ular order is being observed. It might be proceeding a little slowly, but the clerk is tallying the vote.

[Laughter.]

The yeas and nays resulted—yeas 7, nays 43, as follows:

[Rollcall Vote No. 386 Leg.]

YEAS—7

Burdick	Hatch	McClure
Byrd, Harry F., Jr.	Hatfield, Mark O.	Melcher
		Proxmire

NAYS—43

Bartlett	Glenn	Lugar
Bayh	Gravel	Matsunaga
Biden	Hansen	Morgan
Byrd, Robert C.	Hart	Moynihan
Case	Hatfield, Paul G.	Packwood
Church	Hathaway	Randolph
Clark	Hayakawa	Riegle
Cranston	Hodges	Sarbanes
Culver	Hollings	Sasser
Danforth	Inouye	Schmitt
DeConcini	Jackson	Schweiker
Dole	Javits	Stevenson
Domenici	Laxalt	Weicker
Eagleton	Leahy	Zorinsky
Garn		

NOT VOTING—50

Abourezk	Haskell	Pell
Allen	Heinz	Percy
Anderson	Helms	Ribicoff
Baker	Huddleston	Roth
Bellmon	Humphrey	Scott
Bentsen	Johnston	Sparkman
Brooke	Kennedy	Stafford
Bumpers	Long	Stennis
Cannon	Magnuson	Stevens
Chafee	Mathias	Stone
Chiles	McGovern	Talmadge
Curtis	McIntyre	Thurmond
Durkin	Metzenbaum	Tower
Eastland	Muskie	Wallop
Ford	Nelson	Williams
Goldwater	Nunn	Young
Griffin	Pearson	

The PRESIDING OFFICER. On this vote, the yeas are 7, the nays are 43. A quorum not being present, the vote is invalid.

The Senator from West Virginia.

RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I move, under the order, that the Senate stand in recess until 9 o'clock tomorrow morning. This means that the first thing tomorrow morning there will be a rollcall vote. It will be automatic.

The motion was agreed to; and at 9:34 p.m., the Senate recessed until Friday, September 22, 1978, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate September 21, 1978:

DEPARTMENT OF STATE

Marshall W. Wiley, of Florida, a Foreign Service officer of class two, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Sultanate of Oman.

DEPARTMENT OF ENERGY

Thomas S. Williamson, Jr., of the District of Columbia, to be Deputy Inspector General of the Department of Energy. (New Position)

HOUSE OF REPRESENTATIVES—*Thursday, September 21, 1978*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. WRIGHT).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, D.C.,
September 21, 1978.

I hereby designate the Honorable JIM WRIGHT to act as Speaker pro tempore for two legislative days.

THOMAS P. O'NEILL, JR.,
Speaker of the House of Representatives.

PRAYER

The Reverend E. Owen Kellum, Jr., First United Methodist Church, Griffin, Ga., offered the following prayer:

Almighty God, who dost hold us to account for the use of all our powers and privileges; grant us the faith to believe in earnest prayer that Thy will may be done in us and in our land.

Our Father, we pray for our Nation that it might strive for its ideals and not be too proud to confess its mistakes.

Let us look with renewed and respectful eyes upon the men and women, the plain, frail men and women, whose daily efforts in these Halls must articulate for us the sound of Thy Word.

Give to them the meekness of wisdom to know that the good laws which are made are not ours to do with as we please but have upon them Thy unassailable majesty; and that when bad laws are made and honored we are flouting Thee.

Let Thy voice answer the monotony of limitless days of dull routine that we may keep our honor and credibility in spite of the overarching demands of the agonies of our times.

Help us to achieve our own best expectations. Nudge us, urge us, teach us with Thy love and Thy patience that Thy spirit may be upon us. For Christ's sake. Amen.

THE JOURNAL

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

Without objection, the Journal stands approved.

There was no objection.

MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Chirdon, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills and a joint resolution of the House of the following titles:

H.R. 12443. An act to amend section 201 (a), 202(c) and 203(a) of the Immigration and Nationality Act, as amended, and to establish a Select Commission on Immigration and Refugee Policy;

H.R. 12508. An act to amend the Immigration and Nationality Act to facilitate the admission into the United States of more than two adopted children, and to provide for the expeditious naturalization of adopted children; and

H.J. Res. 1088. Joint resolution providing financial assistance for the city of New York.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12222) entitled "An act to amend the Foreign Assistance Act of 1961 to authorize development and economic assistance programs for fiscal year 1979, to make certain changes in the authorities of that Act and the Agricultural Trade Development and Assistance Act of 1954, to improve the coordination and administration of United States development-related policies and programs, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12598) entitled "An act to authorize appropriations for fiscal year 1979 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, to make changes in the laws relating to those agencies, to make changes in the foreign service personnel system, to establish policies and responsibilities with respect to science, technology, and American diplomacy, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12936) entitled "An act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1979, and for other purposes," and that the Senate agreed to the House amendments to the Senate amendments Nos. 6, 9, 32, and 42 to the foregoing bill.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to a bill of the House of the following title:

H.R. 11567. An act to amend the Securities Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal years 1979–81, and for other purposes.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 12605. An act to amend the Communications Act of 1934 to extend and improve the provisions of such Act relating to long-term financing for the Corporation for Public Broadcasting and relating to certain grant programs for public telecommunications, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 12605) entitled "An act to amend the Communications Act of 1934 to extend and improve the provisions of such act relating to long-term financing for the Corporation for Public Broadcasting and relating to certain grant programs for public telecommunications, and for other purposes," request a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. CANNON, Mr. HOLLINGS, Mr. MAGNUSON, Mr. GRIFFIN, and Mr. SCHMITT to be the conferees on the part of the Senate.

The message also announced that Mr. PERCY was appointed as an additional conferee on H.R. 6536, to establish an actuarially sound basis for financing retirement benefits for D.C. policemen, firemen, teachers, and judges.

THE REVEREND E. OWEN KELLUM, JR.

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

Mr. FLYNT. Mr. Speaker. it is my pleasure to advise the House that our guest chaplain for today is the Reverend E. Owen Kellum, Jr., minister of my own church, the First United Methodist Church, Griffin, Ga.

Reverend Kellum is a native of Atlanta, Ga., where he attended the public schools. After graduation from North Fullar High School, he entered and graduated from Davidson College, N.C. Thereafter he graduated from Duke Divinity School, Duke University, Durham, N.C. He then received his master's degree in sacred theology at Boston University, Boston, Mass.

He was admitted in full connection to the North Georgia Conference in 1956. His first pastoral assignment was Headland Heights Methodist Church, East Point, Ga. After 7 years in this assignment, he was appointed pastor of the First Methodist Church, Covington, Ga., where he served for 6 years.

In 1970 he was appointed pastor of the Dunwoody United Methodist Church, Atlanta, Ga., where he served for 8 years before being appointed by Bishop William R. Cannon to be minister of the First United Methodist Church, Griffin, Ga.

It is significant to note that of Owen's four assignments within the North Georgia Conference, three have been in churches which are or were in our congressional district.

Reverend Kellum is married to the former Olive Long, the daughter of another outstanding Georgia Methodist preacher, Dr. Nat G. Long. Owen and Olive are the parents of three children, Vera Lynn, a senior at Converse College; Glenn, a sophomore at Davidson College, and Natalie, who is in the ninth grade at Griffin Junior High School, Griffin, Ga.

We in Griffin, Ga., feel very fortunate to have Owen and his fine family as a part of our church and our community. He is not only an excellent preacher but one of the finest men it has ever been my privilege to know. It is my pleasure to have him serve as guest chaplain of the House of Representatives, and I know that you join me in welcoming him here today.

HAPPY BIRTHDAY TO HON. JOHN M. ASHBROOK

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

Mr. BAUMAN. Mr. Speaker, I take this time to inform the House of Representatives of a very happy event in which I am sure all Members will be most interested. I am speaking of a half century of progress which culminates today in the 50th anniversary of the nativity of our colleague from Ohio, JOHN M. ASHBROOK.

Mr. Speaker, it is not often that a conservative reaches such a young age unscathed as has the gentleman from Ohio, JOHN ASHBROOK, but certainly over the years he has gained the reputation not only for political sagacity and parliamentary knowledge, but, like the gentleman from Maryland, has acquired a vast following and has gained great affection here in the House, as I am sure my colleagues will agree.

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

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

Mr. BRADEMAS. Mr. Speaker, I know that our friend and distinguished colleague, the gentleman from New Jersey, FRANK THOMPSON, JR., would be most distressed at having missed this significant moment in the history of our country.

Therefore, Mr. Speaker, I ask unanimous consent, on his behalf, that he have the opportunity to make appropriate comments later.

Mr. BAUMAN. Mr. Speaker, I would say to the distinguished majority whip that a request for exension of remarks for a specific Member is not in order; but knowing of the great love for the gentleman from Ohio (Mr. ASHBROOK), I shall ask for general leave for all Members including the gentleman from Ohio's traveling companion, the distinguished gentleman from New Jersey (Mr. THOMPSON).

GENERAL LEAVE

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on this commemoration of the 50th birthday of the gentleman from Ohio (Mr. ASHBROOK), so that all Members may have the opportunity to wish him a happy birthday.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

CONFERENCE REPORT ON HOUSE CONCURRENT RESOLUTION 683, SECOND CONCURRENT RESOLUTION ON THE BUDGET, FISCAL YEAR 1979

Mr. GIAIMO. Mr. Speaker, pursuant to the order of the House of September 20, 1978, I call up the conference report on the concurrent resolution (H. Con. Res. 683) revising the congressional budget for the U.S. Government for the fiscal year 1979, and ask for its immediate consideration.

The SPEAKER pro tempore. The Clerk will read the conference report.

The Clerk read the conference report.

(For conference report and statement, see proceedings of the House of September 20, 1978.)

The SPEAKER pro tempore. The Chair lays before the House the Senate amendment, which the Clerk will read.

The Clerk read the Senate amendment, as follows:

Strike out all after the resolving clause and insert: That the Congress hereby determines and declares, pursuant to section 310(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1978—

(1) the recommended level of Federal revenues is $477,200,000,000, and the amount by which the aggregate level of Federal revenues should be decreased is $23,400,000,000;

(2) the appropriate level of total new budget authority is $557,700,000,000;

(3) the appropriate level of total budget outlays is $489,500,000,000;

(4) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $42,300,000,000; and

(5) the appropriate level of the public debt is $839,500,000,000, and the amount by which the temporary statutory limit on such debt should accordingly be increased in $41,500,000,000.

SEC. 2. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares, pursuant to section 310 (a) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October 1, 1978, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are as follows:

(1) National Defense (050):

(A) New budget authority, $127,000,000,000;

(B) Outlays, $112,500,000,000.

(2) International Affairs (150):

(A) New budget authority, $12,600,000,000;

(B) Outlays, $7,200,000,000.

(3) General Science, Space, and Technology (250):

(A) New budget authority, $5,200,000,000;

(B) Outlays, $5,000,000,000.

(4) Energy (270):

(A) New budget authority, $8,900,000,000;

(B) Outlays, $8,900,000,000.

(5) Natural Resources and Environment (300):

(A) New budget authority, $13,600,000,000;

(B) Outlays, $11,700,000,000.
(6) Agriculture (350):
(A) New budget authority, $12,200,000,000;
(B) Outlays, $7,200,000,000.
(7) Commerce and Housing Credit (370):
(A) New budget authority, $5,500,000,000;
(B) Outlays, $2,800,000,000.
(8) Transportation (400):
(A) New budget authority, $19,500,000,000;
(B) Outlays, $17,500,000,000.
(9) Community and Regional Development (450):
(A) New budget authority, $8,900,000,000;
(B) Outlays, $9,600,000,000.
(10) Education, Training, Employment, and Social Services (500):
(A) New budget authority, $31,500,000,000;
(B) Outlays, $30,200,000,000.
(11) Health (550):
(A) New budget authoriy, $51,900,000,000;
(B) Outlays, $48,600,000,000.
(12) Income Security (600):
(A) New budget authority, $191,500,000,000;
(B) Outlays, $159,600,000,000.
(13) Veterans Benefits and Services (700):
(A) New budget authority, $20,900,000,000;
(B) Outlays, $20,400,000,000.
(14) Administration of Justice (750):
(A) New budget authority, $4,300,000,000:
(B) Outlays, $4,200,000,000.
(15) General Government (800):
(A) New budget authority, $4,100,000,000;
(B) Outlays, $4,000,000,000.
(16) General Purpose Fiscal Assistance (850):
(A) New budget authority, $8,800,000,000;
(B) Outlays, $8,800,000,000.
(17) Interest (900):
(A) New budget authority, $48,100,000,000;
(B) Outlays, $48,100,000,000.
(18) Allowances (920):
(A) New budget authority, $500,000,000;
(B) Outlays, $500,000,000.
(19) Undistributed Offsetting Receipts (950):
(A) New budget authority, —$17,300,000,000;
(B) Outlays, —$17,300,000,000.

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

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

CALL OF THE HOUSE

Mr. EVANS of Delaware. 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. 810]

Ambro	Daniel, Dan	Hightower
Ammerman	de la Garza	Hillis
Anderson, Ill.	Dellums	Ireland
Andrews, N.C.	Dent	Jenrette
Archer	Derwinski	Kasten
Armstrong	Devine	Kastenmeier
Ashley	Dickinson	Krueger
Beard, R.I.	Diggs	LaFalce
Beilenson	Dingell	Lehman
Boggs	Dodd	Lott
Breaux	Early	McCloskey
Burke, Calif.	Eckhardt	McDonald
Burton, John	Fithian	McHugh
Caputo	Flowers	McKinney
Chappell	Ford, Mich.	Mathis
Chisholm	Fraser	Meeds
Cochran	Garcia	Meyner
Collins, Ill.	Gaydos	Michel
Conable	Gibbons	Mikva
Conyers	Hansen	Milford
Corman	Harrington	Miller, Calif.
Crane	Harsha	Mitchell, Md.
D'Amours	Heckler	Moss
Neal	Roncalio	St Germain
Nichols	Rosenthal	Stark
Nix	Rousselot	Stockman
Patterson	Rudd	Stokes
Pattison	Russo	Teague
Pepper	Santini	Thone
Pike	Sarasin	Tsongas
Pressler	Sawyer	Tucker
Preyer	Scheuer	Van Deerlin
Quie	Shipley	Wiggins
Rahall	Shuster	Wilson, Tex.
Rhodes	Sisk	Wolff
Risenhoover	Skubitz	

The SPEAKER pro tempore. On this rollcall 325 Members have recorded their presence by electronic device, a quorum.

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

PERMISSION FOR SUBCOMMITTEE ON COAST GUARD AND NAVIGATION OF COMMITTEE ON MERCHANT MARINE AND FISHERIES TO SIT TODAY WHILE HOUSE IS IN SESSION

Mr. BIAGGI. Mr. Speaker, I ask unanimous consent that the Subcommittee on Coast Guard and Navigation of the Committee on Merchant Marine and Fisheries may be permitted to hold oversight hearings, purely oversight hearings, today, while the House is in session.

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

There was no objection.

CONFERENCE REPORT ON HOUSE CONCURRENT RESOLUTION 683, SECOND CONCURRENT RESOLUTION ON THE BUDGET, FISCAL YEAR 1979

The SPEAKER pro tempore. The Chair recognizes the gentleman from Connecticut (Mr. GIAIMO).

MOTION OFFERED BY MR. GIAIMO

Mr. GIAIMO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. GIAIMO moves that the House recede from its disagreement to the Senate amendment and to concur therein with an amendment as follows: In lieu of the matter proposed by the Senate, insert the following:

That the Congress hereby determines and declares, pursuant to section 310(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1978:

(1) the recommended level of Federal revenues is $448,700,000,000 and the amount by which the aggregate level of Federal revenues should be decreased is $21,900,000,000;

(2) the appropriate level of total new budget authority is $555,650,000,000;

(3) the appropriate level of total budget outlays is $487,500,000,000;

(4) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $38,800,000,000; and

(5) the appropriate level of the public debt is $836,000,000,000 and the amount by which the temporary statutory limit on such debt should accordingly be increased is $38,000,000,000.

