulers are fiercely nationalistic and clannish and tend to respond by defiance to excessive outside pressure. South Africa has large stockpiles of the things that might be cut off by sanctions. It has devoted years, and its considerable wealth and ingenuity, to devising ways to render itself relatively immune. Among the ruling whites, under the manipulation of their chosen leaders, sanctions would doubtless heighten morale and the spirit of common sacrifice, rather as they have in neighboring Rhodesia, which, with a sixteenth as many whites, has survived and even prospered under *total* sanctions for a dozen years. What finally brought Ian Smith to the bargaining table was not sanctions but guerrillas.

Many Americans may not wish to be told their government, even in conjunction with other Western governments (which are even more economically dependent upon economic ties with South Africa) and with Third World governments (many of whom will continue to trade with Pretoria even as they vote sanctions), cannot itself undo apartheid. But the beginning of wisdom here is an awareness of the United States' own limitations. The feasible and effective steps the United States can take to end the system must necessarily be small compared both with the steps that the nonwhites of South Africa will take anyway and with the steps that self-interest may ultimately lead the whites to take themselves.

RECYCLING EFFLUENT ON LAND IS EFFECTIVE

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, an article appeared in the Washington Post on October 13, 1977, stating EPA's plans to implement a major policy to recycle effluent on land. For years, EPA has promoted expensive, elaborate treatment facilities for effluent before it is discharged into our Nation's waters. Under the land effluent treatment, partially treated effluent would be sprayed onto fields where it would be used to provide nutrients for crops.

EPA Administrator Costle has stated:

. . . The utilization of land-treatment systems has the potential for saving billions of dollars. This will benefit not only the nationwide water pollution control program, but will also provide an additional mechanism for the recovery and recycling of waste water as a resource.

Now that the land-treatment operation is getting a big push from EPA, I would like to share with my colleagues an article that demonstrates how such a treatment project has had proven success at American Cyanamid's fibers plant in Pensacola, Fla.:

SANTA ROSA'S "BIG GUNS" SHOOT WASTE AND FEED FLOURISHING BAYSIDE FOREST

PENSACOLA, FLA.—On the shores of Escambia Bay in Florida's Panhandle, an infant forest of pine trees is flourishing. Now, there's nothing odd about pine trees growing on the shoreline of a bay—except when they're being cultivated on an industrial plant site to eliminate a pollution problem.

The plant is Cyanamid's Santa Rosa fibers facility. The idea of using the plant's industrial waste as a pine tree nutrient grew out of the need to improve the quality of the waters of Escambia Bay, which was being seriously threatened by pollution from a number of firms. In 1970, Cyanamid initiated a program to reduce the carbon and nitrogen content of its water effluent. Although the systems designed to deal with the problem cut down on the carbon content of the effluent, it proved to be more difficult to remove the nitrogen from the waste water.

Santa Rosa's environmental staff and consultants came up with the perfect solution for the remaining discharge: instead of trying to reduce the nitrogen in the waste water, why not use it to irrigate and provide nutrient for a crop?

Botanists and foresters who were consulted on the project suggested using conventional slash pine trees because they grow well in sandy soil and thrive on the moisture and nutrients that would be provided by the treated waste water. The method chosen to dispose of the waste water and fertilize the trees was spray irrigation, a concept developed about ten years ago and utilized by a few organizations as a convenient means of disposing of waste water. The technique involves the use of large "Big Gun" sprinklers to distribute the nutrient and water among the trees.

Last December, 70 acres of the plant's 1,840-acre site were cleared to make room for the trees. In addition to solving an environmental problem, the project had additional benefits. Because of temporary production cutbacks at the plant, 15 employees who would have been laid off for a brief period were kept on the payroll by spending three weeks working full-time to plant 75,000 pine seedlings.

According to plant manager Fred Nagy, the results of the experiment have been excellent. "We planted a test crop of 5,000 seedlings that don't receive the waste water. They're six inches high but the other 70,000 that receive the nutrient are about 12 inches high and thriving."

Since March approximately 13 percent of the plant's waste water has been sprayed onto the trees, but if the experiment succeeds—and Nagy has no reason to doubt it will—part of the remaining 1770 acres can be planted to further reduce the plant's waste water.

The crowning touch to this clever bit of good old American ingenuity is that the trees just happen to be ideal for making pulp wood paper. So as the seedlings mature—which should take considerably less time than it does for trees treated in the conventional manner—they will be selectively harvested and sold to paper companies.

The forest may not be ideal for picnicking, admitted Nagy, since the soil is wet and sandy, but "we're really proud of how the trees are doing." The plant will have the opportunity to show off its pet project early this fall, when the public will be invited in to see how one local company is solving a ticklish pollution problem.

GETTING YOUR MAN

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, in Time magazine, October 17, 1977, an editorial entitled "Getting Your Man" is provocative and penetrating. It is by Thomas Griffith in the column entitled Newswatch. I feel that it should be reproduced in the CONGRESSIONAL RECORD and I submit it for that purpose.

GETTING YOUR MAN

Bert Lance is back in Georgia and no longer a threat to the republic, so it should be possible to discuss more coolly how the press treated him. The press has already delivered its own verdict, conceding only that maybe there were a few excesses on its part (TIME, Sept. 19). But since Lance turned out to be guilty of shoddy banking practices, newshounds were not barking up the wrong tree, were they? Jimmy Carter, who hopes to live in wary peace with the press, has resisted all invitations at news conferences to accuse reporters of having driven Lance out of Washington. So all's well that—for the press—ended well? Not exactly. An NBC poll last week reported that 59 percent of the public thought Lance should have quit, yet by 45 percent to 42 percent they concluded that Lance was indeed harassed from office by the press. There is still something to be said about the means that were used.

The end did not justify the New York *Times*, which, having been slow out of the starting gate on Watergate, gave the front-page spotlight to Lance even on days when there was no story about him that deserved such treatment. There is a difference between pursuing the facts and going after a man. The end also did not ennoble William Safire, the Nixon speechwriter turned columnist who seeks to establish—with the repetitious use of labels like Lancegate—that all politicians are as shabby as Nixon. Cheap-shot comparisons are an old and dubious journalistic device: as if two people who share one trait can be said to share them all. *New York* magazine got in a worse cheap shot by egregiously referring to Lance as Carter's Bebe Rebozo.

Yet one has to hand it to Safire, who often sportingly supplies the antidote to his own poison. On a trip to London he reported that "the average Briton" was horrified by the Lance affair: "Once again the American press seems to be engaged in 'breaking' a President . . . So I tell my British friends that the real stability of American government is in our public sense of constitutional morality, and that the press is doing the Carter presidency a favor," etc. Safire, however, then prints the reply of an English friend: "I would be more inclined to believe you if you chaps didn't seem to relish it so."

One of the journalistic inflations of the story was the frequent and foolish assertion that Lance held the "second most important post in government." If this be so, does anyone believe that one American in 20 could name the previous occupant?

Television coverage too had much to answer for. It only bore witness to, it did not instigate, Senator Percy's nasty innuendos about tax evasion by Lance, and Percy's subsequent smarmy retraction. Moreover, TV's

steady eye on the hearings produced what no amount of print reporting could do: a dramatic switch of public sympathy to Lance, who, despite the damaging admissions he had to make, carried himself more impressively under relentless scrutiny than any other congressional witness within memory.