SEC. 2. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares pursuant to section 310(a) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October 1, 1978, the appropriate level of new budget authority and the estimated budget outlays for each major functional category as follows:

(1) National Defense (050):
(A) New budget authority, $127,000,000,000;
(B) Outlays, $112,400,000,000.
(2) International Affairs (150):
(A) New budget authority, $12,600,000,000;
(B) Outlays, $7,100,000,000.
(3) General Science, Space, and Technology (250):
(A) New budget authority, $5,200,000,000;
(B) Outlays, $5,000,000,000.
(4) Energy (270):
(A) New budget authority, $8,700,000,000;
(B) Outlays, $8,100,000,000.
(5) Natural Resources and Environment (300):
(A) New budget authority, $13,300,000,000;
(B) Outlays, $11,500,000,000.
(6) Agriculture (350):
(A) New budget authority, $9,200,000,000
(B) Outlays, $7,500,000,000
(7) Commerce and Housing Credit (370):
(A) New budget authority, $5,500,000,000
(B) Outlays, $2,800,000,000
(8) Transportation (400):
(A) New budget authority, $19,500,000,000
(B) Outlays, $17,300,000,000
(9) Community and Regional Development (450):
(A) New budget authority, $8,900,000,000
(B) Outlays, $9,600,000,000
(10) Education, Training, Employment, and Social Services (500):
(A) New budget authority, $32,900,000,000
(B) Outlays, $30,300,000,000
(11) Health (550):
(A) New budget authority, $52,000,000,000
(B) Outlays, $48,100,000,000
(12) Income Security (600):
(A) New budget authority, $191,800,000,000
(B) Outlays, $159,300,000,000
(13) Veterans Benefits and Services (700):
(A) New budget authority, $21,050,000,000
(B) Outlays, $20,700,000,000
(14) Administration of Justice (750):
(A) New budget authority, $4,300,000,000
(B) Outlays, $4,200,000,000
(15) General Government (800):
(A) New budget authority, $4,100,000,000
(B) Outlays, $4,000,000,000
(16) General Purpose Fiscal Assistance (850):
(A) New budget authority, $8,800,000,000
(B) Outlays, $8,800,000,000
(17) Interest (900):
(A) New budget authority, $48,000,000,000
(B) Outlays, $48,000,000,000
(18) Allowances (920):
(A) New budget authority, $800,000,000
(B) Outlays, $800,000,000
(19) Undistributed Offsetting Receipts (950):
(A) New budget authority, —$18,000,000,000
(B) Outlays, —$18,000,000,000

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

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

The SPEAKER pro tempore. The gentleman from Connecticut (Mr. GIAIMO) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. LATTA) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Connecticut (Mr. GIAIMO).

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

I am proud to bring to the floor the

conference report on the second concurrent budget resolution for fiscal year 1979.

My pride stems from that fact that the conference has brought forth a resolution in which the deficit has been reduced by $1 billion from that passed by this House in August. Moreover, this has been accomplished while allowing for a larger tax reduction than was assumed in the resolution that passed the House.

We provide in this conference report for $448.7 billion in revenues, assuming tax reductions of up to $2 billion more than those which have passed the House. We provide $555.65 billion in budget authority and $487.5 billion in outlays, resulting in a deficit of $38.8 billion—the lowest since 1974. It represents a reduction of $21.8 billion or 36 percent from the deficit proposed by the President's budget in January of this year.

We have labored long and hard in conference to achieve this result. We have managed to hold in our functional totals sufficient provisions to protect programs that are important to the House and to its legislative committees. Before explaining this further, I wish to call the attention of Members to one more achievement of the conference. We have reduced budget authority in the aggregate, by $5.4 billion below our resolution. This bodes well for our efforts to control future spending and bring about a balanced budget soon, perhaps in 2 or 3 years.

When the conference began, it was immediately apparent that the differences between House and Senate were primarily in four areas: Revenues, provision for middle-income student assistance, public works and the across-the-board cuts in appropriations passed by the House, including the percentage cuts and the Michel amendment.

As I have stated, we have assumed a tax cut of $2 billion more than was accommodated by the House's second resolution. This will result in a loss of revenues in the amount of $1.3 billion on a fiscal year basis according to Treasury and the Joint Tax Committee.

The Senate had not assumed any funding for middle-income student assistance in its version of the budget resolution although the body passed an authorization for the program. The House assumed $1.4 billion in budget authority and $100 million in outlays for this program. The House conferees insisted in this matter and the conference report does include adequate funding for MISAA.

With regard to public works, the House resolution assumed $1 billion in budget authority and $100 million in outlays each for labor intensive, or so-called soft, public works and Round 3 of the so-called hard public works. The Senate resolution assumed no spending for either program.

As many of you know, this issue was most difficult to resolve. Each group of conferees remained steadfast in its position. The issue was finally resolved by increasing the budget authority for function 450 beyond that which had been previously agreed to. The House conferees assume and believe that provision has been made for at least $700 million in new budget authority that can be used for public works.

The fourth point of greatest disagreement was the percentage cuts made on the floor of the House to various appropriations bills. The conference report retains the $1 billion Michel cut—the Senate did not assume a comparable reduction—and has distributed it to the appropriate functions. We believe this has been done in a manner that will not impede or disrupt programs endorsed by the House or expected to be endorsed by the House.

The resolution provides funding for a range of programs to meet important national needs. It provides for new initiatives in urban programs, education, energy, and veterans affairs. Here are some major items that enabled us to achieve these results. A recent report from the General Accounting Office with respect to strategic petroleum reserves indicated that the program was experiencing certain technical problems at one of the storage sites. As a result, the Congressional Budget Office assured us that some $600 million in outlays provided for in our resolution would not be spent in fiscal year 1979 because of these problems.

We have accepted the assumption that hospital cost containment will result in some $500 million in savings beyond that foreseen by our resolution.

Legislative progress toward passage of the natural gas bill led the conferees to conclude that we could assume an additional $700 million in estimated Outer Continental Shelf leasing receipts. This estimate was provided by the CBO.

Of course, all this is in addition to the $1 billion in assumed savings through elimination of fraud, waste, and abuse as foreseen by the House in the passage of the Michel amendment.

In short, we have taken into account latest estimates of real program needs, of offsetting receipts, of expenditures, and of the disciplined action on spending bills. The result is one which we all can support.

Finally, let me emphasize the significance of what is being achieved and what this can mean in the future.

We have reduced the deficit some $22.1 billion from the President's budget submitted in January.

We have reduced outlays some $13 billion from those suggested by the President in January.

We have provided for modest, but meaningful, funding of people-oriented programs, including a number of new initiatives.

We have provided for a tax cut that will compensate the citizens and corporations of this country for the ravages of inflation and the increase in payroll taxes. In addition, we have assumed passage of the kind of stimulus that will enhance capital formation in our private sector.

I say to my liberal friends, we are in support of the kinds of programs you hold dear.

I say to my conservative friends, this budget resolution can be embraced as tight and prudent. It is a major step toward a balanced budget.

To my Republican colleagues, I would say the deficit is down from 60.5 to 38.8, and I would think this is sufficient progress to get even the most conservative Members of the House to support the resolution. When you look at the out years I think we can say that it will be balanced in 1980–81.

We can look forward to a balanced budget. We can vote for this budget resolution and point out our accomplishments with pride and satisfaction.

EXPLANATION OF CONFERENCE SUBSTITUTE

050: NATIONAL DEFENSE

Both the House and Senate Second Resolutions contained essentially the same amounts when rounded. There was no disagreement. The Conference substitute provides budget authority of $127.0 billion and outlays of $112.4 billion. This level provides for all completed actions and for the Appropriations Committee expected conference agreement on the major defense appropriations bill, as well as an expected Spring Supplemental for the October 1978 pay raise.

150: INTERNATIONAL AFFAIRS

The Conference substitute provides $12.6 billion in budget authority and $7.1 billion in outlays for International Affairs, an increase of $235 million in budget authority and a decrease of $19 million in outlays from the House resolution.

The Conference substitute would accommodate anticipated conference action on the Foreign Assistance Appropriations Bill.

250: GENERAL SCIENCE, SPACE, AND TECHNOLOGY

The conference substitute provides $5.2 billion in budget authority and $5.0 billion in outlays. This amount is slightly higher than the House resolution in budget authority and reflects conference agreement on appropriations bill affecting this function.

270: ENERGY

The conference substitute provides $8.700 billion in budget authority and $8.100 billion in outlays. This is less than the amounts adopted in the House resolution primarily because of two reasons. First, the conferees assumed that final action on appropriations for the Strategic Petroleum Reserve will provide funding for fiscal year 1979 requirements only, instead of fully funding the first 500 million barrels for storage as assumed in the House resolution. This results in a reduction in budget authority of over a billion dollars. Second, the conferees agreed to a downward adjustment of outlays for the petroleum reserve. This reestimate was provided by the Congressional Budget Office (CBO) after the House and Senate adopted their versions of the Second Budget Resolution. This reestimate of over $600 million in outlays reflects anticipated slippage in spending primarily because of technical problems with one of the storage sites. A recent GAO report addressed these problems.

For all other energy programs, the Conference substitute is approximately $200 million above the House resolution primarily to accommodate some of the items proposed by the Senate.

300: NATURAL RESOURCES AND ENVIRONMENT

The Conference substitute provides $13.-600 billion in budget authority and $11.700 billion in outlays. While this amount is $337 million in budget authority and $120 million in outlays above the House resolution, it is $300 million in budget authority and $200 million in outlays below the amounts in the Senate resolution. In essence, the substitute maintains the policy assumptions adopted in the House resolution, but adjusts the amounts to conform to the conference agreements on appropriations bill affecting the various programs in this functional category.

350: AGRICULTURE

The Conference substitute provides $9.2 billion in budget authority and $7.5 billion in outlays. This is a reduction of $3.025 billion in budget authority from the House passed resolution to reflect the conferees' lower estimate of additional new borrowing or contract authority required by the Commodity Credit Corporation. This amount for the Commodity Credit Corporation is $2.0 billion over the $20.0 billion level requested by the President and should be sufficient to implement anticipated agricultural programs. In outlays, the reduction of $128 million from the House passed resolution reflects a lower estimate of grain purchases in the international grain reserve. The $300 million assumed in the Conference agreement for the international grain reserve should be sufficient to purchase an additional 100 million bushels or 3 million metric tons of wheat.

370: COMMERCE AND HOUSING CREDIT

The Conference substitute provides $5.500 billion in budget authority and $2.800 billion in outlays for function 370, Commerce and Housing Credit. These amounts compare to $5.551 billion in budget auhority and $3.814 billion in outlays provided in the House resolution. The Conference substitute is due to rounding.

400: TRANSPORTATION

The Conference substitute provides $19.500 billion in budget authority and $17.300 billion for outlays. These amounts compare to the $19.451 billion in budget authority and the $17.063 billion in outlays provided in the House resolution. These amounts should provide adequate funding for our overall national transportation needs.

450: COMMUNITY AND REGIONAL DEVELOPMENT

The Conference substitute provides $8.900 billion in budget authority and $9.600 billion in outlays. These amounts compare to $10.-327 billion in budget authority and $9.474 billion in outlays provided in the House resolution. The major change involves funds assumed for public works assistance. The House conferees assume that within the amount provided, $700 million in budget authority will be available for public works programs.

Further, the House conferees are agreed that the amounts provided for disaster assistance programs should be adequate to fund real needs during fiscal year 1979 at the levels already appropriated—$200 million in Presidential grants and $230 million additional capitalization for the SBA disaster loan fund. A more rational and cost-conscious disaster assistance program is a necessity. The Executive Branch and the legislative committees should revise disaster assistance programs to bring their costs under control and ensure that benefits go only to those in real need.

500: EDUCATION, TRAINING, EMPLOYMENT AND SOCIAL SERVICES

The House resolution provided budget authority of $33.887 billion and outlays of $31.-111 billion. The Senate amendment provided budget authority of $31.5 billion and outlays of $30.2 billion. The Conference substitute provides budget authority of $32.9 billion and outlays of $30.3 billion.

The Conference substitute provides sufficient flexibility to accommodate the House middle-income student tuition assistance program.

In view of improved overall unemployment rates, the Conference substitute recognizes the reduced need for CETA public service jobs for the temporarily unemployed and therefore assumes a phase-down in the number of these jobs. Increased emphasis is placed on private sector employment initiatives and employment programs for youth.

The Conference substitute reflects the expectation that increases over fiscal year 1978 program levels are not likely to occur until mid-fiscal year 1979 because of delays in authorizations and appropriations. In other words, newly authorized and reauthorized programs which will not be funded until passage of a supplemental appropriations bill will require less budget authority and outlays to fund programs will only operate for six months of fiscal year 1979.

550: HEALTH

The Conference substitute provides $52.0 billion in budget authority and $48.1 billion in outlays. These totals represent a reduction of $0.158 billion in budget authority and $1.198 billion in outlays from the House resolution.

The major changes from the House resolution are as follows:

The House resolution included savings of $1 billion in budget authority and outlays in the allowance function (function 920) reflecting the impact of the Michel amendment to the Labor-HEW appropriations bill. The Conference substitute retains the outlay savings but allocates them among the specific functions which would be affected by the Michel amendment. The outlay savings assumed in the Health function are $0.600 billion, divided equally between the medicaid and medicare programs.

The House resolution also included savings of $0.2 billion in outlays in the medicare program resulting from the voluntary efforts of hospitals to contain the increase in hospital costs. The House resolution assumed that the failure of the House to enact legislation instituting mandatory cost controls in the event the hospitals' voluntary efforts were to fail would reduce in the incentive for hospitals to control costs. The Conference substitute assumes savings of $0.7 billion in the medicare program based on the expectation that the voluntary efforts by hospitals to reduce the annual rate of increase in hospital costs to 11.6 percent by December 1979 essentially will be successful.

Finally, the House resolution provided $0.3 billion in budget authority and outlays for benefit improvements to the medicaid program which would expand coverage of children and low-income pregnant women. The Conference substitute provides $0.2 billion in budget authority and outlays for these initiatives based on the assumption that the final legislation would be somewhat more modest than the bill reported in the House and/or that enactment of the legislation will be delayed.

The following table provides a more detailed comparison of the House resolution and the Conference substitute as well as a distribution of budget authority and outlays for the Health function in the First Budget Resolution.

FUNCTION 550: HEALTH—COMPARISON OF 1ST AND 2D BUDGET RESOLUTIONS, FISCAL YEAR 1979

[In millions of dollars]

Programs	1st budget resolution		House-passed 2d budget resolution		Conference agreement 2d budget resolution		Difference: 2d budget resolution over 1st budget resolution	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
Medicare—Current law	31,900	30,048	31,648	29,598	31,650	29,598	−250	−450
Savings from voluntary effort to constrain hospital costs				−200		−680		−680
Savings from reduction in waste, fraud, and abuse (Michel amendment)						−300		−300
Proposed legislation:								
Hospital cost containment		−730						+730
Other program changes		+82		+82		+82		
Loss of receipts resulting from social security tax reduction	−7,500		−5,400				+7,500	
General fund appropriation to offset loss in tax receipts	+7,500		+5,400				−7,500	
Subtotal (Medicare)	31,900	29,400	31,648	29,480	31,650	28,700	−250	−700
Medicaid—Current law	11,515	11,515	11,515	[1] 11,202	[1] 11,200	[1] 11,200	−315	−315
Savings from reduction in waste, fraud, and abuse (Michel amendment)						−300		−300
Proposed legislation:								
Hospital cost containment	−85	−85					+85	+85
Other program changes	+270	+270		+310	+200	+200	−70	−70
Subtotal (medicaid)	11,700	11,700	11,515	11,512	11,400	11,100	−300	−600
Discretionary Health Programs	8,950	8,400	8,995	8,306	8,950	8,300		−100
Total: Health	52,550	49,500	52,158	49,298	52,000	48,100	−550	−1,400

[1] Includes offsetting savings of $50,000,000 resulting from H.R. 10173, Veterans and Survivors Pension Improvement Act and additional costs of $30,000,000 resulting from H.R. 12972, supplemental security income program amendments.

FUNCTION 600: INCOME SECURITY

The Conference substitute provides $191.8 billion in budget authority and $159.3 billion in outlays, or a reduction of $0.3 billion in budget authority and $0.350 billion in outlays below the House resolution.

These totals include the following changes from the House resolution:

The House resolution included savings of $1.0 billion in budget authority and outlays, in the allowances function, reflecting the impact of the Michel amendment to the Labor-HEW appropriations bill. The Conference substitute retains the outlays savings but allocates them among the specific functions which will be affected. The outlay savings assumed in the income security function are $300 million.

Two, the House resolution included the funding for subsidized housing in the House-passed HUD-Independent Agencies appropriations bill. The Conference substitute accommodates the Appropriations conference agreement of this bill and reduces budget authority by $250 million.

Three, the Senate resolution included $0.5 billion for entitlement legislation under the jurisdiction of the Senate Finance Committee, and the House resolution included $0.7 billion for entitlement legislation under the jurisdiction of the Committee on Ways and Means. The estimate in the Senate resolution was intended to accommodate an expansion of the earned income tax credit. The estimate in the House resolution accommodated the following:

Bill and status

[In millions of dollars]

	Budget authority/ outlays
Passed House:	
Public Assistance Amendments of 1977 (H.R. 7200)	153
Elimination of work disincentives under SSI program (H.R. 12972)	84
Adjustment assistant for workers and firms (H.R. 11711)	149
Reported:	
Fiscal relief (H.R. 13335)	331
Total	717

The Conference substitute includes $0.6 billion for entitlement legislation. This amount will accommodate the bills assumed in the House resolution because it is likely that there will be some delays in implementing several of these bills. However, because of the immediate spendout of legislation, such as H.R. 13335, the full cost of this Fiscal Relief Bill is assumed.

The Conference substitute does not accommodate enactment of both the expansion of the earned income tax credit assumed in the Senate resolution and enactment of the bills assumed in the House resolution.

The following adjustments also were made to the House resolution estimates:

Inclusion of $80 million to finance the October 1978 Pay Raise for Employees of the Social Security Administration.

Savings of $13 million in budget authority and outlays reflecting a Senate Floor Amendment to the Child Nutrition Amendments of 1978 (S. 3085), which delayed the effective date of a provision to change the reimbursement rate for commodities.

Inclusion of $21 million in budget authority and outlays, reflecting the estimate of the cost to extend the Southeast Asia Refugee Program which was included in the OMB Mid-Year Estimates.

Addition of $9 million in budget authority and outlays to accommodate S. 666, a bill to provide early retirement to Non-Indian employees of the Indian Health Service and Bureau of Indian Affairs.

The following table provides more detail on the House Budget Committee's allocation of the Conference substitute for Function 600, Income Security:

FUNCTION 600: INCOME SECURITY

[In millions of dollars]

Subfunctions and programs	Fiscal year 1979 1st budget resolution		Fiscal year 1979 OMB mid-year review		House-passed fiscal year 1979 2d budget resolution		House Budget Committee allocation of conference agreement on 2d budget resolution	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
General retirement/disability:								
Social security	101,763	103,528	101,066	103,089	101,361	103,032	101,361	103,112
Proposed legislation		−150		−334				
Railroad retirement	3,928	4,262	3,992	4,290	3,992	4,290	4,003	4,267
Rejected proposed legislation	50							
Special benefits to disabled coal miners	1,423	1,404	1,531	1,321	1,546	1,378	1,546	1,378
Other	5	5	6	6	5	5	5	5
Proposed legislation	1	1						
Subtotal: 601	(107,170)	(109,050)	(106,594)	(108,372)	(106,903)	(108,705)	(106,915)	(108,762)
Federal employee retirement	20,302	12,030	19,732	12,061	20,257	12,051	20,257	12,051
Proposed legislation	18	13	4		1		10	9
Subtotal: 602	(20,320)	(12,043)	(19,736)	(12,061)	(20,258)	(12,051)	(20,267)	(12,060)
Unemployment insurance	16,475	11,071	15,327	11,127	15,427	10,355	15,427	10,355
Proposed legislation	92	92			149	149	[1] 149	[1] 149
Subtotal: 603	(16,567)	(11,163)	(15,327)	(11,127)	(15,576)	(10,504)	(15,576)	(10,504)
Public assistance and other:								
Supplemental security income (SSI)	5,617	5,511	5,558	5,482	5,558	5,455	5,558	5,455
Proposed legislation	139	139			223	223	[1] 223	[1] 223
Aid to families with dependent children (AFDC)	6,667	6,667	6,823	6,810	6,663	6,748	6,663	6,748
Proposed legislation	−105	−105	23	23	14	14	[1] 14	[1] 14
Housing assistance	25,519	4,359	25,519	4,369	25,585	4,438	25,335	4,431
Proposed legislation	74	52	74	30				
Food stamps	5,779	5,949	5,779	5,825	5,779	6,042	5,779	6,042
Anticipated supplemental					143	143	143	143
School lunch; child nutrition	3,780	3,796	3,681	3,556	3,788	3,754	3,788	3,754
Proposed legislation	−93	−109	−205	−204	18	18	5	5
Anticipated supplemental					96		96	
Refugee assistance	148	166	148	166	148	166	148	166
Proposed legislation			21	21			21	21
Proposed energy legislation			926	926				
Earned income tax credit (EITC)	900	900	841	841	841	841	841	841
Fiscal relief (public assistance)	400	400			331	331	331	331
Other	217	219	217	218	215	217	215	217
Subtotal: 604	(49,042)	(27,944)	(49,405)	(28,063)	(49,402)	(28,390)	(49,160)	(28,392)
Ways and means legislation							[1] −117	[1] −117
Savings from Michel amendment								−300
Offsetting receipts	−1	−1	−1	−1	−1	−1	−1	−1
Grand total	193,100	160,200	191,061	150,622	192,139	159,650	191,800	159,300

[1] The House assumes unspecified savings of $117,000,000 from delayed implementation of certain legislative initiatives under the jurisdiction of the Ways and Means Committee.

700: VETERANS BENEFITS AND SERVICES

The Conference substitute provides $21.05 billion in budget authority and $20.7 billion in outlays for veterans programs. These amounts include reductions of about $200 million from the House-passed function totals. The reductions reflect the conference agreement on HUD and Independent Agencies appropriations, which provides somewhat lower levels than House-passed appropriations. The reductions also reflect the fact that lesser amounts will be required for new initiatives on which House committee action is pending, since the new fiscal year is about to begin.

The Conference substitute fully accommodates all House-passed and reported new entitlement initiatives, including pension reform; accommodates the HUD and Independent Agencies appropriations conference agreement; and provides additional new entitlement authority to the Veterans' Affairs Committee to complete its legislative programs.

750: ADMINISTRATION OF JUSTICE

The Conference substitute provides $4,300 billion in budget authority and $4.200 billion in outlays. The House resolution provided $4.163 billion in budget authority and $4.173 billion in outlays for these activities. The Conference substitute represents rounding to the nearest $100 million, plus an allowance for the pending legislation on Federal judges.

800: GENERAL GOVERNMENT

The Conference substitute provides $4.100 billion in budget authority and $4.000 billion in outlays. These amounts are rounded from the House resolution amounts of $4.098 billion in budget authority and $4.035 billion in outlays.

850: GENERAL PURPOSE FISCAL ASSISTANCE

The Conference substitute provides $8.800 billion in budget authority and outlays. These amounts compare to $8.931 billion in budget authority and $8.959 billion in outlays provided in the House resolution. These amounts assume funding for the proposed Supplementary Fiscal Assistance program at $550 million in budget authority and outlays,

a level which should be sufficient to fund this legislative initiative in fiscal year 1979.

900: INTEREST

The Conference substitute provides $48.000 billion in budget authority and $48.000 billion in outlays. These are the amounts contained in the House resolution.

920: ALLOWANCES

The Conference substitute provides $800 million in budget authority and $800 million in outlays. These amounts compare to —$1,087 million in budget authority and —$743 million in outlays provided in the House resolution.

The Conference substitute distributes to the appropriate functions the savings assumed in the House resolution as a result of across-the-board cuts in several appropriations bills and the Michel amendment on fraud, waste, and abuse in HEW programs. Funds remaining in the function are those assumed to fund the 5.5 percent pay increase for employees of civilian agencies after estimated savings from absorption of a portion of the gross pay-raise costs. The Conference substitute continues to assume enactment of legislation to reform the blue-collar wage-setting system.

950: UNDISTRIBUTED OFFSETTING RECEIPTS

The Conference substitute provides $—18,000 million in budget authority and outlays. These amounts compare to $—17,163 million in budget authority and outlays provided in the House resolution. The major differences are in estimated royalty and rental receipts from production of oil and gas on the Outer Continental Shelf and correction of an error in estimating the effect of pending legislation to revise the method of leasing on the Outer Continental Shelf.

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

Mr. GIAIMO. I yield to the gentleman from Pennsylvania.

Mr. COUGHLIN. Mr. Speaker, may I ask the distinguished chairman, am I correct in understanding there is $500 million in this budget resolution to cover a possibility of tuition tax credits?

Mr. GIAIMO. We have provisions in the revenue section of this which would cover the tuition tax credit.

Mr. COUGHLIN. Is there $500 million in the revenue section to cover that?

Mr. GIAIMO. Is there $500 million? As I understand it, there is. Bear in mind that these are estimates of what is available to the tax-writing committees. In the composition and makeup of the tax cut, there is a package of many things, one of which is tuition tax credit, and then energy legislation, Americans living abroad, and others. In the totality of that it is our firm belief that we are protected, that there is enough to protect the tuition tax credit.

Mr. COUGHLIN. Could I ask the distinguished chairman how much there is in terms of the estimate?

Could I ask the distinguished chairman, how much is in the estimate for the tuition tax credit which is included?

Mr. GIAIMO. We have an estimate, and bear in mind we are not a line item committee, we are not writing the tax bills, we are making assumptions in arriving at the total tax figure, and we are making assumptions on what the tax-writing committees are going to do. Our assumptions are based on the fact that we think they are going to need $700 million for tuition tax credit.

Mr. COUGHLIN. I thank the distinguished chairman. This was voted on in the House so it is a matter of record.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Ohio (Mr. LATTA).

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

Mr. Speaker, this is the final opportunity the 95th Congress will have to shape our country's economic future for fiscal year 1979. Since being seated in January 1977, this Congress has revised the fiscal year 1977 budget, and written new budgets for the succeeding 2 years. I have served on the Budget Committee for all 4 years of its existence and am deeply saddened today to state that none of the meaningful reductions the budget process was to have brought to the Congress have ever materialized. Rather than making meaningful reductions in Federal spending, the budget process has been little more than a minor inconvenience to the forces of big spending and high taxes which have controlled the Congress without exception for the past 24 years. It could, and should do more. During the 95th Congress—a period marked by strong economic expansion—we have seen the national debt climb by over $200 billion. Taxes have gone from 18.6 percent of the gross national product in 1976 to 19.8 percent in 1979. Three fiscal years will have passed without a net tax reduction and—as a result—the Federal income tax burden will have risen 15 percent in the short space of three budgets. Yet even with this record high tax increase, we are still not in sight of a balanced budget. Is it any wonder that today's economic headlines report that inflation was 11 percent for the second quarter and the dollar's value is at an all-time low compared to European and Japanese currencies.

Our repeated efforts to introduce meaningful budget discipline to slow spending growth by establishing total spending ceilings before taking up the individual functional categories have been defeated by the big spenders who fear their pet programs could not stand the sort of close scrutiny this approach would require. As a result, the budget we have before us is little different from what we would have had without a budget process altogether. Rather than boast about how the deficit is lower than that projected last January by President Carter, I would remind my colleagues that the $38.8 billion deficit now before you compares very poorly with the $9 billion surplus we could have had if this Congress had shown some courage and followed the budget blueprint laid out by President Ford when he submitted his budget for fiscal year 1977. Because we did not do that, we are now faced with trying to put the best face on double digit inflation and a budget mired deep in red ink.

It is for these reasons, Mr. Speaker, that I continue to oppose the second budget resolution for fiscal year 1979 and want to warn my colleagues who may be considering an "aye" vote that they should not be misled by appearances. True, the bill that came out of conference is an improvement over what went in, but only slightly. A lot of cosmetics have been applied to this budget resolution, but beneath the prettied-up surface it increases the public debt to $836 billion and gives us a deficit of $38.8 billion for fiscal year 1979.

In January 1978, President Carter proposed a budget with a deficit of almost $61 billion. Now the majority members of the Budget Committee tell us, by their figures, they have reduced that deficit to less than $39 billion. However, I feel I must clarify something that the majority members prefer to pass over quickly; namely, the methods they have used for cutting that deficit. In short, they have reduced the deficit figure by two methods—by letting taxes rise due to inflation, thereby increasing Government revenues, and by incorporating reestimates of the rates of Government spending, which are proving to be lower than anticipated.

That the majority has not cut back on the single most important determinant of future spending; namely, budget authority, is shown by the fact that they have allowed an increase of more than 11 percent over the current fiscal year. This figure of $555.7 billion in budget authority will thus provide an average annual increase over the last 3 fiscal years of more than 11 percent. This enormous increase will provide the Government with almost $1.2 trillion—or about half of our gross national product—in total available spending authority. With regard to the outlay estimates, we should stress the fact they are only that—estimates. In truth, there is little the Congress can do to control the rate of spending once funds are appropriated to Federal agencies. Thus, we can only sit on the sidelines and hope that we will curtail unnecessary spending.

In addition to the majority's wishful approach on spending, the majority would lower the deficit by letting taxes rise to an unprecedented high level. In fact, the net tax increase totals $13.2 billion. Consequently, when we hear the majority's rhetoric about balanced budgets, fiscal restraint, and shrinkage of the deficit, we should keep in mind that they are merely talking conservatively, as the voters now demand, but in reality have not deviated from their tax and spend philosophy.

I hear my Democrat colleagues talk about how high taxes and high inflation. Instead of doing something about them, the majority proposes a budget resolution which would actually cause taxes to go up by $13 billion next fiscal year and force the Government to borrow about $40 billion more than it takes in to stay afloat. It would finance today's extravagances through higher inflation and by giving generations yet unborn a good share of the bill.

Typical of the majority's refusal to cut spending is the disagreement which tied up the budget conference for more than a week. The Senate, to its credit, wanted to eliminate funding for more accelerated public works and the so-called soft-public-works programs. The House proposal would have authorized $6 billion of public works over the next 2 years, as much as was provided in so-called economic stimulus during the depth of the recession. Ostensibly, the program would relieve hard-core, inner-city unemployment, but I find this hard to believe. Only one-sixth of the jobs would go to

the hard-core unemployed, and at a cost running between $17,000 and $175,000 per job. Obviously, such a program is unnecessarily costly, especially when you recall the size of the Federal deficit versus the combined surplus of State and local governments.

Moreover, the additional pork-barrel spending would be highly inflationary, since all the economic indicators clearly argue against further Federal stimulus to the construction industry. Construction employment is at record levels; construction unemployment has dropped to levels reached in only 11 months out of the last 8 years. With public construction already at high levels, demand for some basic construction materials is exceeding current supply.

For example, the prices of the following materials have increased dramatically over the period July 1977 to July 1978:

The cost of lumber has increased 15.7 percent.

Plywood: 9.2 percent.

Portland cement: 9 percent.

Concrete products: 11.1 percent.

Asphalt roofing: 16 percent.

Gypsum: 25.4 percent.

Obviously, then, the Senate conferees had the economic facts to back up their refusal to fund these new spending programs, and the entire Senate voted 63 to 21 not to provide new money in next year's budget for these prime examples of unneeded political pork. Yet the House insisted that we throw good money after bad and held out for more public works money. The compromise was to fudge it and have it both ways: the Senate continues to claim that $700 million added to this budget in function 450 is for natural disaster relief while the House says that the same $700 million is for man-made disasters, namely public works. Let us not fool ourselves: that $700 million will be spent twice, once for the legitimate purpose of aiding victims of natural disasters as the Senate provides for, but then a second time for wasteful and unnecessary pork-barrel public works programs favored by the majority House conferees.

The present situation could have been avoided. During the 1979 budget cycle, the minority members offered alternatives which, had they not been so partisanly opposed by the House leadership, would have passed. First, a Republican substitute budget resolution sponsored by one of the committee members, Mrs. HOLT of Maryland, was defeated on the grounds that it contained too big a tax cut. It turns out that if we had adopted the level of spending contained in this conference report, and refused to reprogram the savings which have come to us in the form of spending shortfalls, then we could have restrained the aggregate level of spending at the level proposed by Mrs. HOLT—namely $480 billion. Instead, the majority has decided to reprogram the funds, thereby increasing the deficit and increasing the rate of inflation. And still the Members of the House do not seem to grasp the reasons causing their constituents to complain about excessive taxation, runaway government spending, and a crippling rate of inflation.

The Republican amendment offered by Mrs. HOLT was part of a 5-year Republican plan to balance the budget and reduce taxes. The Republican plan aimed to reduce inflation and cut deficit spending by slowing the rate of increase in Federal spending to 7 percent. The Republican plan also aimed to bring taxes back from their currently inflated, record-high levels to 18.6 percent of GNP—the ratio they were at when President Ford left office. On the other hand, the Democrat budget increases spending by 11 percent, and continues the country down a fiscal path where—in 5 year's time—the budget would still be in deficit and the tax burden would be a record-high 22 percent of GNP.

Subsequent to the defeat of this Republican alternative budget by only five votes on the House floor, I put forth an amendment which would have split the difference between Mrs. HOLT's amendment and that supported by the Budget Committee majority. It would have reduced the budget deficit to below $30 billion while still providing for a 7-percent growth in Federal outlays—or $480 billion—and a 7-percent increase in budget authority—or $539 billion. While I did not approve of even this lower deficit proposed in my amendment, I offered it in the spirit of compromise. It would have reduced the public debt to $828 billion from the $836 in this conference agreement. It was rejected by only six votes. Given the treatment the minority has suffered at the hands of the House leadership, it should come as no surprise that budget resolutions do not enjoy bipartisan support.