In its own reporting, however, television was guilty of cruel but not unusual punishment. Scenting the kill, TV camera crews laid daily siege to Lance as he left his home in the morning or his office at night. A small army of pushy reporters thrust long microphone rods into his face and asked the most impertinent questions, hoping to elicit an off-guard response. This is a drumhead trial, and few of those who are subjected to such a process escape unscathed. A print reporter who finds a rumor to be unfounded usually does not refer to it in print; but a television reporter's unverified insinuation, heard on-camera, lingers in the audience's ear. The scene recalls the notorious "ratissage," or rat hunt, of the French army in Algeria, in which captured guerrillas had to run a gauntlet of soldiers wielding rifle butts.

But television's treatment of Lance even more closely resembled those familiar scenes on local news shows where a rape or murder suspect is brought to police headquarters, ducking his way through a mob of hectoring reporters. Those nightly scenes illustrate television's show-biz fascination with action, drama and sadism.

By putting Bert Lance through the twice-daily gauntlet of shoving reporters, the press might say in its own defense that each newsman was only responding to competitive pressures for a new picture, a new quote. Nothing personal, you understand: we do it to everybody who gets in a jam. But this tumultuous, superficial "reporting," which is about all the public ever sees of reporting, gives all journalism a bad name. And these are matters to keep in mind, even though Lance was right to quit, Carter was wrong in defending him, and it was Lance's own failure to justify his past conduct, and not harassment by the press, that really brought him down.

HEALTH MAINTENANCE ORGANIZATION AMENDMENTS OF 1977

(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, our ever worsening health care crisis has now reached disastrous levels. Current projections have total health care expenditures in this country over $220 billion by 1981. Less than 5 years ago, in cosponsoring the Health Security Act, I expressed concern that the figure had then exceeded $80 billion. Health care inflation is an issue which cannot escape notice. It is a threat to our efforts to assure all Americans of good medical care.

The tragic victims of this crisis are those without health insurance or those with very little coverage, the poor and of course, the elderly. I was distressed to hear the recent announcement of increased out-of-pocket payments under the medicare program that will go into effect January 1, 1978 unless Congress enacts my bill to hold the increases off an additional 6 months.

These increases mean further burdens and hardship for those who can least afford them—those who live on fixed incomes and those who are most susceptible to expensive illness. It is a sad irony when the health care plight of the elderly approaches the state that existed before medicare. The same situation is true for the medicaid recipients faced with ever-increasing out-of-pocket payments they cannot afford.

It is clear, Mr. Speaker, that the enactment of a realistic and effective health program which will guarantee equal access to health care for all Americans is going to be a difficult and arduous task. We are fortunate that the administration is moving rapidly to draft a bill for submission to the Congress next year. President Carter's strong sentiments for a national health program are an essential element, and I am sure we will see a good program within the next few years.

In the meantime, the poor and the elderly suffer the catastrophic costs of health care unless this Congress acts. There is something we can do now, something which will not mean huge outlays of money but will afford some economic relief to those in need and still afford medical care of the highest quality. We can and should assure the elderly and the poor of unfettered access to health maintenance organizations.

We should all be familiar with the proven advantages of HMO's. They offer comprehensive medical benefits, economic efficiency and require only nominal premiums. Through an emphasis on preventive and out-patient services, they are able to significantly reduce hospital utilization and channel the savings into broader services. The success of the large prototype HMO's—Kaiser Foundation Health Plan, Health Insurance Plan of Greater New York, Group Health Cooperative of Puget Sound, Group Health Association, Inc. in Washington, D.C.—led to the formulation of a national HMO effort. The Health Maintenance Organization Act of 1973, Public Law 93-222, was the result of this effort.

Since the passage of the HMO Act in the 93d Congress, the program has been fraught with problems. Delays in the issuance of regulations, uncertainty in administration and inadequate funding have been major problems, but the principal difficulty has been the unworkable law itself. Many of the restrictions of the 1973 Act were corrected by the amendments adopted in the 94th Congress.

I have been encouraged by recent developments. Final regulations for the amendments have been drafted and will soon be published. The Carter administration has undertaken a new initiative on HMO's, and enthusiasm for the program has been revived. I firmly believe that HMO's will become a nationally recognized and utilized health care system in the next 5 years.

Today over 6 million people receive health care through over 180 HMO's. This number will surely grow. It is our task to see to it that the poor and the elderly have every opportunity to participate in the benefits of this growth. They must be given fair access to that growth.

The bill I am introducing today, the Health Maintenance Organization Amendments of 1977, is designed to expedite the orderly growth of HMO's with a commensurate enrollment of medicare and medicaid beneficiaries.

Present law on HMO membership for medicare beneficiaries is inadequate. My bill calls for a reimbursement system for HMO's more closely related to prevailing HMO practices. In this way, HMO's will be able to realize almost the full benefit of their hospital utilization savings. They can provide medicare eligibles services in addition to those provided under the present reimbursement formulas in which HMO's must either share the savings with the Government or are reimbursed only for their costs and not for their efficiency. Under my proposal, an HMO will be paid on a prospective basis 95 percent of the costs of rendering the part A and B services in the community. In addition to the obvious 5 percent saving to the Government, the HMO will be required to use its savings for the provision of additional benefits for medicare members, or the reduction of premium rates charged to those enrollees. These additional benefits should appropriately include home health care, elderly day health care, and other services which can help to prevent institutionalization of older citizens. This provision can reduce, to a great extent, the out-of-pocket costs to the medicare member and encourage the enrollment of more medicare beneficiaries.

The law now requires that at least one-half of HMO membership be nonmedicare or medicaid. This denies HMO membership to many medicare eligibles and may well stultify HMO growth in areas which are heavily populated by the poor or the elderly. My bill would permit the Secretary of HEW to waive this requirement where an HMO proposes to serve an area where there is a high concentration of elderly or poor citizens and where, under current requirements, the HMO could not adequately serve the population of that area.

Many States do not contract with HMO's for medicaid benefits. My proposed legislation would remedy this unfair exclusion of medicaid eligibles by requiring States to offer the option of membership in qualified HMO's with a negotiated prepaid risk contract.

Mr. Speaker, these amendments would have caused some concern a few years ago. Those of us who followed the scandalous conduct of some prepaid health plans in recent years were quite anxious to curb such nefarious activities. I emphasize that no prepaid group practice and no qualified HMO was involved in these abuses. Indeed, the limitations in present law were designed to prevent any such activities by federally qualified HMO's. Now, however, the Congress and the administration have acted to prevent the recurrence of these situations and we can be confident of the ability of HMO's to be run honestly and efficiently. The new HMO regulations will have strong financial and reporting controls along with a disqualification power in the Secretary. The new Inspector General of HEW is empowered to investigate and seek appropriate corrective action in the area of medicaid fraud and abuse. Congress has passed and the President has signed the medicare-medicaid anti-

fraud and abuse amendments. The role of the General Accounting Office, proven effective, cannot be discounted. Now that these safeguards are in place, there is no reason to hesitate in encouraging membership in HMO's by the poor and the elderly.

A further provision of my bill seeks to encourage the growth of HMO's by providing grants to assist HMO's, or entities which intend to become HMO's, in meeting the cost of construction of facilities for ambulatory services, or portions of facilities for ambulatory services to be used for the provision of health services to members who reside in medically underserved areas.

Moreover, the bill includes authority for a loan program to assist in the construction of facilities. These loans would not exceed 90 percent of construction costs, and the total amount received under both the loan and grant programs is not to exceed $2.5 million. The bill authorizes an initial appropriation to establish a revolving fund to carry out the loan program established by the bill.

An additional provision of my bill, Mr. Speaker, seeks to expand on the concept embodied in section 1311 of the current law, which deals with restrictive State laws and practices. One of the major problems in establishing HMO's is that States often treat them as if they were insurance entities. HMO's do not offer insurance policies; they contract for guaranteed care directly with their subscribers. Therefore, it is not necessary to have restrictive State laws beyond those which are necessary for general laws of incorporation, or building codes. Section 6 of my proposed bill therefore provides that the HMO law supersede State laws which relate to federally qualified health maintenance organizations or entities for which a grant, contract, loan, or loan guarantee was made under the HMO law. This provision does not apply to applicable criminal laws, general incorporation laws or building codes of the States.

Finally, Mr. Speaker, my bill would amend the Internal Revenue Code to grant nonprofit HMO's tax-exempt status under section 501(c)(3). Several of the old line prepaid group practice prototypes already have this tax-exempt status. This is done on the theory that HMO's, with their dramatic savings in hospital utilization, are performing the same functions as a hospital, on an outpatient basis. This tax treatment will make them eligible to receive tax-exempt donations. It will also enable them to attract physicians through the deferred compensation arrangements permitted under the code. Such tax status for nonprofit, federally qualified HMO's will further the congressional purpose of making HMO's a national alternative to the fee-for-service system.

Mr. Speaker, I believe this legislation can help to make available to our citizens a high quality of health care at lower cost both to individuals and to the Government. It can reduce unnecessary utilization of the costliest forms of health care and, at the same time, encourage those citizens who ordinarily would not see a physician regularly to do so.

In my own district, we have seen evidence of the success of this concept. Cuban refugees to our shores brought with them the tradition of "Centros Beneficos," which started out as institutions providing both inpatient and outpatient health care and later expanded to include recreational and educational activities, as well. The "Centros" were the forerunners of the modern HMO.

It is my hope that the Congress will act expeditiously to bring the benefits of economically efficient, available health care to all our people.

CIVIL AERONAUTICS BOARD: THE PROFIT IMPACT TEST AND MARGINAL COSTS

(Mr. MOSS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MOSS. Mr. Speaker, 8 years ago, in 1969, several of my colleagues and I, constituting the group commonly referred to by the airline industry as the "Members of Congress," filed two complaints with the Civil Aeronautics Board which led to the institution of a proceeding known as the domestic passenger fare investigation. See the CONGRESSIONAL RECORD for April 23, 1969, pages 10120–10134, and September 29, 1969, pages 27403–27457.

In these two complaints, and the subsequent proceeding to which we were made a party of record, we requested the Board to establish "load factor" and "dilution" standards to protect the fare-paying public—in particular, the passenger paying the regular full fare—from being charged excessively high fares because of uneconomical or inefficient air carrier operations.

The term "load factor" refers to the percentage of seats offered for sale actually occupied by fare-paying passengers, and "dilution" occurs when passengers occupying those seats use discount fares rather than the regular full fare. To illustrate, if there are 100 seats on an airplane and 60 of those seats are occupied by fare-paying passengers, then the load factor is 60 percent. If there were 50 passengers on the plane, the load factor would be 50 percent, and so on.

The importance of this load factor figure lies in the fact that most airline costs are "capacity costs," and therefore do not vary with the volume of traffic actually transported. As a consequence, the lower the load factor, the greater the cost of service which must be borne by each passenger. For example, if the cost per seat for a given trip is $100, and the load factor is 50 percent, then each passenger must pay $200 per flight if the airline is to be fully reimbursed for rendering its service. On the other hand, if the load factor were 60 percent, then each passenger would only have to pay $166.67 per flight—or $33.33 less—for the same service to similarly fully reimburse the airline.

Naturally, it is to the public's advantage to achieve as high a load factor as possible since this will not only reduce the cost and fare per passenger, but also the amount of fuel consumed. However, it is not always possible to fill planes with passengers paying the regular, full fare since some travelers are more price sensitive than others. Consequently, the airlines frequently offer discount-fares to encourage passengers to use their services and fill otherwise empty seats.

For example, an airline may discover it is only able to find 50 passengers per flight willing to travel at its regular, full fare, but that if it offers a discount of 20 percent, 10 more passengers will show up for each flight. Thus it may establish a regular, full fare of $173, and a discount-fare of $138, to achieve a 60-percent load factor. Such a policy is, of course, to be encouraged since it reduces the regular, full fare, some 13.5 percent in this case—from $200 to $173, as well as the amount of fuel consumed per passenger. However, it should be noted that: First, the discount fares paid by the 10 passengers using those fares will dilute the revenue that would have been received if all passengers had paid the regular, full fare by 3.4 percent, and second, if more than 10 passengers use the discount fares, the dilution will be greater—and if the dilution is greater, then the regular, full fare will have to be higher than $173 per trip if the airline is to be fully reimbursed for rendering its service to the public.

Thus, Mr. Speaker, I believe you and our colleagues can clearly see that these two standards are interrelated, and that any "load factor" standard must be accompanied by a "dilution" standard if passengers paying the regular, full fare are to be protected from uneconomical and inefficient air carrier operations.

In the domestic passenger fare investigation my colleagues and I recommended the adoption of a 60-percent load factor standard and a dilution rate not in excess of 10 to 12 percent for the reasons previously set forth in the RECORD for June 30, 1972, at pages 23847–23851. The CAB, however, rejected our proposal deciding instead to determine regular, full fares on a formula basis that utilized a 55-percent load factor and assumed the discount fares are not part of the fare structure. Since this combination of a 55-percent load factor and a zero dilution rate will produce a fare about 1.8 percent lower than the targeted goal of our recommendation, my colleagues and I naturally deferred to the enlightened judgment of the Board with respect to these two standards. One might say we chose to languish in the fruits of the victory arising from the agony of our two defeats.

There is another part of the discount fare question. It deals with the issue of the added, or "incremental," costs associated with handling discount fare traffic. On this issue we did not acquiesce.

In its 1972 order on discount fares the Board stated it would, first, evaluate all proposed discount fares under the profit-impact test, and second, fix the level of regular, full fares on the basis of the revenues which would be realized and the expenses which would be incurred in the absence of the promotional fares; CAB order 72–12–18, pages 54 and 55. To satisfy the profit-impact test, discount fares must generate sufficient additional traffic revenues to offset the loss of revenue

from the self-diversion of regular, full fare traffic to the lower discount fares plus the added cost of carrying the additional traffic; ibid., page 16. This test is predicated upon the assumption that discount traffic does not affect capacity.

Unfortunately for the traveling public and stockholders of the airlines, the costing estimates of the air carriers were not particularly helpful to the Board in determining the appropriate added cost for the purpose of calculating its profit impact test. As a consequence, the Board decided to estimate the added cost on a "market-price" basis of 30 percent of revenues from generated passengers.

I must interject that my colleagues and I had also urged the agency to adopt the market-price method for allocating discount fare expenses. The Board, however, refused to consider that proposal in a very lengthy footnote, number 27, stating it did not agree with our characterization of those expenses as joint or common costs. Oh, the agony of another defeat.