Now a lot of you may think you can keep the interest groups happy on the one hand and still manage to convince the voters you are cutting out wasteful Federal spending and reducing taxes. The truth of the matter is that once and for all we have to choose between the taxpayers and the interest groups. This resolution makes the wrong choice. I am for the taxpayer and reduced spending. Therefore, I urge defeat of this resolution.

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

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

Mr. JACOBS. I thank the gentleman for yielding.

I simply want to say for the record that I have costed out the Kemp-Roth tax proposal and have concluded that that proposal calls for increased Federal spending, to wit: in 3 years it will subtract and cause a $112 billion additon to the national debt every year. That will call for increased Federal spending of $7.8 billion a year.

I thank the gentleman for yielding.

Mr. LATTA. I am happy to yield to the gentleman. I thank the gentleman for his comments, even though I was not discussing Kemp-Roth.

Mr. GIAIMO. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. BURLESON) for purposes of debate only.

Mr. BURLESON of Texas. Mr. Speaker, this conference report does not and could not please everyone. It does not please anyone. I could embrace the views—many of them—of the gentleman from Ohio (Mr. LATTA) from purely a fiscal standpoint, but this is more than that: it is a process. It really is just beginning to have a chance to work. Incidentally, it seems to me that these efforts should have, as much as anything that ever comes before this body, have bipartisan support. Surely, we can take the nuts and bolts, and the square pegs and the square holes and the round pegs and the round holes, and move them around in sort of a puzzle, but finally it comes down, I would repeat, to the process which in my judgment, needs to be preserved.

It is one of these things that is not as good as it should be, not as good as we want it to be, but it is a lot better than it used to be. Given a chance, I think we can get some handles on our fiscal affairs.

In leaving this Congress at the end of this year, I am going to be sitting back and looking at this procedure, as well as some of the others. I may be writing some letters to some of you and saying, "What are you guys doing up there?" just like many do now. It is important to try, and we have tried to bring some order to our fiscal affairs and there is opportunity to greatly improve in the future. Thinking back to other attempts back in 1949, and in the 1950's, we tried to have a consolidated appropriation, everything in one package; it did not work, but this is working and it can be made to work.

I think this is the greatest hope that the country can view as an effort to finally get a balanced budget and to get on a pay-as-we-go basis; to restore a confidence in this Nation that we can govern ourselves and run the business of the country more efficiently than has been the case in the past.

For that reason, I signed this conference report with enthusiasm, really, not because I want to see a $38.8 billion deficit, not because I want to see some of these other spending programs referred to by my friend, the gentleman from Ohio, but because it is better than anything that we have produced yet.

With this experience, since 1974 when we started this process, we have come quite a way by comparsion. The gentleman from Oregon (Mr. ULLMAN) was the first Budget chairman and performed admirably in getting this thing on track, and then our former colleague, Brock Adams, became Chairman and continued to ably lead the Budget Committee and the House toward the goals to which we committed ourselves in 1974. Our present chairman, the gentleman from Connecticut (Mr. GIAIMO) is trying so hard. It is a tremendous effort. I compliment all three of them and the fine staff who is able to advise them; so I hope that my colleagues will support this resolution and look forward to better ones in the future.

The SPEAKER pro tempore. The time of the gentleman from Texas has expired.

Mr. GIAIMO. Mr. Speaker, I yield one additional minute to the gentleman from Texas.

Will the gentleman yield?

Mr. BURLESON of Texas. Yes, of course.

Mr. GIAIMO. I just want to say, Mr.

Speaker, that the gentleman from Texas is retiring from a long and distinguished career of service in the Congress. It is at the end of this term. I have had the pleasure of knowing him, I guess, for 20 years now. He has always been a fine, outstanding, able and hard-working Member of this House of Representatives. For the last four years he has been a Member of the Budget Committee. We have worked very closely.

We are going to miss his wisdom and his spirit of cooperation, his voice of caution against excessive spending, his voice of advice on the necessity to get better control over spending and over the Federal budget.

The gentleman from Texas has been a fine, warm and capable Member of the committee. I speak for all the Members of the committee when I say we are going to miss very much the distinguished gentleman from Texas (Mr. BURLESON) when he retires.

Mr. BURLESON of Texas. Mr. Speaker, I thank the gentleman from Connecticut most kindly for his remarks.

Mr. REGULA. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Maryland (Mrs. HOLT).

Mrs. HOLT. Mr. Speaker, the history of the fiscal 1979 budget is an amazing story. We started the year with every indication that President Carter and the congressional majority would commit the country to a wild spending spree.

President Carter, you will recall, proposed a $500 billion budget, heavily larded with new and expanded programs. The House Budget Committee majority produced a first budget resolution that estimated outlays at $501 billion.

In committee and on the House floor, I offered a substitute budget with outlays of $488 billion, which was enough to continue current Government services adjusted for inflation. This substitute was carefully worked out with the help of the outstanding Budget Committee staff.

What I proposed was a responsible alternative to the liberal-spending monstrosity produced by the committee majority. I lost by only six votes on the House floor, and here is how our distinguished Budget Committee chairman, who works very hard to reconcile all our differences, described my amendment:

> The programs that will suffer and the people who will suffer will be those who need help from the Government—those who are poor, those who need health programs and educational programs and urban programs to rebuild the cities of America. They will be the last people to get the crumbs that are left. We cannot have this type of a total cut.

And what is our chairman presenting to us today as he comes from the House-Senate Conference Committee on the Budget? You will be astounded to learn that the conference has recommended outlays of $487.5 billion, which is just a bit less than what I proposed in my amendment to the first budget resolution.

Is the chairman appearing before us today with expressions of horror? Is he telling us that this budget recommended by the conference will hurt the poor and cause great suffering? Of course, he is not.

What has happened is that the estimates of what the administration will actually be able to spend in both 1978 and 1979 have dropped drastically, and the Budget Committees have accepted the savings possible from these reestimates.

Unfortunately, this conference report does not represent any substantial policy changes. The new and expanded programs are mostly still intact. The conference report still has $15 billion in new budget authority to create or expand programs.

It would be possible to reduce budget authority $15 billion and outlays by another $7.5 billion and still fund current services through 1979 with adjustments for inflation.

But when I offered such an amendment to the second budget resolution on August 16, it lost by five votes. Here is what the chairman had to say on that occasion:

> You are going to take it out of the hides of the people who can least defend themselves and least help themselves in this high inflationary process.

Mr. Speaker, I have never proposed taking anything from the poor. I am saying that we do not need new and expanded programs, except as they can be funded by drawing money from old programs. We should be making some hard decisions on how best to help the poor and provide opportunity, not just piling program on top of program.

My amendment to the second budget resolution provided for a 7-percent growth rate of Federal spending in fiscal 1979. I proposed to hold spending to the current services level so that we could provide substantial tax cuts for the American people.

We desperately need major tax reductions to offset the impact of inflation and the rising social security taxes. We need tax cuts to stimulate investment in economic development and jobs for our citizens.

The poor need opportunity, and they will not have that opportunity with Government spending and heavy taxation crippling the ability of the economy to expand.

I am very proud to be a Member of a dedicated minority that has kept pressure on the House to reduce the growth rate of Government this year. I believe that our relentless pressure has had an impact on the budget.

This conference report represents some progress, but still not enough. The spending could be less, the tax cut could be larger, the deficit could be lower, and without cutting the existing programs that help the poor.

I hope that my colleagues will join me in passing H.R. 12345 which will require two-step budget preparation. First, we must arrive at the aggregates and then decide how much to spend on each function. Only in that manner can we discipline ourselves.

We will continue the fight next year. Our plan is a balanced budget with lower taxes. Our goal is more investment, economic development, and great opportunities for all Americans.

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

Mr. Speaker, I would first of all like to compliment the gentleman from Texas (Mr. BURLESON) for his remarks. I think they were very appropriate, and I am hopeful that in the future we will be able to develop bipartisan support for the budget resolution. I share the same confidence the gentleman expressed that this process can work well.

I think that is quite evident this year from the fact that we were able to get some real cuts compared to what the President requested in January. They were not as great as might appear, because of the reduced estimates due to shortfalls and the reduction in the tax cut, but this budget does reflect a real reduction in outlays of somewhere between $3 to $4 billion under the Presidential request that we received in January. This reflects the ability of the Committee on the Budget to respond to changing economic conditions, and it is a strong argument in favor of the continuation of the budget process. The gentleman from Texas (Mr. BURLESON) made the case very clearly and very well.

My reaction to this second resolution is that it is a good news-bad news type of budget. The good news is that it allows greater tax cuts than did the second budget resolution passed by the House. It recognizes the fact that we should let the American taxpayer retain a greater share of his earnings to spend at his or her discretion. The bad news in that respect is that there will still be a tax increase next year resulting from inflation and social security taxes totalling $23 billion. This $23 billion of additional taxes will be only partially offset by a tax cut of approximately $10 to $11 billion. I am speaking in terms of taxes for individuals. Therefore because of inflation and increased social security taxes, this budget still reflects a new tax increase of $13 billion despite the changes in the Internal Revenue Code the Congress will be making within the next several weeks.

I think on the "good news" side is the fact that the budget authority in this resolution is $13.2 billion less than in the first budget resolution, and $5.4 billion below the House passed second resolution. Because budget authority is the driving force down the road for increased deficits and outlays, the fact that we have been able to reduce the amount by as much as we have is very commendable, and I certainly compliment the majority members of the conference committee for the efforts they made in conceding on this and working with the Senate to reduce budget authority.

The bad news on this is that it is still too high. It still reflects an 11 percent increase over last year's amount, and when we have an underlying inflation rate of at least 7 to 8 percent. What we are saying by this is that even though budget authority is less than it was in the first resolution, we are setting up for the future an 11-percent increase in outlays in the face of a lesser growth in the

gross national product. In effect, the impact of this will be to have more government rather than less. I think this flies in the face of the great public feeling today that we ought to reduce the impact of the Government on the taxpayer and reduce the impact of the Government on the lifestyle of this Nation.

I would hope that in the future we can reduce budget authority even more. Certainly we are headed in the right direction. Likewise, it is good news that outlays are down, the deficit down, and the debt is down by some $2.1 billion.

There is one last point I would like to make, Mr. Speaker, and that is that this budget resolution does contain the seeds for success in gaining a balanced budget down the road. I say that because it does represent a reduction in budget authority and because it does not provide vast new programs. What is in this resolution is very selective in terms of new programs. This is in recognition of the fact that oftentimes in the past this body has started out with some small program at very little first year cost, but with enormous obligations in outyears. As we begin to face the reality of what that meant in terms of future costs, we discovered that the budget impact was far greater than we anticipated. The fact that the members of the Committee on the Budget and the members of the conference committee said in effect, "Let us reduce budget authority and let us not get into new programs" has the very great potential for a balanced budget in the foreseeable future.

If this is continued, then with it will come strong bipartisan support. I hope the gentleman from Texas will be able to look back here next year and see the kind of bipartisan support he is urging on us today, in terms of the budget resolution. I think there is a potential for this to happen; we are certainly headed in the right direction. That is the good news in this second budget resolution. We are disappointed, on our side of the aisle, that we did not reduce the budget authority substantially more and the outlay somewhat more, in the face of a strong economy; but, nevertheless, we commend the majority for the effort it has made in the number of points that I have mentioned earlier.

I hope we can look forward to budget resolutions which will reflect the feeling of the American people—their desire to have more efficient government—and not start new programs which prove to be very costly and very ineffective, and, as we look forward to the next budget resolution in the next fiscal year, I hope that we will develop a strong bipartisan approach to the budget. I am optimistic. I do not completely share the disappointment of the distinguished gentleman from Ohio, the ranking minority member on the committee, as to the effectiveness of the budget process. In my 2 years on the Budget Committee I have developed a great respect for what it can achieve. The limited success in bringing about a reduction this year from the President's original budget is a very persuasive case for the budget process.

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

Mr. GIAIMO. Mr. Speaker, I yield 3 minutes to the gentleman from South Carolina (Mr. DERRICK).

Mr. DERRICK. Mr. Speaker, I was elected to the House in 1974 and began service in 1975. We had a $76 billion deficit. That coincided with the first year of the Budget Committee in its present form. Today we have back from conference a deficit figure that has become, without question, a high visibility figure of some $38.8 billion. That is almost half of what it was in fiscal year 1976, just 3 years ago.

I think that this House—all of us, together with the Budget Committee—can take pride in those figures. If we will remember back to the rhetoric of several years ago, there were very few in the public sector or in the private sector who thought that this would be possible.

In our conference just the day before yesterday, the Senate and the House both expressed a determination and a real belief that this figure could become balanced over the next 2 or 3 years. And although I, like most of the Members, have spoken of a balanced budget for a number of years, I will have to say that, as we came back with this conference report, for the first time I can see something concrete in the next 2 or 3 years as to balancing the budget, and I have a very positive and definite feeling about it. But balancing the budget is but one part of this budget resolution. While meeting this figure, we have been able to meet the needs of this country—our social programs, our national defense, all of these programs—while at the same time exercising prudent fiscal responsibility.

Mr. Speaker, I can look to many areas in this resolution and point out many things that I might not be happy with.

The SPEAKER pro tempore. The time of the gentleman from South Carolina has expired.

Mr. GIAIMO. Mr. Speaker, I yield 1 additional minute to the gentleman from South Carolina.

Mr. DERRICK. But, those are just a very few compared to the areas that I can look at on behalf of this House, on behalf of this Budget Committee, and say, "A job well done, Congress of the United States. You have done what the majority of the population, the citizens of this Nation, thought you could not do".

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

Mr. Speaker, I thank the gentleman for yielding. I would just like to associate myself with his remarks, and congratulate the chairman of the subcommittee.

As one who has never really voted for a budget resolution until the last resolution we brought before this House, I want to say that I think this committee is publicly moving in the direction the American people want it to go. It has brought great credit to this Congress by showing the fiscal responsibility we need. I am glad to see that we have begun to go down the road toward a balanced budget.

I thank the gentleman for his leadership.

Mr. DERRICK. I thank the gentleman.

The SPEAKER pro tempore. The time of the gentleman from South Carolina has again expired.

Mr. REGULA. Mr. Speaker, I yield 1 additional minute to the gentleman from South Carolina.

The SPEAKER pro tempore. The gentleman from South Carolina (Mr. DERRICK) is recognized for 1 additional minute.

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

Mr. DERRICK. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Speaker, I want to compliment the gentleman in the well for some language that appears in the conference report, in the 270 function. During the conference we discussed the issue of full funding, and the gentleman in the well is one of the proponents of the full-funding approach in the budget resolution. As a result of his work, the conference report contains this language:

> The conferees note that the full funding approach is one means of promoting early disclosure of total program cost, improved management and long-term savings for major construction and procurement programs.

I hope the gentleman will continue his efforts to get a full-funding approach in the budget resolution in the future, and he deserves a great deal of credit for this one small step for the taxpayer.

Mr. DERRICK. I thank the gentlemen very much. Of course, as the gentleman well knows, he was of great assistance to me in bringing this about.

Mr. GIAIMO. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Speaker and my colleagues of the House, I join in support of this resolution. I mean no disrespect to the chairman of this committee, whose eloquence we heard this morning, nor to the distinguished gentleman from South Carolina (Mr. DERRICK), but the gentleman from Texas (Mr. BURLESON) really hit the nail on the head, and I commend him for what he had to say.

We are down to $38.8 billion in the deficit. In fact, with the fall-off which always occurs we may be down this next fiscal year to $36 billion or $35 billion, and I hope a year from now, Mr. Speaker, that I can write to the gentleman down in Abilene, Tex. (Mr. BURLESON) and interrupt that golf game and tell him that we are down to $19 billion. I hope 2 years from now that I can write down and interrupt a Rotary Club or whatever else he is doing for relaxation and tell him we are down to zero. We are getting there.

He also mentioned one other thing that is important, and my colleague from Ohio (Mr. REGULA) mentioned it also. That is the need for this to be bipartisan. At one point in the course of the conference there was a dispute between the House and Senate on public works figures, and the chairman of the committee (Mr. GIAIMO) turned to the ranking minority Member (Mr. LATTA) who was agreeing with the Senate and said, "All right, will you support the resolution?"

The gentleman declined to indicate

that he would support the resolution. Then, Senator BELLMON of Oklahoma, certainly one of the finest Members of either body of this Congress. gave a little lecture to the minority Members saying—he is a Republican, I point out—urging them to make this a bipartisan effort.

I commend my colleague from Ohio, who incidentally was the most active of the Republican members of the conference committee, for his remarks. He did not indicate how he was going to vote, and I hope by the tenor of his remarks that he will be voting in favor of the resolution. That is important. This is a compromise.

There are things that each of us would like to see changed, but we are moving in the right direction. The gentleman from South Carolina, Mr. BUTLER DERRICK, used the proper term when he described this as a prudent budget. Prudence was exercised. We are moving toward balance in figures. It is a balanced budget in terms of national needs.

I am pleased and proud to support it.

● Mr. LEGGETT. Mr. Speaker, the adoption of this conference report brings to a close one of the most volatile and unpredictable economic years since the inception of the budget process in 1974.

When this process began, this Nation was faced with the worst recession since the 1930's, characterized by not only high unemployment, but also by high double-digit inflation. At the time we were carrying a deficit in excess of $70 billion, an unemployment rate in excess of 8 percent, and an inflation rate of 9 percent or more. Moreover, the American people were burdened with heavy taxation at all levels of government—Federal, State, and local.

It is little wonder that a taxpayers revolt was in the making and that there was a growing dissatisfaction with Government spending, particularly when there was widespread evidence of waste and mismanagement.

The role of the Budget Committee has been to address these economic problems using the limited instruments of Federal fiscal policy to bring about a balanced economy. The budget process has not been entirely successful in solving our economic problems, but I think it has helped in alleviating some of the effects of these economic problems.

For the first time in 4 years, we have brought the deficit down below $40 billion. We need to balance the budget. I even supported a constitutional amendment that would require that. We are at long last moving in the right direction, and once we get there, we should never allow the budget to contain such excessive imbalances again.

Through the budget process, we have been able to adopt and implement stimulative economic policies, including public service employment, community and urban development grants, job training assistance, and supplementary fiscal assistance to our distressed cities throughout the Nation. These programs have helped to bring the unemployment rate below 6 percent, which is, of course, still too high. In any event, it has been a process characterized by compassion, tempered by self-discipline and restraint.

But many pressing problems remain. We must restore confidence in the dollar, both domestically and internationally. This means we need a national energy policy. I regret to say that the energy policy now being formulated seems to fall short of the mark. I am particularly concerned about the pricing mechanisms being formulated for natural gas.

Structural unemployment continues to plague our society. The capitalistic system is failing our minorities, particularly black teenagers. This problem contains the seeds of social destruction.

Again, I want to reaffirm my position that we need a nationwide wage and price policy. We need firm guidelines for both labor and management that will insure fairness and increased productivity. I do not believe we can solve our current inflationary dilemma without wage and price guidelines that are enforced.

As my colleague, the gentleman from Texas (Mr. BURLESON) said, "The budget process does not please everbody." What we have been able to do is reach a sort of creative consensus about what our overall fiscal policy should be. Some tough decisions await the next Congress in the budgetary field, including welfare spending, defense funding, national health insurance, energy research and development, to name only a few. The pressures for large-scale Federal spending are still with us and they are not going to go away. We must be ready and willing to carefully assess and formulate national priorities that will not lead this country down the road to bankruptcy. That is the challenge of the future.●

GENERAL LEAVE

Mr. GIAIMO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and insert extraneous matter on House Concurrent Resolution 683.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

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

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

I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Connecticut (Mr. GIAIMO.

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

Mr. BAUMAN. 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 225, nays 162, not voting 45, as follows:

[Roll No. 811]

YEAS—225

Addabbo	Garcia	Obey
Akaka	Gephardt	Panetta
Alexander	Giaimo	Patten
Ambro	Ginn	Pattison
Anderson, Calif.	Glickman	Pease
Annunzio	Gonzalez	Perkins
Applegate	Gore	Pickle
Ashley	Hall	Poage
Aspin	Hamilton	Preyer
Baldus	Hanley	Price
Barnard	Hannaford	Rangel
Beard, R.I.	Harkin	Reuss
Bedell	Hawkins	Richmond
Bellenson	Hefner	Roberts
Benjamin	Heftel	Rodino
Bennett	Holland	Roe
Bevill	Holt	Rogers
Biaggi	Holtzman	Roncalio
Bingham	Howard	Rooney
Blanchard	Hubbard	Rose
Blouin	Jenkins	Rosenthal
Boggs	Johnson, Calif.	Rostenkowski
Boland	Jones, N.C.	Roybal
Bolling	Jones, Okla.	Russo
Bonior	Jones, Tenn.	Ryan
Bonker	Jordan	Scheuer
Bowen	Kastenmeier	Schroeder
Brademas	Kazen	Seiberling
Breckinridge	Keys	Sharp
Brinkley	Kildee	Simon
Brodhead	Krebs	Sisk
Brooks	LaFalce	Skelton
Brown, Calif.	Le Fante	Skubitz
Burke, Mass.	Lederer	Slack
Burleson, Tex.	Leggett	Smith, Iowa
Burlison, Mo.	Lehman	Solarz
Burton, Phillip	Levitas	Spellman
Byron	Lloyd, Calif.	St Germain
Carney	Lloyd, Tenn.	Staggers
Clay	Long, La.	Stark
Collins, Ill.	Long, Md.	Steed
Conte	Lundine	Steers
Cornell	McCloskey	Stokes
Cornwell	McCormack	Stratton
Cotter	McFall	Studds
Danielson	McHugh	Thompson
Davis	McKay	Thornton
Delaney	Maguire	Traxler
Dellums	Mahon	Udall
Derrick	Mann	Ullman
Dicks	Markey	Van Deerlin
Diggs	Mattox	Vanik
Dingell	Mazzoli	Vento
Dodd	Metcalfe	Volkmer
Downey	Mikulski	Waggonner
Drinan	Mikva	Walgren
Duncan, Oreg.	Milford	Watkins
Eckhardt	Mineta	Waxman
Edgar	Minish	Weiss
Edwards, Calif.	Moakley	Whalen
Eilberg	Moffett	White
English	Mollohan	Whitley
Evans, Colo.	Montgomery	Whitten
Fary	Moorhead, Pa.	Wilson, C. H.
Fascell	Moss	Winn
Fisher	Murphy, Ill.	Wirth
Flippo	Murphy, N.Y.	Wolff
Flood	Murtha	Wright
Florio	Myers, Michael	Yates
Foley	Natcher	Yatron
Ford, Mich.	Nedzi	Young, Mo.
Ford, Tenn.	Nix	Young, Tex.
Fowler	Nolan	Zablocki
Fraser	Nowak	Zeferetti
Fuqua	Oakar	
	Oberstar	

NAYS—162

Abdnor	Carter	Emery
Andrews, N.C.	Cavanaugh	Erlenborn
Andrews, N. Dak.	Cederberg	Ertel
Archer	Chappell	Evans, Del.
Ashbrook	Clausen, Don H.	Evans, Ga.
AuCoin	Clawson, Del	Evans, Ind.
Badham	Cleveland	Fenwick
Bafalis	Coleman	Findley
Baucus	Collins, Tex.	Fish
Bauman	Corcoran	Fithian
Beard, Tenn.	Coughlin	Flynt
Breaux	Cunningham	Forsythe
Broomfield	D'Amours	Fountain
Brown, Mich.	Daniel, Dan	Frenzel
Brown, Ohio	Daniel, R. W.	Frey
Broyhill	Derwinski	Gammage
Buchanan	Devine	Gilman
Burgener	Dornan	Goldwater
Burke, Fla.	Duncan, Tenn.	Goodling
Burton, John	Early	Gradison
Butler	Edwards, Ala.	Grassley
Carr	Edwards, Okla.	Green
		Gudger

Guyer	McDonald	Rousselot
Hagedorn	McEwen	Ruppe
Hammer-schmidt	McKinney	Santini
Harris	Madigan	Satterfield
Harsha	Marks	Sawyer
Heckler	Marlenee	Schulze
Hillis	Marriott	Sebelius
Hollenbeck	Martin	Shuster
Horton	Mathis	Smith, Nebr.
Huckaby	Miller, Ohio	Snyder
Hughes	Mitchell, N.Y.	Spence
Hyde	Moore	Stangeland
Ichord	Moorhead, Calif.	Stanton
Ireland	Mottl	Steiger
Jacobs	Murphy, Pa.	Stump
Jeffords	Myers, Gary	Symms
Johnson, Colo.	Myers, John	Taylor
Kasten	Neal	Thone
Kelly	O'Brien	Treen
Kemp	Ottinger	Trible
Kindness	Pettis	Vander Jagt
Kostmayer	Pike	Walker
Lagomarsino	Pressler	Walsh
Latta	Pritchard	Wampler
Leach	Pursell	Weaver
Lent	Quayle	Whitehurst
Livingston	Quillen	Wilson, Bob
Lott	Railsback	Wydler
Lujan	Regula	Wylie
Luken	Rinaldo	Young, Alaska
McClory	Risenhoover	Young, Fla.
McDade	Robinson	

NOT VOTING—45

Ammerman	Flowers	Pepper
Anderson, Ill.	Gaydos	Quie
Armstrong	Gibbons	Rahall
Burke, Calif.	Hansen	Rhodes
Caputo	Harrington	Rudd
Chisholm	Hightower	Runnels
Cochran	Jenrette	Sarasin
Cohen	Krueger	Shipley
Conable	Meeds	Sikes
Conyers	Meyner	Stockman
Corman	Michel	Teague
Crane	Miller, Calif.	Tsongas
de la Garza	Mitchell, Md.	Tucker
Dent	Nichols	Wiggins
Dickinson	Patterson	Wilson, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. Mitchell of Maryland for, with Mr. Anderson of Illinois against.

Mr. Ammerman for, with Mr. Sikes against.

Mr. Nichols for, with Mr. Cochran of Mississippi against.

Mrs. Chisholm for, with Mr. Rudd against.

Mr. Corman for, with Mr. Cohen against.

Mr. Dent for, with Mr. Quie against.

Mr. Shipley for, with Mr. Michel against.

Mr. Meeds for, with Mr. Hansen against.

Mrs. Meyner for, with Mr. Dickinson against.

Mr. Tucker for, with Mr. Crane against.

Mr. Rahall for, with Mr. Conable against.

Mr. Pepper for, with Mr. Wiggins against.

Until further notice:

Mrs. Burke of California with Mr. Caputo.

Mr. Conyers with Mr. Flowers.

Mr. Gaydos with Mr. Gibbons.

Mr. de la Garza with Mr. Harrington.

Mr. Jenrette with Mr. Hightower.

Mr. Krueger with Mr. Miller of California.

Mr. Patterson of California with Mr. Teague.

Mr. Runnels with Mr. Tsongas.

Mr. BREAUX changed his vote from "yea" to "nay."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 13335, AMENDING THE SOCIAL SECURITY ACT

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 95–1597) on the resolution (H. Res. 1367) providing for consideration of the bill (H.R. 13335) to amend part A of title IV of the Social Security Act to provide additional fiscal relief for States and political subdivisions with respect to the costs of certain welfare programs, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 12299, ESTABLISHING A FEDERAL OFFICE ON DOMESTIC VIOLENCE

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 95–1596) on the resolution (H. Res. 1366) providing for consideration of the bill (H.R. 12299) to establish a Federal Office on Domestic Violence, and a Federal Counsel on Domestic Violence, to provide grants for the assistance of victims of domestic violence and for training programs, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 12161, AMENDING REGIONAL RAIL REORGANIZATION ACT OF 1973

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 95–1595), on the resolution (H. Res. 1365) providing for consideration of the bill (H.R. 12161) to amend the Regional Rail Reorganization Act of 1973 to authorize additional appropriations to the United States Railway Association for purposes of purchasing securities of the Consolidated Rail Corporation, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 14042, DEPARTMENT OF DEFENSE AUTHORIZATIONS

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 95–1598), on the resolution (H. Res. 1368) providing for consideration of the bill (H.R. 14042) to authorize appropriations for fiscal year 1979 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpoedoes, and other weapons and for research, development, test and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PERMISSION FOR SUBCOMMITTEE ON COAST GUARD AND NAVIGATION OF COMMITTEE ON MERCHANT MARINE AND FISHERIES TO SIT DURING 5-MINUTE RULE

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that the Subcommittee on Coast Guard and Navigation of the Committee on Merchant Marine and Fisheries may be permitted to sit for purposes of hearing only during the 5-minute rule today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, the gentleman can assure us that it is for a hearing only; there will be no markup of any legislation?

Mr. OBERSTAR. Mr. Speaker, if the gentleman will yield, there is no markup scheduled.

Mr. ROUSSELOT. These witnesses have been scheduled for some time?

Mr. OBERSTAR. The hearing has been scheduled for several weeks. It is on the sinking of the *Edward Fitzgerald*.

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

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota (Mr. OBERSTAR)?

There was no objection.

PERSONAL EXPLANATION

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

Mr. PIKE. Mr. Speaker, I feel that I owe an apology to my colleagues in the House for having missed last night the debate and the vote on the earned income limitation.

I was preoccupied with a much higher priority matter. I was downtown at the time making a speech.

I want to apologize further for the fact that, although it was a superb speech, the honorarium would have been wholly legal under the new rules of the House of Representatives.

MAKING IN ORDER ON TUESDAY NEXT OR ANY DAY THEREAFTER CONSIDERATION OF HOUSE JOINT RESOLUTION 1139, CONTINUING APPROPRIATIONS, FISCAL YEAR 1979

Mr. MAHON. Mr. Speaker, I ask unanimous consent that it may be in order on Tuesday next or any day thereafter to consider in the House, as in the Committee of the Whole, the joint resolution (H.J. Res. 1139), making continuing appropriations for the fiscal year 1979.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, could the gentleman tell us, this will be a continuing resolution for what?

Mr. MAHON. Mr. Speaker, if the gentleman will yield, the continuing resolution is for certain bills that will not

be enacted into law by the beginning of the new fiscal year, and specifically Defense and HEW.

Mr. ROUSSELOT. HEW?

Mr. MAHON. The Labor-HEW and the Defense appropriation bills.

It also involves about $17 billion in budget estimates for programs that were not authorized and which were not contained in the Labor-HEW appropriation bill which passed the House in June.

Mr. ROUSSELOT. Mr. Speaker, I appreciate the answer of the chairman of the Committee on Appropriations as to the specifics of what is in the proposed continuing resolution. It is, then a continuation appropriations for HEW, and a continuation of Defense Department appropriations, and roughly $17 billion worth of other appropriation items that have not yet been authorized. Is that basically the fact?

Mr. MAHON. That is basically correct. They were not authorized at the time the bill passed the House in June. Some have since been authorized but there are not yet regular appropriations in process.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman.

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

Mr. ROUSSELOT. I yield to the chairman of the committee.

Mr. MAHON. Mr. Speaker, the resolution contains certain "works of art," so to speak, and those are always contained in a continuing resolution.

Mr. ROUSSELOT. Mr. Speaker, I assume at this point in the record the gentleman will insert what will be covered in this continuing resolution since he is asking that consideration of the resolution be made in order next week?

Mr. MAHON. Mr. Speaker, if the gentleman will yield, the report is being filed today, and I will insert explanatory material in the RECORD at this point.

Mr. ROUSSELOT. Mr. Speaker, I appreciate that.

Mr. MAHON. Mr. Speaker, the explanatory material consists of excerpts from the committee print of the report considered by the Appropriations Committee this morning and is as follows:

This resolution is necessary in order to provide continuing authority for existing Federal programs for which regular annual appropriations will not be enacted when the new fiscal year begins on October 1, 1978. Basically the resolution covers activities usually funded in the Department of Defense appropriations bill and the Departments of Labor and Health, Education, and Welfare and related agencies appropriations bill.

The resolution also provides continuing authority for a wide range of health, manpower, and education programs which have not been included in the Labor-HEW bill because of long delays in the enactment of further authorizing legislation. These items are enumerated later in this report.

The resolution follows the basic form and concept of similar resolutions of past years. It is effective until March 31, 1979. However, the funding levels provided in the resolution cease to exist when the applicable appropriation bills are signed into law.

LEVELS OF FUNDING UNDER THE RESOLUTION

As has been the general practice over a period of years, the continuing resolution establishes an appropriate rate of funding for departments and agencies until the regular appropriation bills are enacted.

With respect to items contained in the Defense and Labor-HEW bills, the operating levels which obtain under the continuing resolution are based on the status of the bills as of October 1, 1978, as follows:

(1) Where the applicable bill has passed both Houses and an amount provided for in the bill as passed by the House is different from that as passed by the Senate, the pertinent project or activity is continued under the lesser amount or the more restrictive authority (sec. 101(a)(3));

(2) Where the applicable bill has been passed by only the House, the pertinent project or activity is continued at the current level or the level provided by the House, whichever is lower (sec. 101(a)(4)); and

(3) Where an item is included in only one version of an act as passed both Houses, the pertinent project or activity is continued at the current rate or the rate provided by the one House, whichever is lower (sec. 101(a)(4)).

With respect to items which have been omitted from the regular Labor-HEW bill because of delay in the enactment of authorizing legislation, the pertinent project or activity is continued at the current rate (sec. 101(b)).