The reason the Board chose the 30-percent figure to represent added costs is because that number approximates the relationship which its so-called "non-capacity expenses" bear to total revenues, and the CAB considers such costs—which comprise primarily terminal expenses—to be traffic-related. In the Board's view, "traffic-related costs, as opposed to capacity costs, will tend to fluctuate in proportion to traffic changes even during the short-term period as defined herein. Such costs are characterized by a high proportion of labor and other variable costs, on the one hand, and relatively low-fixed costs on the other."

It is upon this latter point which I and my colleagues most emphatically disagree with the Board. While it is true that labor costs constitute the largest proportion of ground handling expenses, it is likewise a fact, as anyone who has passed through an airline terminal several times has observed, that the number of station employees on-duty does not tend to fluctuate in proportion to traffic changes in the short-run.

Indeed, Mr. Speaker, the station managers and industrial engineers of the airlines tell us that such labor does not even vary with traffic in the long-run unless a flight arrival or departure is discontinued at the peak period, or the airline management reduces the service standards, because they must staff for the capacity provided at the peak periods regardless of the total traffic flow. The best that can be said for the Board's position that its noncapacity expenses are traffic-related is, therefore, that the thesis is inaccurate and misleading.

I might add, one of the main reasons we have fought this hypothesis so tenaciously is because of its ability to contaminate and corrupt other theses. For example, just last month the Board used non-capacity expenses as a proxy for short-run marginal costs in disapproving lower advance purchase excursion fares between New York and London; CAB order 77-9-55. Fortunately for the public, the President saw through the ruse and approved the fares.

Setting aside the question of the validity of the Board's proposition to another day, the fact remains that the cost portion of the Board's profit impact test is predicated on its noncapacity expenses. That is their test of lawfulness—not our test, or the test of any other reasonable man, but the Board's test of just and reasonable. Accordingly, taking into consideration the fact that the Board has had complete and total control over its computer program, the making of its nonvariable, and the identification of all additional revenues and added costs associated with discount fares, it does not seem unreasonable or unfair to use the Board's own orders to test the impact of its past actions.

At the time of the discount fare decision in the domestic passenger fare investigation the Board did not establish any methodology for adjusting the fare level to account for excessive use of discount fares. Instead, it stated it would institute a rulemaking procedure for effectuating such a mechanism. That proceeding was never instituted. Rather, 2 years later, without notice or hearing or rulemaking, the Board announced and applied a revised discount fare adjustment and disallowance methodology, and stated that it would shortly issue a notice of proposed rulemaking dealing with the details of the discount fare methodology. To date, that second notice of proposed rulemaking has similarly never been issued. Finally, last January the Board revised the methodology again so as to separate the publication of the disallowed capacity costs and the disallowed noncapacity costs.

As a result of this latest change, we—the public—can now review the success or failure of the Board's past action with respect to discount fares using its profit impact test. We do this by comparing the disallowed discount fare revenues, which represent the additional revenues generated by discount fares, with the disallowed noncapacity costs associated with the discount fare traffic, which supposedly represent all the added costs which would be incurred if no additional capacity were provided.

The results of such a comparison are most disturbing. According to the CAB's latest costing methodology, in the 48 contiguous States the domestic trunk airlines lost—I repeat, lost—an incredible $31 million in net earnings from discount fare traffic for the year ended September 30, 1976; $21 million for the year ended December 31, 1976; and, $18 million plus for the year ended March 31, 1977. Considering that these figures represent losses of 15 to 24 percent on each additional sales dollar, it is clear that in the aggregate the discount fares approved by the CAB do not pass the Board's profit impact test by any stretch of the imagination. In other words, by the Board's definition, the discount fares are in the aggregate unjust since they do not cover the cost of rendering the service.

Fortunately, for our constituents who are airline stockholders, the Board's figures do not reflect a real loss since the calculations are only "hypothetical." However, if those numbers did reflect the true situation, I feel certain several airlines would have to contend with angry stockholders—some of whom would be seeking a change of management. Happily, however, this is not the situation and no one, including the Government officials responsible for this erroneous information, is therefore in danger of losing his position.

Mr. Speaker, there is one other aspect of this question to which I believe I should address myself at this time, and that is simply: How is the CAB able to find an increase in the airlines' rate of return on investment after its discount fare adjustment, if those discount fares do not pass its profit impact test?

The answer is really very simple: Under the CAB's rate of return methodology, every dollar lost on discount fares increase the earnings from regular, full fare traffic. Conversely, if the discount fares did pass the Board's profit impact test, they would reduce the earnings from regular, full fare traffic. Unlike the normal business situation, under the Board's formula profits from discount fare traffic do not reduce the revenue need from regular, full fare passengers but instead increase it.

I think it safe to say, there is something wrong with the Board's marginal cost program.

In all fairness to the Board, I should add there is another disallowance of expenses in the discount fare adjustment which is fair and reasonable, if it is being made correctly. That is the disallowance for excess capacity.

As I noted earlier, discount fares are offered to the public to encourage them to use the airlines services and fill otherwise empty seats. At the present time, by CAB's definition, otherwise empty seats are those in excess of a 55-percent load factor. That is to say, the CAB has determined that airline operations which result in regular, full fare-paying passengers occupying less than 55 percent of the seats are excessive, uneconomical, and inefficient operations, and that the public should not have to bear the burden of such excesses.

For the last year, according to the CAB's calculation which may be subject to similar questions as I have raised here today, the domestic trunk airlines' load factor has been 55 percent including, not excluding, discount fare traffic. Accordingly, the Board should be making some adjustment for this excess capacity which will increase the carriers' rate of return.

Mr. Speaker, I have taken a great deal of this distinguished body's valuable time today to discuss the inaccuracies of just one report, of just one Federal agency. There is no doubt they are serious errors. But more important, the mistakes blithely made in this report for "administrative convenience" are emblematic not only of the quality of work in this Federal agency, but also other regulatory agencies which try so frequently to model their industry in their image of the world, rather than the world as it really is.

I assume the Civil Aeronautics Board will be somewhat embarrassed by the facts which I have stated here today. As a Member of this Congress, I know that I am embarrassed by the quality of their report and waste of this Nation's investment in computers. And as you and our colleagues know so well, Mr. Speaker, it is we—the elected Members of the House and the Senate—who will ultimately be held responsible for the quality of this work and that of the other Federal agencies by the people of this great country.

On the other hand, Mr. Speaker, neither I nor my colleagues have any apology to the electorate. We have tried, time and time again, to get the Board to face reality. We have attempted to get the Board to deal with fact and law in hearings before the Congress, in actions we initiated in the courts, and even in their own agency proceedings. We have gone the last mile, and then some distance beyond.

Mr. Speaker, I will not pretend to know whether what I have said here today will, or will not, motivate the agency, under its distinguished new Chairman's guidance, to begin to mend its way. I do know, however, that regardless of what the Board decides to do, the world will not change—and that until the Board brings its computer programs into conformity with the real world, similar errors to those which I have disclosed here today will continue to haunt the Board, and you and I and our colleagues will continue to be criticized for the poor quality of our Federal agencies' reports.

CIVIL AERONAUTICS BOARD PROFIT IMPACT TEST—DOMESTIC TRUNK INDUSTRY RATE OF RETURN ON INVESTMENT, 48-STATE SCHEDULED PASSENGER SERVICE

[Dollar amounts in thousands]

CAB Order No.	77-1-93	77-5-62	77-8-13
For the 12-mo ended	September 1976	December 1976	March 1977
As adjusted to	Jan. 15, 1977	May 15, 1977	Aug. 15, 1977
Passenger revenues:			
55-percent standard load factor	9,230,608	9,613,047	9,940,238
Removal of all discount fares [1]	9,101,973	9,485,781	9,817,443
Additional revenue generated by discount fares	128,635	127,266	122,795
Noncapacity expenses:			
55-percent standard load factor	3,057,213	3,145,146	3,256,593
Removal of all discount fares [1]	2,896,961	2,996,424	3,114,847
Added costs incurred by generated discount fare traffic	160,252	148,722	141,746
Added profit (loss) attributable to discount fare traffic; "the profit impact test"	(31,617)	(21,456)	(18,951)

[1] Excluding children and military fares.

SOCIAL SECURITY SYSTEM

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PERKINS. Mr. Speaker, the House acted properly yesterday when we refused to do away with separate civil service retirement systems for Federal employees, and the employees of State and local governments as well as school systems. I regret that I was not here for the vote on the last amendment before the House on Wednesday night, but I was unavoidably detained outside the Chamber during the time of the vote. At the same time I realized the Fisher amendment would be adopted overwhelmingly.

Mr. Speaker, we are not going to let the social security system go broke—there is no way that we will let that happen, but we cannot do it by injecting fear about their own retirement into millions of employees who have been working and planning for years and years based on a form of government retirement. I do not believe there is a schoolteacher in Kentucky today who is not rejoicing with relief over the action we took yesterday.

But one additional action is necessary if we are going to do what is right in this matter, and that is sending the bill back to Ways and Means, so that the study provision can be removed. Realistically, there is no need for a study on combining social security and civil service, because it is not going to be done.

So why go ahead with a study when its only result can be to continue to create doubt and worry in the minds of employees of all levels of government? Why go to the expense and the waste of time and the waste of effort, when we know that combining social security and civil service is not what we want to do.

I hope that this House will act realistically today, and vote to send the bill back to committee, so that the study can be dropped from it.

I voted against the rule with a view of offering an amendment to the Fisher amendment that would also have deleted the study. I was prevented from offering this amendment when the close rule was adopted only permitting amendments agreed to before the Committee on Rules.

GENERAL LEAVE

Mr. BEILENSON. Mr. Speaker, I ask unanimous consent that all Members be permitted to extend their remarks and to include therein extraneous material on the subject of the special order speech today by the gentleman from Washington, Mr. BONKER.

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

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MARRIOTT (at the request of Mr. RHODES), for today after 3:30 p.m. and the balance of the week, 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. QUAYLE) to revise and extend their remarks and include extraneous matter:)

Mr. ANDERSON of Illinois, for 10 minutes, today.

Mr. KEMP, for 5 minutes, today.

(The following Members (at the request of Mr. BEILENSON) to revise and extend their remarks and include extraneous material:)

Mr. METCALFE, for 60 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. REUSS, for 5 minutes, today.
Mr. DENT, for 60 minutes, today.
Mr. ST GERMAIN, for 5 minutes, today.
Mr. BONKER, for 10 minutes, today.
Mr. PANETTA, for 5 minutes, today.
Mr. BAUCUS, for 10 minutes, today.
Mrs. COLLINS of Illinois, for 5 minutes, today.
Mr. MITCHELL of Maryland, for 60 minutes, November 1, 1977.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. RHODES, and to include extraneous matter.

Mr. QUIE, to revise and extend his remarks during consideration of the conference report on H.R. 1139 immediately following Mr. PERKINS.

Mr. EDWARDS of California, immediately following the remarks of Mr. BUTLER on H.R. 8200 in the Committee of the Whole today.

(The following Members (at the request of Mr. QUAYLE) and to include extraneous material:)

Mr. FREY.
Mr. WALKER.
Mr. BUTLER.
Mr. PRITCHARD.
Mr. SHUSTER.
Mrs. HOLT.
Mr. ASHBROOK in three instances.
Mr. THONE.
Mr. ABDNOR in two instances.
Mr. DON H. CLAUSEN.

Mr. WHALEN in two instances.
Mr. HOLLENBECK in two instances.
Mr. MCCLORY.
Mr. MICHEL.
Mr. SYMMS in three instances.
Mr. WALSH.
Mr. YOUNG of Florida.
Mr. STEERS.
Mr. EDWARDS of Alabama.
Mr. HAGEDORN.
Mr. GILMAN in two instances.
Mr. SNYDER.
Mr. ANDERSON of Illinois.
Mr. ROUSSELOT.
Mr. LAGOMARSINO.
Mr. KEMP in two instances.

(The following Members (at the request of Mr. BEILENSON) and to include extraneous material:)

Mr. FRASER.
Mr. DENT.
Mr. GONZALEZ in three instances.
Mr. ANDERSON of California in three instances.
Mr. WAXMAN in two instances.
Mr. CLAY.
Mrs. SCHROEDER.
Mr. RICHMOND in two instances.
Mr. JACOBS.
Mr. EDWARDS of California in two instances.
Mr. BINGHAM.
Mr. WOLFF.
Mr. HAMILTON.
Mr. LE FANTE.
Mr. BAUCUS.
Mr. DRINAN.
Mr. NIX.
Mr. LEDERER.
Mr. LUKEN.
Mr. RODINO.
Mr. BEARD of Rhode Island.
Mr. CONYERS.
Mr. AMBRO.
Mr. ROGERS.
Mr. MAGUIRE.
Mrs. SPELLMAN.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2521. An act to provide for the mandatory inspection of domesticated rabbits slaughtered for human food, and for other purposes;

H.R. 2850. An act to suspend until the close of June 30, 1978, the duty on certain latex sheets, and for other purposes;

H.R. 2982. An act to suspend until the close of June 30, 1980, the duty on synthetic tantalum/columbium concentrate, and for other purposes;

H.R. 3259. An act to continue to suspend for a temporary period the import duty on certain horses, and for other purposes; and

H.R. 9090. An act to exempt disaster payments made in connection with the 1977 crops of wheat, feed grains, upland cotton, and rice from the payment limitations contained in the Agriculture Act of 1970 and the Agricultural Act of 1949.

BILL PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, a bill of the House of the following title:

H.R. 5101. To authorize appropriations for activities of the Environmental Protection Agency, and for other purposes.

ADJOURNMENT

Mr. BEILENSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 33 minutes p.m.), the House adjourned until tomorrow, Friday, October 28, 1977, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2607. A letter from the Deputy Secretary of Agriculture, transmitting a draft of proposed legislation to authorize the Secretary of Agriculture to regulate the exportation and transportation of animal semen; to the Committee on Agriculture.

2608. A letter from the General Counsel, U.S. General Accounting Office, transmitting a report on the status of certain budget authority that was proposed, but rejected, for rescission; to the Committee on Appropriations.

2609. A letter from the Acting Director, Office of Management and Budget, Executive Office of the President, transmitting a report on implementation of the recommendations contained in September 30, 1976, report of the National Advisory Committee on Juvenile Justice and Delinquency Prevention on standards for the administration of juvenile justice, pursuant to section 6(b) of the Federal Advisory Committee Act; to the Committee on Government Operations.

2610. A letter from the Acting Administrator of General Services, transmitting a report on the disposal of surplus Federal real property for historic monument purposes during fiscal year 1977, pursuant to section 203(o) of the Federal Property and Administrative Services Act of 1949, as amended; to the Committee on Government Operations.