The programs covered by section 101(b) of the resolution, which account for approximately $17 billion in budget estimates for fiscal year 1979, are as follows:

Employment and Training Administration:
Program administration;
Employment and training assistance;
Temporary employment assistance; and
Community service employment for older Americans.

Department of Health, Education, and Welfare:

Health Services Administration:
Community health centers;
Comprehensive health grants to States;
Sudden infant death information dissemination;
Genetic information and counseling;
Family planning;
Migrant health;
National Health Service Corps;
Hemophilia treatment centers;
Home health services; and
Emergency Medical Services.

Center for Disease Control:
Venereal Disease;
Immunization;
Rat control; and
Lead-based-paint poisoning prevention.

National Institutes of Health:
Research training;
Medical library assistance; and
Population research.

Alcohol, Drug Abuse, and Mental Health Administration:
Rape Center;
Mental health, drug abuse, and alcoholism training;
Community mental health centers; and
Drug abuse project grants and contracts and grants to States.

Health Resources Administration:
Health planning;
Nursing institutional assistance; and
Nursing student assistance.

Assistant Secretary for Health:
Health statistics;
Health services research; and
Health maintenance organizations.

Office of Education:
Follow Through;
Drug-abuse education;
Environmental education; and
Educational broadcasting facilities.

All programs administered by the Assistant Secretary for Human Development.

Related agencies:
Action—Domestic volunteer programs;
All programs administered by the Community Services Administration; and
Corporation for Public Broadcasting.

Mr. ROUSSELOT. Mr. Speaker, I would like at this time to yield to my colleague, the gentleman from Maryland (Mr. BAUMAN), who has questions concerning the HEW appropriation and the continuing resolution as it applies to HEW.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, may I ask the chairman of the committee this question: Am I correct in saying that all of the levels of funding under this continuing resolution will be kept at last year's levels?

Mr. MAHON. Mr. Speaker, if the gentleman from California will yield, it would depend upon the circumstances and where the applicable appropriation bill is on the first day of the new fiscal year. If a bill has passed both Houses, we take the lowest figure. If it has passed only the House, we take the lower of the House figure or the current rate. Then the items which were omitted from the regular Labor-HEW bill because of the lack of further authorization are continued at the current rate.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman.

And all the statutory restrictions are continued from last year in these various appropriations?

Mr. MAHON. Generally speaking, yes; restrictions are provided for.

Mr. BAUMAN. Including the HEW appropriation?

Mr. MAHON. Including the HEW appropriation.

Mr. BAUMAN. Mr. Speaker, if the gentleman from California will yield further, I would like to ask the chairman of the committee one more question which I think is of importance to all the Members, and that is this:

Usually a continuing resolution is evidence of an inability to resolve differences between the two Houses, and it is usually asked for in the closing days of a session of Congress. May I infer from the fact the gentleman is asking for this permission now for defense and HEW that we may well adjourn without reaching a final conclusion on these bills, and then this continuing resolution will serve as our authority for spending?

Mr. MAHON. Mr. Speaker, if the gentleman will yield further, I feel very hopeful that the Labor-HEW appropriation, which is scheduled to pass the Senate early next week, may be settled in conference and we may not be required to depend upon the continuing resolution.

With respect to defense, I anticipate that the defense appropriation bill will clear the Senate and that we will reach conference agreement. But the reason we have to initiate the continuing resolution at this time is that there is no likelihood that final congressional action will be taken and the bill sent to the President and signed into law by the beginning of the new fiscal year, which is less than 10 days from today. So we will need this resolution in order to prevent chaos.

Mr. BAUMAN. Nevertheless this reso-

lution extends these appropriations on a continuing basis until March 31, 1979, and this will serve as a convenient way out if deadlocks are reached on these appropriations; is that not correct?

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

Mr. ROUSSELOT. I will be glad to yield to the committee chairman.

Mr. MAHON. Mr. Speaker, I believe there will be a disinclination on the part of the House to go forward under the continuing resolution because the continuing resolution would provide a lower funding level in many cases than would be available otherwise in the regular bills.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for his responses.

While it is not my intention to object, I think I would feel more comfortable with this resolution if we knew from the leadership what is going to happen here in the next few weeks. I would like to know how many of this clutter of bills that are being reported out by the Committee on Rules are coming up, and I would like to know whether we have a reasonable date set for adjournment. As yet we have been kept in the dark, and they are reporting out more bills from the Committee on Rules. Yet here we are asking for two major pieces of legislation to go through on a continuing basis.

Mr. Speaker, I think this might call for some explanation from the leadership if requests like this are to be granted.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, I do not know whether anybody from the leadership wants to respond, but I think the gentleman has made a good point. We all realize that appropriation bills are important items on the legislative agenda. As I had a discussion with the chairman, we cannot even find out how many people are aware what the actual funding levels will be in this continuing resolution, even though it will be discussed next Tuesday. But there is an awful lot in a continuing resolution that will in fact be beyond the scope of what we dscussed in authorizing bills. It is possible. We do not know what the Senate might tack onto such a continuing resolution, because the other House does not have the rules of germaneness over there that this body does. So I guess what some of us are concerned about is that we want as much definition as possible. If we are going to take this up Tuesday, when will it be, early in the schedule, or has the chairman been given a time frame?

Mr. MAHON. If the gentleman will yield, we do not know whether it will actually come up Tuesday. That will depend upon the scheduling suggested by the leadership. But that was the first day we thought we would undertake to bring it before the House if we were able to do so. The request was that it be in order next Tuesday or any day thereafter. Of course, one just cannot predict what the exact situation will be.

Mr. ROUSSELOT. Further observing the right to object, let me pose a question to the distinguished majority leader. He is in the chair. Does the gentleman (Mr. WRIGHT) have any idea whether this continuing resolution will be brought up Tuesday?

The SPEAKER pro tempore (Mr. WRIGHT). The Chair will state to the Members that it is the definite plan and intention of both the House and the Senate leadership that we shall complete the necessary legislative schedule in order to permit adjournment sine die on October 14.

The Chair is advised that the other body has made specific plans aiming toward that date.

The Chair should further declare that there are only five categories of items regarded as absolute necessities prior to adjournment. One of those has been acted upon in the House today by the adoption of the concurrent budget resolution. Another is the energy bill. A third is the Tax Reduction Act. A fourth consists of the appropriations bills. And, quite obviously, the House could not adjourn, nor could the Congress adjourn, absent action on the necessary departmental appropriations bills. Finally, there are the expiring authorizations, on which, the Chair will state, the House has made significant progress in the last 2 weeks.

Therefore, the Chair believes that it is possible, perhaps even probable but most emphatically possible, that we shall adjourn on October 14. To that end, it would seem plausible that the request of the gentleman from Texas (Mr. MAHON) should be agreed to, in that it would expedite the conclusion of our business.

Mr. ROUSSELOT. I appreciate the majority leader's very definitive response. So it is the gentleman's judgment that the continuing resolution will in fact come up Tuesday?

The SPEAKER pro tempore. It is the intention of the leadership that this continuing resolution will be scheduled and will not be delayed beyond its time of necessity. The Chair is not prepared to state at this moment that it emphatically will come up on Tuesday next. The gentleman from Texas (Mr. MAHON) has requested unanimous consent that it may come as early as Tuesday.

Mr. ROUSSELOT. I thank the Chair.

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.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO HAVE UNTIL MIDNIGHT TONIGHT TO FILE REPORT ON HOUSE JOINT RESOLUTION 1139, CONTINUING APPROPRIATIONS, 1979

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a report on the joint resolution (H.J. Res. 1139) making continuing appropriations for the fiscal year 1979.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

COMMENDING PRESIDENT CARTER, PRESIDENT SADAT, AND PRIME MINISTER BEGIN ON CAMP DAVID SUMMIT

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that the Committee on International Relations be discharged from further consideration of the concurrent resolution (H. Con. Res. 715) commending President Carter of the United States, President Sadat of Egypt, and Prime Minister Begin of Israel for the courageous steps they have taken to resolve the differences between Egypt and Israel and to bring about a comprehensive, just, and durable peace in the Middle East, and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 715

Whereas the people of the United States earnestly hope and pray that a just and durable peace in the Middle East can be negotiated by the parties to the Arab-Israeli conflict;

Whereas President Carter has responded to this hope by his courageous and dedicated effort in convening the Camp David Summit;

Whereas President Anwar al-Sadat and Prime Minister Menahem Begin have been willing to negotiate with understanding, humility, and a willingness to compromise in order to try to achieve solutions acceptable to all sides and promote lasting peace and justice in the Middle East; and

Whereas continued good will and cooperation will be needed from the leaders of all states in the Middle East: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress commends President Carter for his leadership in promoting peace in the Middle East and endorses his efforts to further encourage support and understanding among the leaders of all states in the Middle East of the two agreements reached at the Camp David Summit.

SEC. 2. The Congress commends President Sadat and Prime Minister Begin for the courageous steps they have taken to resolve the differences between their nations and to bring about a comprehensive, just, and durable peace between Israel and its Arab neighbors.

SEC. 3. It is the sense of the Congress that the framework for Middle East peace embodied in the two agreements reached at the Camp David Summit provides the basis for peace treaties among the parties to the Arab-Israeli conflict and provides hope that human dignity, justice, and security for all peoples in the Middle East can be achieved.

SEC. 4. It is further the sense of the Congress that the United States should continue to pursue further direct peace talks among parties in the Middle East in order to build on the momentum created by the Camp David agreements to promote a comprehensive settlement among all parties to the conflict.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. BROOMFIELD. Mr. Speaker, reserving the right to object, I shall not object, but I would like to have the gentleman from Wisconsin explain the purpose of the resolution.

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

Mr. BROOMFIELD. I will be delighted to yield.

Mr. ZABLOCKI. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, House Concurrent Resolution 715 and House Concurrent Resolution 719, an identical resolution, are measures of great significance to the cause of peace in the Middle East. It is my urgent hope that these concurrent resolutions will receive the unanimous support of the House of Representatives. Clearly they merit full support.

I was privileged to introduce these resolutions together with a total of 39 cosponsors including 35 members of the House International Relations Committee, the House majority leader (Mr. WRIGHT) and the House minority chairman of the Republican Conference (Mr. ANDERSON).

As the title indicates, the resolutions relate to the Camp David summit negotiations. They commend President Carter, President Sadat of Egypt, and Prime Minister Begin of Israel for the courageous steps they have taken to resolve the differences between Egypt and Israel and to bring about a comprehensive, just, and durable peace in the Middle East.

There is obviously little point in going into the background of the troubled and tragic situation in the Mideast. We all know what an enduring tragedy that conflict has been for the people of the region. We know, too, how war has sapped the vital energy of many countries in the area, depleted their economies, and otherwise prevented them from fulfilling the great and fruitful potential of which they are capable individually and collectively.

Above all, this Congress certainly knows what an enormous challenge the Middle East situation has represented to United States foreign policy. Over the years we have made a determined effort to end hostilities there, to bring peace to the people of that region, and to assure protection of vital U.S. national security interests.

The recognition of all those concerns and interests led President Carter to convene the recently concluded Camp David summit. As a complement to his courageous move it is appropriate that we endorse the outcome of that summit. That is what House Concurrent Resolution 715 would do.

Considering the many difficult challenges that still lie ahead in fully and finally implementing the summit agreements it is urgent that we give every possible impetus and encouragement to the understandings reached at Camp David.

House Concurrent Resolution 715 offers the Congress an opportunity to join with President Carter, Prime Minister Begin, and President Sadat. They are deserving of our praise, respect, and gratitude. The resolution is deserving of the support of every Member. I therefore enthusiastically urge the approval of House Concurrent Resolution 715.

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

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

Mr. DERWINSKI. I thank the distinguished gentleman from Michigan for yielding to me. I have a few questions I would like to direct to the distinguished chairman.

First, may I say that of course I join every Member of the House in applauding President Carter for his courage, imagination, strength, zeal, determination, fortitude, and so forth but I am wondering whether this resolution was drafted by our chief of staff, Dr. Brady, or by some obscure foreign service officer in the Department of State, or by Mr. Rafshoon in the White House. Who was the actual author?

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

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

Mr. ZABLOCKI. My good friend from Illinois is very perceptive. Our very able chief of staff, Dr. Brady, with the assistance of others of the staff and myself, have been instrumental in drafting this resolution.

Mr. DERWINSKI. Then in order to be helpful, and in the process I trust I will not have to object, in reading the whereas clauses, I join the Members who have sponsored this resolution in referring to the President as courageous and dedicated. I am wondering though in the third whereas clause where it refers to President Sadat and Prime Minister Begin as having negotiated with understanding and humility, I am wondering whether that term "humility" is really accurate. I think they are more apt to be described as men of strength and power rather than men of humility.

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

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

Mr. ZABLOCKI. Mr. Speaker, of course, as the gentleman from Illinois knows, humility lends itself to varied interpretations. However, in drafting this resolution we thought that "humility" was the proper word under the circumstances that prevailed at Camp David.

Mr. DERWINSKI. Mr. Speaker, if the gentleman will yield further, I accept that, knowing of course the great humility the chairman always shows.

I have one question on section 4. I refer to "the sense of the Congress that the United States should continue to pursue further direct peace talks among the people of the Middle East." I assume we would not force the Israelis to engage in direct talks with the PLO unless they deemed it in their interest.

Mr. ZABLOCKI. Mr. Speaker, if the gentleman will yield further, that is correct and there is no way that section 4 could be interpreted that way.

Mr. DERWINSKI. Mr. Speaker, I thank the chairman.

Then I notice the language which calls our attention to the momentum attained at Camp David. I would like to point out to the Members of the House that this momentum will soon be interrupted by the machinations of the Soviet Union, who I predict will use their client states—Syria and Iraq and Libya and South Yemen—to try to torpedo the summit. I want all Members to know that even though I support this resolution, and I applaud the authors, and especially the skillful draftsmanship of Dr. Brady, my prediction is that the diabolic goals of the Soviet Union are such that this wonderful momentum will soon be halted.

With that frank and sorrowful note, I yield back the balance of my time.

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

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

Mr. GILMAN. I thank the distinguished ranking minority member for yielding.

Mr. Speaker, I want to join our distinguished chairman, the gentleman from Wisconsin (Mr. ZABLOCKI) and the ranking minority member the gentleman from Michigan (Mr. BROOMFIELD) in support of this resolution House Concurrent Resolution 715 and the companion resolution 719, which I cosponsored, commending our President and the leaders of Egypt and Israel for their accomplishments at Camp David.

While we all recognize that we have come a long way by way of the Camp David summit agreements, we also recognize that we still have a long, long way to go before there is a final treaty.

President Carter, Prime Minister Begin, and President Sadat have taken significant strides toward the institution of a lasting bond of peace. The summit confrontation at Camp David has hopefully ended a war and produced a reasonable plan for peace.

The Camp David agreements are major milestones on the road to peace in the Middle East. The three leaders we are commending today are fully cognizant of the fact that these agreements are but frameworks, and that there is still much to be accomplished before there can be a full resolution of all the problems between the Arabs and the Israelis.

The ultimate success of these agreements will now depend, not only upon our Nation's support, but will also depend upon the sincerity and commitment of the peoples of Egypt, Israel, and the Arab world.

As we stand poised on the threshold of what appears to be a workable peace for the first time in the past three decades, let us hope and pray that these framework Camp David agreements will yield a final treaty for a permanent peace in the Middle East.

Accordingly, I urge my colleagues to vote for this resolution so that we can demonstrate to the entire world our Nation's strong support for what has been accomplished at Camp David.

Mr. BROOMFIELD. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Illinois (Mr. FINDLEY) for a comment.

Mr. FINDLEY. Mr. Speaker, I thank the gentleman for yielding.

First of all, I thank the chairman of the committee for holding hearings on this. Sometimes in the past our committee has stood aside and let resolutions of this kind come directly to the floor, a process I think is unfortunate. I am glad the usual regular procedure has been adopted on this occasion.

Like my colleague, the gentleman from Illinois (Mr. DERWINSKI), I want to compliment the draftsmanship so evident

in this resolution, particularly on the comprehensive scale it denotes. For example, in section 4, it calls for the promotion of a comprehensive settlement among all parties. Section 3 refers to all peoples in the Middle East. In section 2 it refers to a just and durable peace between Israel and its Arab neighbors.

Even though this clearly does not call for the State of Israel to communicate directly with the PLO, it does not preclude communication with the PLO, nor does it preclude the possibility of a settlement which would encompass the problems of the Palestinian refugees who are presently organized as the PLO.

I congratulate the committee for the fine work done in drafting this resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. BROOMFIELD. Mr. Speaker, further reserving the right to object, I do so for the purpose of yielding to the gentleman from Indiana (Mr. HILLIS).