2611. A letter from the Secretary of Agriculture and the Secretary of the Interior, transmitting a report on fees for livestock grazing on Federal lands in the Western States, pursuant to section 401(a) of the Federal Land Policy and Management Act of 1976; to the Committee on Interior and Insular Affairs.

2612. A letter from the Secretary of Health, Education, and Welfare, transmitting the annual report for 1976 on the National Health Service Corps, pursuant to section 329(g) of the Public Health Service Act, as amended (86 Stat. 1292); to the Committee on Interstate and Foreign Commerce.

2613. A letter from the Comptroller General of the United States, transmitting a report on the need for closer integration between U.S. and NATO military command structures (LCD-77-447, October 26, 1977); jointly, to the Committees on Government Operations, Armed Services, and International Relations.

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. ULLMAN: Committee on Ways and Means. Report on budget allocation of the Committee on Ways and Means on the second budget resolution for fiscal year 1978 (Rept. No. 95-760). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 4458. A bill to amend certain provisions of the Internal Revenue Code of 1954 relating to distilled spirits, and for other purposes; with amendment (Rept. No. 95-761). Referred to the Committee of the Whole House on the State of the Union.

Mr. BEVILL: Committee on Appropriations. House Resolution 851. Resolution disapproving the deferral of certain budget authority (D78-30) relating to the Energy Research and Development Administration, gas cooled thermal reactor program, which is proposed by the President in his message of October 3, 1977, transmitted under section 1013 of the Impoundment Control Act of 1974 (Rept. No. 95-764). Referred to the Committee of the Whole House on the State of the Union.

Mr. BEVILL: Committee on Appropriations. House Resolution 852. Resolution disapproving the deferral of certain budget authority (D78-33) relating to the Energy Research and Development Administration, magnetic fusion energy program—Fusion Material Test Facility, which is proposed by the President in his message of October 3, 1977, transmitted under section 1013 of the Impoundment Control Act of 1974 (Rept. No. 95-765). Referred to the Committee of the Whole House on the State of the Union.

Mr. BEVILL: Committee on Appropriations. House Resolution 853. Resolution disapproving the referral of certain budget authority (D78-34) relating to the Energy Research and Development Administration, magnetic fusion energy program—Intense Neutron Source Facility, which is proposed by the President in his message of October 3, 1977, transmitted under section 1013 of the Impoundment Control Act of 1974 (Rept. No. 95-766). Referred to the Committee of the Whole House on the State of the Union.

Mr. BEVILL: Committee on Appropriations. House Resolution 854. Resolution disapproving the deferral of certain budget authority (D78-35) relating to the Energy Research and Development Administration, high energy physics program—intersecting storage ring accelerator, which is proposed by the President in his message of October 3, 1977, transmitted under section 1013 of the Impoundment Control Act of 1974 (Rept. No. 95-767). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee on Education and Labor. H.R. 3384. A bill to amend the National Labor Relations Act to provide that any employee who is a member of a religion or sect historically holding conscientious objection to joining or financially supporting a labor organization shall not be required to do so (Rept. No. 95-768). Referred to the House Calendar.

Mr. MEEDS: Committee on Rules. House Resolution 872. Resolution providing for the consideration of H.R. 6805. A bill to establish an Agency for Consumer Protection in order to secure within the Federal Government effective protection and representation of the interests of consumers, and for other purposes (Rept. No. 95-770). Referred to the House Calendar.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 9434. A bill to amend the Social Security Act to increase the dollar limitations and Federal medical assistance percentages applicable to the medicaid programs of Puerto Rico, the Virgin Islands, and Guam (Rept. No. 95-771). Referred to the Committee of the Whole House on the State of the Union.

Mr. FOLEY: Committee on Agriculture. H.R. 9704. A bill to amend the Federal Crop

Insurance Act, and for other purposes; with amendment (Rept. No. 95–772). Referred to the Committee of the Whole House on the State of the Union.

Mr. ANDERSON of California: Committee of conference. Conference report on H.R. 6010 (Rept. No. 95–773). Ordered to be printed.

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. HARRIS: Committee on the Judiciary. H.R. 5466. A bill for the relief of Doris Mauri Coonrad (Rept. No. 95–762). Referred to the Committee of the Whole House.

Mr. DANIELSON: Committee on the Judiciary. H.R. 8212. A bill for the relief of Charles P. Bailey (Rept. No. 95–763). Referred to the Committee of the Whole House.

Mr. DANIELSON: Committee on the Judiciary. H.R. 3084. A bill for the relief of Morris and Lenke Gelb; with amendment (Rept. No. 95–769). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDREWS of North Dakota (for himself, Ms. MIKULSKI, Mr. GLICKMAN, Mr. D'AMOURS, and Mr. MCDADE):

H.R. 9772. A bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 to provide persons who own farm operations and businesses with more equitable compensation when they are displaced from such farm operations and businesses by the Federal Government; to the Committee on Public Works and Transportation.

By Mr. BEARD of Rhode Island:

H.R. 9773. A bill to amend the Natural Gas Act to provide that no certificate for the construction or extension of any liquefied natural gas facility may be granted unless the State or States in which such facilities are located have been approved by the affected States; to the Committee on Interstate and Foreign Commerce.

By Mr. BONKER (for himself, Mr. HARRINGTON, Mr. GILMAN, Mr. TSONGAS, and Mr. NIX):

H.R. 9774. A bill to restate the purpose of the Peace Corps, to establish the Peace Corps as a Government foundation, and for other purposes; to the Committee on International Relations.

By Mr. DON H. CLAUSEN:

H.R. 9775. A bill to amend the Federal Aviation Act of 1958, relating to aircraft piracy, to provide a method for combating terrorism, and related purposes; jointly, to the Committees on International Relations, the Judiciary, and Public Works and Transportation.

By Mr. CONTE (for himself, Mr. WINN, Mr. MOAKLEY, Mr. CORCORAN of Illinois, Mr. BOLAND, Mrs. SPELLMAN, Mrs. KEYS, Mrs. LLOYD of Tennessee, Mr. MADIGAN, Mr. EILBERG, Mr. BAUCUS, Mr. COHEN, Mr. RICHMOND, Mrs. CHISHOLM, and Mr. HARRINGTON):

H.R. 9776. A bill to authorize the Commissioner of Education to make grants for teacher training, pilot and demonstration projects, and comprehensive school programs, with respect to health education and health problems; to the Committee on Education and Labor.

By Mr. RODINO:

H.R. 9777. A bill to revise, codify, and enact without substantive change the Interstate Commerce Act and related laws as subtitle IV of title 49, United States Code, "Transportation;" to the Committee on the Judiciary.

H.R. 9778. A bill to amend title 28 of the United States Code to encourage prompt, informal and inexpensive resolution of civil cases by use of arbitration in U.S. district courts, and for other purposes; to the Committee on the Judiciary.

By Mr. FASCELL (for himself, Mr. LUNDINE, and Mr. HOLLENBECK):

H.R. 9779. A bill to require the Office of Management and Budget to provide information on the formulas and assumptions used in the distribution of domestic assistance; to the Committee on Government Operations.

By Mr. GLICKMAN:

H.R. 9780. A bill to assure that the Federal Government protects and serves the interests of consumers, and for other purposes; jointly, to the Committee on Interstate and Foreign Commerce, and the Judiciary.

By Mr. HYDE (for himself, Mr. FITHIAN, and Mr. O'BRIEN):

H.R. 9781. A bill to have an inscription and appropriate medals, ribbons, and tributes placed upon the crypt at the National Cemetery at Arlington, Va., reserved for an American soldier who lost his life in Southeast Asia during the Vietnam era, and whose identity is unknown; to the Committee on Veterans' Affairs.

By Mr. KEMP:

H.R. 9782. A bill to amend section 206 of the Federal Water Pollution Control Act relating to reimbursement for certain publicly owned sewage collection systems; to the Committee on Public Works and Transportation.

By Mr. LAGOMARSINO:

H.R. 9783. A bill to amend section 1652 of title 38, United States Code, to make 1977 graduates of the service academies eligible for educational assistance under the GI bill; to the Committee on Veterans' Affairs.

By Mr. MCHUGH (for himself, Mr. KOCH, Mr. KREBS, Mr. MIKVA, Mr. OTTINGER, Mr. UDALL, Mr. PEPPER, Mr. MINETA, Mr. MCCLOSKEY, Mr. HANNAFORD, Mr. FOWLER, Mr. DAVIS, Mr. DODD, Mr. HOLLAND, Mr. WALSH, Mrs. HECKLER, Mr. BENJAMIN, Mrs. SPELLMAN, Mr. CARR, Mr. NIX, Mr. DOWNEY, Mrs. BURKE of California, Mr. JACOBS, Mr. ROYBAL, and Mr. BEDELL):

H.R. 9784. A bill to provide for adequate supplies of food in cases of emergency, and to reaffirm commitments made by representatives of the United States of America at the 1974 World Food Conference to participate in a system of nationally held and internationally coordinated food reserves; jointly, to the Committees on Agriculture, and International Relations.

By Mr. MITCHELL of Maryland:

H.R. 9785. A bill to provide for the temporary transfer of the hospital ship U.S.S. *Sanctuary* (AH–17) to LIFE International for the purpose of providing health care and related services to developing nations on a nonprofit basis, and to authorize funds for such purposes; jointly, to the Committees on Armed Services, and International Relations.

By Mr. OTTINGER (for himself and Mr. ZEFERETTI):

H.R. 9786. 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.

By Mr. PANETTA:

H.R. 9787. A bill to modify the project for navigation in Santa Cruz Harbor, Santa Cruz, Calif., and to authorize certain studies in connection with such harbor; to the Committee on Public Works and Transportation.

By Mr. PEPPER:

H.R. 9788. A bill to amend the Public Health Service Act to revise the program of assistance for health maintenance organizations, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce, and Ways and Means.

By Mr. SATTERFIELD:

H.R. 9789. A bill to provide for the confidentiality of individually identifiable medical records; jointly, to the Committees on Interstate and Foreign Commerce, and Ways and Means.

By Mr. WHALEN (for himself, Mr. ASHBROOK, and Mr. KETCHUM):

H.R. 9790. A bill to amend the Internal Revenue Code of 1954 to provide that trusts established for the payment of product liability claims and related expenses shall be exempt from income tax, and that a deduction shall be allowed for contributions to such trusts; to the Committee on Ways and Means.

By Mr. WHALEN (for himself and Mr. HYDE):

H.R. 9791. A bill to amend the Internal Revenue Code of 1954 to provide that the first $5,000 of an individual's civil service retirement annuity shall be exempt from income tax; to the Committee on Ways and Means.

By Mr. KEMP (for himself, Mr. ABDNOR, Mr. ARMSTRONG, Mr. ASHBROOK, Mr. DON H. CLAUSEN, Mr. ROBERT W. DANIEL, JR., Mr. DEVINE, Mr. EDWARDS of Alabama, Mr. LEACH, Mr. LLOYD of California, Mrs. LLOYD of Tennessee, Mr. MARLENEE, Mr. MARRIOTT, Mr. MOORHEAD of California, Mr. MOTTL, Mr. PRESSLER, Mr. ROE, Mr. RUNNELS, Mr. RUSSO, Mr. SKUBITZ, Mrs. SMITH of Nebraska, Mr. STANGELAND, Mr. YATRON, and Mr. YOUNG of Alaska):

H.R. 9792. A bill to provide for permanent tax rate reductions for individuals and businesses; to the Committee on Ways and Means.

By Mr. KREBS:

H.R. 9793. A bill to amend the Internal Revenue Code of 1954 to allow any active participant in a retirement plan a deduction for amounts of retirement savings paid by such individual in any taxable year before such individual's retirement rights vest under such plan; to the Committee on Ways and Means.

By Mr. MURPHY of New York (for himself, Mr. LEGGETT, Mr. RUPPE, Mr. DE LA GARZA, and Mr. FORSYTHE):

H.R. 9794. A bill to bring the governing international fishery agreement with Mexico within the purview of the Fishery Conservation Zone Transition Act; to the Committee on Merchant Marine and Fisheries.

By Mr. NEDZI:

H.R. 9795. A bill to authorize the Secretary of the Treasury to designate an Assistant Secretary to serve in his place as a member of the Library of Congress Trust Fund Board; to the Committee on House Administration.

By Mr. ROGERS (for himself, Mr. PREYER, Mr. SCHEUER, Mr. WAXMAN, Mr. MAGUIRE, Mr. MARKEY, Mr. OTTINGER, Mr. WALGREN, Mr. CARTER, Mr. SKUBITZ, Mr. WOLFF, Mr. RODINO, Mr. MANN, Mr. BADILLO, Mr. MURPHY, of Illinois, Mr. RANGEL, Mr. STARK, Mr. ENGLISH, Mr. RAILSBACK, Mr. FREY, Mr. GILMAN, Mr. GUYER, Mr. BIAGGI, and Mr. NEAL):

H.R. 9796. A bill to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 and other laws to meet obligations under the Convention on Psychotropic Substances relating to regulatory controls on the manufacture, distribution, importation, and exportation of psychotropic substances, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ROONEY (for himself, Mr. YATRON, Mr. MURPHY of Pennsylvania, Mr. DENT, Mr. LEDERER, Mr. MURTHA, and Mr. NIX):

H.R. 9797. A bill to authorize the creation of the Energy Corporation of the Northeast and to authorize the Secretary of the Treasury to provide guarantees for the obligations of such corporation and other financial assistance to such corporation; jointly, to the Committees on Interstate and Foreign Commerce, Banking, Finance and Urban Affairs, and the Judiciary.

By Mr. STEERS (for himself and Mr. MOFFETT):

H.R. 9798. A bill to amend the Consumer Product Safety Act to provide that electrical wiring systems shall be considered to be consumer products for purposes of such act; to the Committee on Interstate and Foreign Commerce.

By Mr. BRADEMAS (for himself, Mr. QUIE, Mr. PERKINS, Mr. JEFFORDS, and Mr. THOMPSON):

H.J. Res. 639. Joint resolution to authorize the President to call a White House Conference on the Humanities; to the Committee on Education and Labor.

By Mr. BAUMAN (for himself, Mr. TREEN, Mr. KINDNESS, Mr. HILLIS, Mr. ABDNOR, Mr. KEMP, Mr. TRIBLE, Mr. WINN, Mr. QUIE, Mr. BEDELL, Mr. HUCKABY, Mr. SPENCE, Mr. GLICKMAN, Mrs. SMITH of Nebraska, Mr. JENRETTE, Mr. JONES of North Carolina, and Mr. MCCLOSKEY):

H.J. Res. 640. Joint resolution ordering the President of the United States, the Secretary of Agriculture, and other officials to develop and implement a comprehensive program for foreign sales of American agricultural commodities, in order to protect the welfare of American farmers, and for other purposes; to the Committee on International Relations.