Mr. HILLIS. Mr. Speaker, I too rise in support of this resolution. I have been one of those on the floor at times who has been critical of this administration in various areas, but I certainly want to stand on this occasion and salute our President, and all involved in the Camp David summit for the effort that was made there as a beginning toward solving this horrendous problem, and I want to emphasize that, and I too look upon it as a beginning point. I think it will result in helping maintain the momentum in the Congress to further carry on this type of action. More importantly, I sincerely hope that this also denotes a return to, or a "new beginning point," of a truly bipartisan foreign policy by the Carter administration.

I again want to thank the distinguished gentleman from Michigan (Mr. BROOMFIELD) for yielding me this time so that I might express my opinion.

Mr. ASHBROOK. Mr. Speaker, would the gentleman yield?

Mr. BROOMFIELD. Mr. Speaker, continuing to reserve the right to object, I yield to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I appreciate the gentleman yielding, and although perhaps this is not the time to add a discordant note, I do think we ought to realize that in the last 20 years we have had the Spirit of Geneva, we have had the Spirit of Glassboro, the Spirit of Shanghai and now the Spirit of Camp David. We have had all these spirits that do not seem to last as long as we would like.

I know there is always a sense of euphoria right after a conference, but many of us wonder what really will happen possibly 2 weeks from now, and whether we will see if this spirit actually can stick together that long. But, since I look upon this House concurrent resolution as being little more than a letter to Santa Claus, I certainly would not object at this time.

Mr. BROOMFIELD. Mr. Speaker, further reserving the right to object, I do so only for the purpose of yielding to the gentleman from Masachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, I thank the gentleman for yielding to me, and I certainly want to take this opportunity to congratulate the chairman of the Committee on International Relations, the gentleman from Wisconsin (Mr. ZABLOCKI) and the ranking minority member, the gentleman from Michigan (Mr. BROOMFIELD) and the rest of the members, for their wisdom in bringing this concurrent resolution to the floor of the House.

Mr. Speaker, I rise in support of House Concurrent Resolution 715. Throughout the centuries, man has embarked upon countless quests in search of riches, power, and that elusive dream of peace on this earth. Numerous times riches and power have been realized, while peace continues to be the most unattainable of these pursuits. The struggle among nations, the injustice perpetrated by man against his brother, the perpetual misery and poverty experienced daily by many, almost convince us that life is the "War of man against every other man".

Yet, on occasion, this near endless chaos in which we exist is interrupted—something occurs to give man inspiration, to convince him that the pursuit of peace not necessarily be a "quixotice quest", but a real goal. The recent Camp David summit is such an occurrence.

Nations immersed in conflict for years have begun to set "the framework for peace." While many problems are yet to be solved, the accomplishments thus far achieved have been a bold thrust forward for the countries of the Middle East. If peace replaces the conflict which has plagued this volative region for decades, similar successes may spread to all corners of the globe.

The embrace of the two leaders, Mr. Sadat and Mr. Begin has monumental consequences for peace throughout the world, a potential peace which in no small way may be attributable also to our own President Mr. Carter.

Yes, I am heartened by the Camp David summit, for if men "worlds apart" can transcend national differences to work together for peace in the Middle East, there is no limit to what men of similar beliefs can accomplish toward the goal of peace in our time. My only hope now is that a solution to the remaining problems can be achieved without undue delay. Thank you.

Mr. McDONALD. Mr. Speaker, would the gentleman yield?

Mr. BROOMFIELD. Mr. Speaker, further reserving the right to object, I do so for the purpose of yielding to the gentleman from Georgia (Mr. McDONALD).

Mr. McDONALD. Mr. Speaker, I think this is a very fine resolution that does show courage and long range vision on the part of those involved, but I hope we would not be doing anything that might not be in complete synchronization with the executive branch.

I would inquire, Has this concurrent resolution been reviewed by the White House?

Mr. BROOMFIELD. Mr. Speaker, I would be glad to yield to the gentleman from Wisconsin (Mr. ZABLOCKI) if the gentleman would care to respond to that inquiry.

Mr. ZABLOCKI. Mr. Speaker, would the gentleman from Georgia repeat his inquiry?

Mr. McDONALD. I was just wondering, as I say, I think this is a very fine resolution that has been brought before us in commending what was done at Camp David, but I hope we would not be doing anything in this body that would be in any way out of synchronization with the plans of the executive branch. So I was just wondering whether the White House has been made aware of this resolution.

Mr. ZABLOCKI. Yes, this resolution was made available to the White House and a representative from the State Department was present when we were considering it and there was approval by the White House and the State Department.

Mr. McDONALD. I think that is very important because the executive branch has taken steps to be sure that its image to the public has been properly presented and I think it is important that any such resolution be run through the "image department" before they go out from this body.

Again I thank the gentleman for yielding.

Mr. WAGGONNER. Mr. Speaker, would the gentleman yield?

Mr. BROOMFIELD. Mr. Speaker, further reserving the right, I do so for the purpose of yielding to the gentleman from Louisiana (Mr. WAGGONNER).

Mr. WAGGONNER. Mr. Speaker, I want to commend the gentlemen who are presently handling this resolution today, both my dear friend, the gentleman from Wisconsin (Mr. ZABLOCKI) and the gentleman from Michigan (Mr. BROOMFIELD) for bringing this resolution to the floor. Cerltainly I want to commend Mr. Sadat and Mr. Begin but, most of all, we need to pass this concurrent resolution so as to commend the President of the United States, Jimmy Carter, who deserves nothing but the kindest expressions we can offer for what he has done. Certainly he does not have full control over what might happen in the future but he has done his best, to move the peace process along, he has done it well, and I, for one, appreciate it and thank him for it.

Mr. BROOMFIELD. Mr. Speaker, from Jerusalem to Camp David, this past year has been a dramatic one for the United States and its friends—Israel and Egypt—as they seek security and peace in the Middle East. For many years amidst rhetoric, wars, and politics—the search for a lasting peace in the Mideast has continued.

With candor and strength, with understanding and goodwill, President Carter, Israeli Prime Minister Begin and Egyptian President Anwar Sadat, have dramatically and courageously negotiated a framework for peace—a written diplomatic plan through which our friends in the Middle East can, after 30 years of hostilities, begin to move toward peace.

I sincerely congratulate the President, Mr. Begin, and President Sadat, on their cooperative efforts to promote peace in the Middle East. Like Mr. Begin, it is my hope that we can all continue to work together to make the details of this framework a reality and that as a result of our cooperation, we can—at the same future date—finally say: "We have peace."

I urge my colleagues to support House Concurrent Resolution 715.

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

● Mr. BIAGGI. Mr. Speaker, I lend my full support to House Concurrent Resolution 715 commending Presidents Carter and Sadat and Prime Minister Begin for their work for peace during the recent Camp David summit.

These are critically important days. The framework for peace was reached at Camp David. It is now time to employ some salesmanship to convince others of its merits. This is why Secretary of State Vance's trip is so critical. I am hopeful that those world leaders in support will say so and those opposed or with reservations will follow the directions of King Hussein and keep an open mind so as to get all the facts.

Peace in the Middle East is a goal which should be pursued without interruption. The Camp David summit has lent great momentum to the peace effort and it is the responsibility of the participants to keep it going.

The nation of Israel has existed for just over 30 years. They have been years marked with conflict and adversity. They are perhaps on the threshold of achieving their first generation of peace. No more important accomplishment could there be.

This resolution deserves our unanimous support. The energy and dedication of these three leaders is worthy of the highest commendation. The Camp David summit was an act of great courage and sacrifice but if it achieves the goal of peace in the Middle East it will certainly earn its own place in the annals of world history.●

● Mr. BOLAND. Mr. Speaker, I strongly support House Concurrent Resolution 715.

The events of the last 5 days have given the world renewed hope that a true and just peace in the Middle East can be the product of negotiation rather than confrontation. The Camp David summit has produced not just a framework for achieving peace but a blueprint for effecting that result. The documents that were signed in the White House on September 17 represent a historic departure from the pattern of bitterness and hostility that has produced the tragic events which have marred the Middle East for the past 30 years.

The three principal figures at the Camp David summit, President Carter, President Sadat, and Prime Minister Begin, deserve our praise and thanks for their monumental efforts in the search for peace. President Sadat and Prime Minister Begin, in an exemplary display of statesmanship, were able to rise above the many sharp differences which have divided their people for years. The nations of Egypt and Israel were well served by the efforts of these two distinguished leaders.

The pivotal role of President Carter in bringing together the Israeli and Egyptian leaders and in working with them in their efforts to negotiate and to compromise cannot be overstated. In fact, Mr. Speaker, President Sadat and Prime Minister Begin have given public testimony to the fact that agreement could not have been reached without the patient, persistent, and effective mediation of President Carter. All Americans can take pride in their President's work at Camp David.

It is appropriate, therefore, that Congress commend these men for their historic achievement. I support House Concurrent Resolution 715 because it does just that. In addition, I support the concurrent resolution because it expresses the recognition by Congress of an important fact. There are many difficult negotiating sessions to be completed before the promise of Camp David is fully realized. The United States has an important role to play in this process. President Carter has shown that our Government can be an effective participant in these talks. We must continue to encourage the parties in the Middle East to meet with us and with each other so that what has been accomplished at Camp David may serve as the foundation for a lasting peace for the entire region.

I urge that the concurrent resolution be adopted.●

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin (Mr. ZABLOCKI)?

There was no objection.

The SPEAKER pro tempore. The question is on the concurrent resolution.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

AIR SERVICE IMPROVEMENT ACT OF 1978

Mr. ANDERSON 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 further consideration of the bill (H.R. 12611) to amend the Federal Aviation Act of 1958 to improve air service and provide flexibility in air fares.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ANDERSON).

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 further consideration of the H.R. 12611, with Mr. ROSENTHAL in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Thursday, September 14, 1978, all time for general debate on the bill had expired.

Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on Public Works and Transportation now printed in the reported bill as an original bill for the purpose of amendment.

It shall be in order to consider an amendment to said substitute printed in the CONGRESSIONAL RECORD of August 15 by the gentleman from Kentucky (Mr. SNYDER).

The Clerk read as follows:

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 "Air Service Improvement Act of 1978".

DEFINITIONS

SEC. 2. (a) Section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301) is amended—

(1) by inserting after paragraph (18) the following new paragraph:

"(19) 'Essential air transportation' means, with respect to the air transportation provided by any air carrier to any point (A) two round trips per day at least five days per week, or (B) the level of service provided by such air carrier to such point based on the schedule of such air carrier in effect for calendar year 1977, whichever is the lesser"; and

(2) by inserting after paragraph (32) the following new paragraph:

"(33) 'Predatory' means any practice which would constitute a violation of the antitrust laws as set forth in the first section of the Clayton Act (15 U.S.C. 12).".

(b) Section 101 of such Act is amended by renumbering the paragraphs of such section, including all references thereto, as paragraphs (1) through (41), respectively.

The CHAIRMAN. Are there amendments to section 2?

If not, the Clerk will read.

The Clerk read as follows:

DECLARATION OF POLICY

SEC. . (a) Section 102(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1302(a)) is amended to read as follows:

"FACTORS FOR INTERSTATE AND OVERSEAS AIR TRANSPORTATION

"(a) In the exercise and performance of its powers and duties under this Act with respect to interstate and overseas air transportation, the Board shall consider the following, among other things, as being in the public interest, and in accordance with the public convenience and necessity:

"(1) The assignment and maintenance of safety as the highest priority in air commerce, and prior to the authorization of new air transportation services, full evaluation of the recommendations of the Secretary of Transportation on the safety implications of such new services.

"(2) The prevention of any deterioration in established safety procedures, recognizing the clear intent, encouragement, and dedication of the Congress to the furtherance of the highest degree of safety in air transportation and air commerce, and the maintenance of the safety vigilance that has evolved within air transportation and air commerce and has come to be expected by the traveling and shipping public.

"(3) The encouragement and development of an air transportation system which is responsive to the needs of the public and is adapted to the present and future needs of (A) the foreign and domestic commerce of the United States, (B) the Postal Service, and (C) the national defense, and which includes, where feasible, the authority for air carriers to serve unused routes authorized to be served by other air carriers.

"(4) The availability of a variety of adequate, economic, efficient, and low-cost serv-

ices by air carriers without unjust discriminations, undue preferences or advantages, or unfair or deceptive practices, the need to improve relations among, and coordinate transportation by, air carriers, and the need to encourage fair wages and equitable working conditions.

"(5) The placement of maximum reliance on competitive market forces and on actual and potential competition (A) to provide the needed air transportation system, and (B) to encourage efficient and well-managed carriers to earn adequate profits and to attract capital.

"(6) The development and maintenance of a sound regulatory environment under which decisions are reached promptly in order to facilitate adaptation of the air transportation system to the present and future needs of the domestic and foreign commerce of the United States, the Postal Service, and the national defense.

"(7) The encouragement of new air carriers and the continued strengthening of small air carriers so as to assure a more effective, competitive airline industry.

"(8) The encouragement of air service at major urban areas through secondary or satellite airports, encouraging such service by air carriers whose sole responsibility in any specific market is to provide service exclusively at the secondary or satellite airport.

"(9) The prevention of unfair, deceptive, predatory, or anticompetitive practices in air transportation, and the avoidance of (A) industry concentration, excessive market domination, and monopoly power, and (B) other conditions, that would tend to allow one or more air carriers unreasonably to increase prices, reduce services, or exclude competition in air transportation.

"(10) The maintenance of a comprehensive and convenient system of continuous scheduled airline service for small communities and for isolated areas, with direct Federal assistance appropriate.".

(b) Section 102 of such Act is amended by adding at the end thereof the following new subsection:

"FACTORS FOR FOREIGN AIR TRANSPORTATION

"(c) In the exercise and performance of its powers and duties under this Act with respect to foreign air transportation, the Board shall consider the following, among other things, as being in the public interest, and in accordance with the public convenience and necessity:

"(1) The encouragement and development of an air transportation system properly adapted to the present and future needs of the foreign and domestic commerce of the United States, of the Postal Service, and of the national defense.

"(2) The regulation of air transportation in such manner as to recognize and preserve the inherent advantages of, assure the highest degree of safety in, and foster sound economic conditions in such transportation, and to improve the relations between and coordinate transportation by air carriers.

"(3) The promotion of adequate, economical, and efficient service by air carriers at reasonable charges, without unjust discriminations, undue preferences or advantages, or unfair or destructive competitive practices.

"(4) Competition to the extent necessary to assure the sound development of an air transportation system properly adapted to the needs of the foreign and domestic commerce of the United States, of the Postal Service, and of the national defense.

"(5) The promotion of safety in air commerce.

"(6) The promotion, encouragement, and development of civil aeronautics.".

(c) That portion of the table of contents contained in the first section of such Act which appears under the side heading "Sec. 102. Declaration of Policy: The Board." is amended by striking out

"(a) General factors for consideration.
"(b) Factors for all-cargo air service."

and inserting in lieu thereof

"(a) Factors for interstate and overseas air transportation.
"(b) Factors for all-cargo air service.
"(c) Factors for foreign air transportation.".

Mr. SNYDER (during the reading). Mr. Chairman, I ask unanimous consent that section 3 be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

The CHAIRMAN. Are there amendments to section 3?

AMENDMENT OFFERED BY MR. MILFORD

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

The Clerk read as follows:

Amendment offered by Mr. MILFORD: Page 73, strike out lines 14–18 and insert in lieu thereof the following:

"(8) The encouragement of air service at major urban areas through secondary or satellite airports, where consistent with regional airport plans of regional and local authorities, and when such encouragement is endorsed by appropriate State agencies encouraging such service by air carriers whose sole responsibility in any specific market is to provide service exclusively at the secondary or satellite airport, and fostering an environment which reasonably enables such carriers to establish themselves and to develop their secondary or satellite airport services.

Mr. MILFORD. Mr. Chairman, this is primarily a technical amendment. I do not believe there is any objection to it. The amendment changes the bill's wording to prevent interference with regional airport plans that are already in existence around the country. I do not believe there is any objection to the amendment.

Mr. MURPHY of Illinois. Mr. Chairman, will the gentleman yield?

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

Mr. MURPHY of Illinois. I thank the gentleman for yielding.

Will the gentleman explain his amendment more fully? We have a situation in Chicago where the airlines have systematically and by design refused to serve Midway Airport. What does this amendment do with regard to that situation?

Mr. MILFORD. This is an amendment that was, I believe, worked out with the gentleman from Illinois (Mr. FARY). I did not see him on the floor.

Mr. MURPHY of Illinois. He is right in front of the gentleman.

Mr. MILFORD. I see him now, but at the time I introduced the amendment I did not see him. The amendment has been worked out with the gentleman from Illinois (Mr. FARY) as well as certain California interests who had a similar problem.