By Mr. ANDREWS of North Dakota (for himself, Mr. BEVILL, Mr. ENGLISH, Mr. FRENZEL, Mr. JENRETTE, Mr. PATTERSON of California, Mr. SIMON, Mrs. SPELLMAN, and Mr. STANGELAND):

H. Con. Res. 389. Concurrent resolution providing that residential telephone subscriber interests, especially those of citizens in rural areas, be protected as competition is permitted in the telecommunications industry; to the Committee on Interstate and Foreign Commerce.

By Mr. DIGGS:

H. Con. Res. 390. Concurrent resolution denouncing the recent acts of repression by the Government of South Africa and calling for an end to certain U.S. Government practices which provide indirect support for the South African Government; jointly to the Committees on Banking, Finance and Urban Affairs, and International Relations.

By Mr. ANDERSON of Illinois (for himself, Mr. ABDNOR, Mr. ARMSTRONG, Mr. AUCOIN, Mr. CARR, Mr. CARTER, Mr. CLEVELAND, Mr. CORCORAN of Illinois, Mr. DERWINSKI, Mr. DOWNEY, Mr. DUNCAN of Tennessee, Mrs. FENWICK, Mr. FINDLEY, Mr. GOODLING, Mr. GRADISON, Mr. GUYER, Mr. HAGEDORN, Mr. HORTON, Mr. HYDE, Mr. KINDNESS, Mr. LAGOMARSINO, Mr. MCCLORY, Mr. MCEWEN, Mr. MCKINNEY, and Mr. MANN):

H. Res. 873. Resolution to establish a select committee to be known as the Select Committee on the Committee System; to the Committee on Rules.

By Mr. ANDERSON of Illinois (for himself, Mr. MARKS, Mr. MITCHELL of New York, Mr. NOLAN, Mr. PANETTA, Mr. PRESSLER, Mr. PRITCHARD, Mr. QUAYLE, Mr. REGULA, Mr. SEBELIUS, Mr. SIMON, Mr. STEERS, Mr. STOCKMAN, Mr. VENTO, Mr. WINN, Mr. EDGAR, and Mr. KRUEGER):

H. Res. 874. Resolution to establish a select committee to be known as the Select Committee on the Committee System; to the Committee on Rules.

By Mr. MANN (for himself, Mr. BAUCUS, Mr. BLANCHARD, Mrs. BOGGS, Mr. BROWN of Ohio, Mr. D'AMOURS, Mr. DANIELSON, Mr. DENT, Mr. DUNCAN of Oregon, Mr. EDWARDS of Alabama, Mr. FORD of Michigan, Mr. HUCKABY, Mr. JONES of Tennessee, Mr. KILDEE, Mr. LEVITAS, Mr. MARLENEE, Mr. MINETA, Mr. MOORE, Mr. PEPPER, Mr. RICHMOND, Mr. ST GERMAIN, Mr. SANTINI, Mr. SAWYER, Mrs. SPELLMAN, and Mr. WHITEHURST):

H. Res. 875. Resolution relative to customs duties on textile, apparel, and fiber products; to the Committee on Ways and Means.

By Mr. METCALFE:

H. Res. 876. Resolution concerning the power of Congress to dispose of U.S. property and territory in the Canal Zone; to the Committee on International Relations.

By Mr. MICHEL (for himself, Mr. RHODES, Mr. ANDERSON of Illinois, Mr. FRENZEL, Mr. BAUMAN, Mr. ARMSTRONG, Mr. STEIGER, Mr. WIGGINS, Mr. GILMAN, Mr. FORSYTHE, Mr. EVANS of Delaware, Mr. YOUNG of Florida, Mr. COUGHLIN, Mr. SARASIN, Mr. MCDADE, Mr. WALKER, Mr. LOTT, Mr. BEARD of Tennessee, Mr. MCKINNEY, Mr. JOHN T. MYERS, Mr. JOHNSON of Colorado, Mr. HYDE, Mr. WINN, Mr. O'BRIEN, and Mr. PRITCHARD):

H. Res. 877. Resolution providing for the House of Representatives to determine with specific guidelines what constitutes an official expense prior to the $5,000 increase of a Member's official expenses allowance; to the Committee on House Administration.

By Mr. RISENHOOVER:

H. Res. 878. Resolution relative to restricting the proposed reorganization of the field and insuring offices of the Department of Housing and Urban Development; to the Committee on Banking, Finance and Urban Affairs.

By Mr. THOMPSON:

H. Res. 879. Resolution authorizing funds for the standing and select committees of the House of Representatives; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BAUCUS:

H.R. 9799. A bill for the relief of F. H. Stoltze Land and Lumber Co., Inc.; to the Committee on the Judiciary.

By Mr. FAUNTROY:

H.R. 9800. A bill for the relief of Jerome S. Wagshal; to the Committee on the Judiciary.

By Mr. HOLLENBECK:

H.R. 9801. A bill for the relief of Mrs. Tsin-Sing Yao Tang; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

311. By the SPEAKER: Petition of the National Conference of Lieutenant Governors, Atlanta, Ga., relative to regional development banks; to the Committee on Banking, Finance and Urban Affairs.

312. Also, petition of the National Conference of Lieutenant Governors, Atlanta, Ga., relative to the rehabilitation of our national rail transportation system; to the Committee on Interstate and Foreign Commerce.

313. Also, petition of the National Conference of Lieutenant Governors, Atlanta, Ga., relative to the outstanding achievements of Senator Hubert H. Humphrey; to the Committee on Post Office and Civil Service.

314. Also, petition of the National Conference of Lieutenant Governors, Atlanta, Ga., relative to providing Federal funds for Science and Technology to meet the needs of the people; to the Committee on Science and Technology.

315. Also, petition of the National Conference of Lieutenant Governors, Atlanta, Ga., relative to recommendations made by the National Food Policy Committee; jointly, to the Committees on Agriculture, and International Relations.

316. Also, petition of the National Conference of Lieutenant Governors, Atlanta, Ga., relative to volunteerism; jointly, to the Committee on Education and Labor, and Post Office and Civil Service.

317. Also, petition of the National Conference of Lieutenant Governors, Atlanta, Ga., relative to attracting foreign investment to the United States; jointly, to the Committees on Interstate and Foreign Commerce, and International Relations.

318. Also, petition of Massachusetts Medical Society, Boston, Mass., relative to national comprehensive health insurance; jointly, to the Committees on Interstate and Foreign Commerce, and Ways and Means.

319. Also, petition of the National Conference of Lieutenant Governors, Atlanta, Ga., relative to acceleration of offshore energy exploration and development; jointly, to the Committees on Merchant Marine and Fisheries, and Interior and Insular Affairs.

320. Also, petition of the National Conference of Lieutenant Governors, Atlanta, Ga., relative to Federal assistance for drought areas; jointly, to the Committees on Agriculture, Interior and Insular Affairs, and Public Works and Transportation.

321. Also, petition of the National Conference of Lieutenant Governors, Atlanta, Ga., relative to a policy statement on older Americans; jointly, to the Committees on Banking, Finance, and Urban Affairs, Education and Labor, Interstate and Foreign Commerce, and Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 8200

By Mr. ERLENBORN:

On page 592, strike Sec. 316, lines 23 through 25.