Mr. MURPHY of Illinois. My question is, these airlines have entered into a design and have withdrawn all their apparatus from Midway Airport. They have refused to go back into Midway Airport, which used to be the busiest airport in the world. We have a very congested situation in Chicago. If the gentleman's amendment is passed, I am afraid that the airlines in league with the FAA and the CAB will never see service at Midway.

Mr. MILFORD. I do not think that will affect what the gentleman is trying to do at Midway. We have carefully worked out the wording of this amendment so that it would do what the gentleman is seeking to have done in the case of Midway Airport. At the same time the amendment will not harm efforts at DFW Airport in Dallas and Fort Worth. We worked for several days with the gentleman from Illinois and with the committee attorneys to be sure that it did what the gentleman was trying to do at Midway and at same time not undo what we have already done at DFW and at Oakland.

Mr. MURPHY of Illinois. If the gentleman would yield further, I wonder if the chairman of the Subcommittee on Aviation could answer.

Mr. ANDERSON of California. If the gentleman will yield, we have tried to work this out, and it is my understanding this amendment does take care of the problem at Midway. It also takes care of the problem at DFW in Texas, and we have also checked similar airport problems in Oakland, and elsewhere in California.

Mr. MURPHY of Illinois. From my reading of the amendment, if the airlines, the CAB, and the FAA deem it in the best interests of, say, the city of Chicago that O'Hare is serving those needs—which I disagree with, and which has been their stance—then this gentleman's amendment, as I understand it, would cement their policy and we will never get any service in there.

Mr. ANDERSON of California. Only if the city or the State also takes the position the service at O'Hare is adequate.

This amendment requires the CAB to consider "The encouragement of air service at major urban areas through secondary or satellite airports"—such as Midway—"where consistent with regional airport plans of regional and local authorities"—and this is the case at Midway—"and when such encouragement is endorsed by appropriate State agencies"—and I understand that the State of Illinois supports service to Midway. I think this provision will encourage the development of air service at Midway.

Mr. MURPHY of Illinois. I hope so, because it has been the track record of the airlines to really be very obstinate about their policy in the city of Chicago as regards Midway.

The genteman has been kind enough to come out there and hold hearings, and I commend him for it. But the airlines, in league with the CAB, have just turned deaf ears to a large segment of the population in Gary, Ind., the south and southwest side of Chicago and the suburbs, where millions and millions of people have to drive hours and hours to get into the O'Hare area.

Mr. MILFORD. Although the amendment is general in nature, it is intended that the Board give careful consideration

to the views and objectives of local and State authorities responsible for regional airport planning.

The CHAIRMAN. The time of the gentleman has expired.

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

Mr. MILFORD. The Board should strive for a result consistent with those views and objectives, which I think very definitely would handle the gentleman's situation.

Mr. MURPHY of Illinois. Mr. Chairman, if the gentleman will yield further, I would hope the committee would keep this in mind, because the committee chairman knows there has been a track history in Chicago for 6 or 8 years that we have been trying to get the airlines to do their duty.

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

Mr. MILFORD. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, let me state that this legislative history of this amendment and the policy statement should be very clear. It is specifically for the purpose of opening up the secondary and satellite airports for service and, in effect, saying to the CAB that is what we expect the CAB to do.

The record at the hearing has been very clear with the gentleman from Illinois (Mr. FARY). That is why this provision is in the bill.

The CHAIRMAN. The time of the gentleman from Texas (Mr. MILFORD) has expired.

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

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

Mr. MILFORD. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, it is for that purpose, to open up the secondary and satellite airports, as both gentlemen from Illinois pointed out, that this is in there. We do not believe that the amendment offered by the gentleman from Texas is in any way inconsistent with that. Indeed, it carries forward that purpose.

Mr. MURPHY of Illinois. Mr. Chairman, I thank the gentleman for his assurance.

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

I do this only for the purpose, Mr. Chairman, of reassuring my friend, the gentleman from Illinois (Mr. MURPHY) that what the gentleman intends and what the gentleman wants is what we are hoping will be brought about by this amendment.

The gentleman from Illinois (Mr. FARY) offered the amendment during the full committee markup, but there were some problems with it. In an effort to get the bill out, but still remain sympathetic to the problem, we agreed to have the language cleaned up to the satisfaction of the staff because of the technical problems involved in the first draft.

It was my understanding the gentleman from Illinois (Mr. FARY) was going to offer this amendment today, in the same form as the gentleman from Texas (Mr. MILFORD) offered it.

I want to reaffirm for the legislative history on this side, it is our intention to take care of the Midway situation and we have no objection to the amendment.

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

Mr. Chairman, I support the amendment.

The amendment adds several desirable provisions to the bill's policy statement which requires CAB to develop air service to secondary or satellite airports.

In many of our major urban areas the prime airports are operating close to, or at, full capacity. Rational transportation planning requires that additional service be developed at secondary airports near the city, or at outlying satellite airports. The CAB has recently shown an awareness of this problem and has taken steps to develop service at Midway Airport in Chicago, and at Oakland Airport. The new policy statement will encourage similar cases for other cities.

The pending amendment adds two provisions. First, it requires CAB to take account of the views of local and State authorities, and second, it requires CAB to develop an environment which will enable new satellite airport carriers to develop.

I believe that these provisions are desirable and I urge adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. MILFORD).

The amendment was agreed to.

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

Mr. Chairman, I take this time to engage in a colloquy with the distinguished chairman of the subcommittee, the gentleman from California (Mr. ANDERSON).

Mr. FASCELL. Mr. Chairman, as you know, Florida is one of five States that regulate intrastate air transportation in this country. Florida commuters and our intrastate carriers, which are regulated by our State public service commission, are serving the people of our State through one of the finest air transportation systems in the United States. I am concerned with a provision (section 14) of the Senate-passed bill which creates a new class of carrier that would be regulated by the CAB and that would be exempt from any State regulation, regardless of whether a State regulates intrastate transportation or not. The only exception in the Senate bill is the State of Alaska.

If I may ask the gentleman from California (Mr. ANDERSON) a question at this point, is it not correct that under the Senate provision, any individual having equipment that seats 36 passengers or less could receive a CAB certificate and come into the State of Florida and service any points within the State without going through our State's present licensing procedure and be exempt from any State regulation—in other words, totally circumventing the State's present licensing and regulatory procedure?

Mr. ANDERSON of California. Mr. Chairman, if the gentleman will yield, as I understand it, the gentleman is correct.

Mr. FASCELL. May I also ask the gentleman, is there a provision in the House bill creating a new class of certificated commuter carrier?

Mr. ANDERSON of California. No, there is not.

Mr. FASCELL. I am concerned that the Senate provision would have a detrimental effect on the State of Florida and cause undue economic hardships on those commuter airlines that have developed air transportation service throughout the years under State regulation and direction. It does not seem reasonable that a new class of carrier should come in and compete against Florida carriers which have invested so much and have served our people so well.

Mr. ANDERSON of California. Let me assure the gentleman from Florida that I will do my best to guarantee that the House conferees do not yield to the Senate on this provision, and that should the Senate provision prevail, I will attempt to insure that Florida be afforded the same exemption that the State of Alaska was given in the Senate bill and that this new class of certificated commuter carrier would be required to go through the same licensing procedure that Florida intrastate carriers and commuters are required to go through.

Mr. FASCELL. Mr. Chairman, I thank the gentleman from California (Mr. ANDERSON) for his consideration, and I yield back the balance of my time.

AMENDMENTS OFFERED BY MR. MINETA

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

The Clerk read as follows:

Amendment offered by Mr. MINETA: Page 71, line 23, before the period insert the following: "and full evaluation of any report or recommendation submitted under section 107 of this Act".

Mr. MINETA. Mr. Chairman, I have another amendment that was submitted at the same time as the amendment that was just read, and I offer it at this time and ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN. The Clerk will report the remaining amendment.

The Clerk read as follows:

Amendment offered by Mr. MINETA: Page 78, line 2, insert "and of the Effects of Implementing the Air Service Improvement Act of 1978 on the Level of Air Safety" and "Transportation".

Page 78, line 5, strike out "section" and insert in lieu thereof "sections".

Page 79, line 2, strike out the quotation marks and the second period, and after such line insert the following new section:

"STUDY OF THE EFFECTS OF IMPLEMENTING THE AIR SERVICE IMPROVEMENT ACT OF 1978 ON THE LEVEL OF AIR SAFETY

"REPORT

"SEC. 107. (a) Not later than January 31, 1980, and each January 31 thereafter, the Secretary of Transportation shall prepare and submit to the Congress and the Board a comprehensive annual report on the extent to which the implementation of the Air Service Improvement Act of 1978 has, during the preceding calendar year, affected the level of air safety. Each such report shall, at a minimum, contain an analysis of each of the following:

"(1) All relevant data on accidents and

incidents occurring during the calendar year covered by such report in air transportation and on violations of safety regulations issued by the Secretary of Transportation occurring during such calendar year.

"(2) Current and anticipated personnel requirements of the Administrator with respect to enforcement of air safety regulations.

"(3) Effects on current levels of air safety of changes or proposals for changes in air carrier operating practices and procedures which occurred during the calendar year covered by such report.

"(4) The adequacy of air safety regulations taking into consideration changes in air carrier operating practices and procedures which occurred during the calendar year covered by such report.

"Recommendations

"(b) Not later than January 31, 1980, and each January 31 thereafter, the Secretary of Transportation shall submit to the Congress and the Board recommendations with respect to the level of surveillance necessary to enforce air safety regulations and the level of staffing necessary to carry out such surveillance. The Secretary of Transportation's recommendations shall include proposals for any legislation needed to implement such recommendations.".

Page 79, strike out the quotation marks and the period at the end of the matter below line 6, and after such matter insert the following:

"Sec. 107. Study of the effects of implementation of the Air Service Improvement Act of 1978 on the level of air safety.

"(a) Report.

"(b) Recommendations.".

Mr. MINETA (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.

The CHAIRMAN. Is there objection to the request of the gentleman from California that the amendments be considered en bloc?

There was no objection.

Mr. MINETA. Mr. Chairman, during the consideration of the provisions of this airline deregulation bill there has been some concern about safety involving commuter airlines, and as a result of hearings held by the Committee on Government Operations, the chairman of the Subcommittee on Government Activities and Transportation has suggested certain amendments. Therefore, on behalf of the gentleman from California (Mr. JOHN L. BURTON) I am submitting these amendments which are being considered en bloc at this time.

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

Mr. MINETA. I am pleased to yield to the distinguished gentleman from California, the chairman of this subcommittee.

Mr. ANDERSON of California. Mr. Chairman, I would like to advise the gentleman from California (Mr. MINETA) that we have checked both these amendments and find no objection to them. We are willing to accept both amendments.

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

Mr. MINETA. I yield to the distinguished gentleman from Kentucky, the ranking minority member of this Subcommittee on Aviation.

Mr. SNYDER. Mr. Chairman, I thought when we drafted the bill, we came up with about as strong safety requirements as we could, but I must confess that I think these amendments do add to the safety provisions of the bill. Therefore, on this side we are prepared to accept the amendments.

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

The CHAIRMAN. The question is on the amendments offered by the gentleman from California (Mr. MINETA).

The amendments were agreed to.

The CHAIRMAN. If there are no further amendments to this section, the Clerk will read.

The Clerk read as follows:

FEDERAL PREEMPTION

SEC. 4. (a) Title I of the Federal Aviation Act of 1958 (49 U.S.C. 1301 et seq.) is amended by adding at the end thereof the following new section:

"FEDERAL PREEMPTION

"PREEMPTION

"SEC. 105. (a) No State or political subdivision thereof and no interstate agency or other political agency of two or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to rates, routes, or services of any air carrier granted the authority under this title to provide interstate air transportation.

"PROPRIETARY POWERS AND RIGHTS

"(b)(1) Nothing in subsection (a) of this section shall be construed to limit the authority of any State or political subdivision thereof or any interstate agency or other political agency of two or more States as the owner or operator of an airport served by any air carrier certificated by the Board to exercise its proprietary powers and rights.

"(2) Any aircraft operated between points in the same State (other than the State of Hawaii) which in the course of such operation crosses a boundary between two States, or between the United States and any other country, or between a State and the beginning of the territorial waters of the United States, shall not, by reason of crossing such boundary, be considered to be operating in interstate or overseas air transportation.

"EXISTING STATE AUTHORITY

"(c) When any intrastate air carrier which on August 1, 1977, was operating primarily in intrastate air transportation regulated by a State receives the authority to provide interstate air transportation, any authority received from such State shall be considered to be part of its authority to provide air transportation received from the Board under this title, until modified, suspended, amended, or terminated as provided under this title.

"DEFINITION

"(d) For purposes of this section, the term 'State' means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, and any territory or possession of the United States.".

(b) That portion of the table of contents contained in the first section of such Act which appears under the center heading

"TITLE I—GENERAL PROVISIONS"

is amended by adding at the end thereof

"Sec. 105. Federal preemption.

"(a) Preemption.

"(b) Proprietary powers and rights.

"(c) Existing State authority.

"(d) Definition.".

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 4 be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

The CHAIRMAN. Are there amendments to section 4?

If not, the Clerk will read.

The Clerk read as follows:

STUDY OF FEDERAL, STATE, AND LOCAL GOVERNMENTAL SUBSIDY OF SCHEDULED AIR TRANSPORTATION

SEC. 5. (a) Title I of the Federal Aviation Act of 1958 (49 U.S.C. 1301 et seq.) is further amended by adding at the end thereof the following new section:

"STUDY OF FEDERAL, STATE, AND LOCAL GOVERNMENTAL SUBSIDY OF SCHEDULED AIR TRANSPORTATION

"REPORT

"SEC. 106. (a) Not later than January 1, 1980, the Board and the Secretary of Transportation shall jointly prepare and submit to the Congress a comprehensive report on the extent of direct and indirect subsidization of the United States scheduled air transportation system presently being incurred or anticipated to be incurred by the United States and by States and their political subdivisions, particularly with respect to communities directly benefiting from section 406 (rates for transportation of mail) and section 419 (commuter air carrier compensation) of this Act.

"RECOMMENDATIONS

"(b) Not later than January 1, 1980, the Board and the Secretary of Transportation shall, separately or jointly, submit recommendations to the Congress with respect to the feasibility and appropriateness of devising cost-sharing formulas by which States and their political subdivisions could share part of the cost being incurred by the United States under sections 406 and 419 of this Act.".

(b) That portion of the table of contents contained in the first section of such Act which appears under the center heading

"TITLE I—GENERAL PROVISIONS"

is amended by adding at the end thereof

"Sec. 106. Study of Federal, State, and local government subsidy of scheduled air transportation.

"(a) Report.

"(b) Recommendations.".

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 5 be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

The CHAIRMAN. Are there any amendments to this section?

If not, the Clerk will read.

The Clerk read as follows:

ROUTE APPLICATIONS

SEC. 6. (a) Section 401(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(c)) is amended to read as follows:

"ROUTE APPLICATIONS

"(c)(1) Upon the filing of any application pursuant to subsection (b) of this section, the Board shall give due notice thereof to the public by posting a notice of such appli-

cation in the office of the secretary of the Board and to such other persons as the Board may by regulation determine. Any interested person may file with the Board a protest or memorandum of opposition to or in support of the issuance of the certificate requested by such application. Such application shall—

"(A) be set for a public hearing;

"(B) be scheduled for a determination under the simplified procedures established by the Board in regulations pursuant to subsection (p); or

"(C) be dismissed on the merits.

not later than ninety days after the date the application is filed with the Board. Any order of dismissal of an application issued by the Board without setting such application for a hearing or scheduling such application for a determination under such simplified procedures shall be deemed a final order subject to judicial review in accordance with the provisions of section 1006 of this Act.

"(2) If the Board determines that any application should be set for a public hearing under clause (A) of the third sentence of paragraph (1) of this subsection, an initial or recommended decision shall be issued not later than one hundred and eighty days after the date of such determination by the Board. Not later than ninety days after the initial or recommended decision is issued, the Board shall make its final order with respect to such application. If the Board does not act within such ninety-day period—

"(A) in the case of an application for a certificate to engage in interstate or overseas air transportation, the initial or recommended decision shall become the final decision of the Board and shall be subject to judicial review in accordance with the provisions of section 1006 of this Act; and

"(B) in the case of an application for a certificate to engage in foreign air transportation, the initial or recommended decision shall be transmitted to the President pursuant to section 801 of this Act.

"(3) Not later than the one-hundred-eightieth day after the Board schedules an application for a determination under the simplified procedures established by the Board in regulations pursuant to subsection (p) of this section the Board shall issue its final order with respect to such application.

"(4) If an applicant fails to meet the procedural schedule adopted by the Board in a particular proceeding, the applicable period prescribed in paragraph (2) or (3) of this subsection may be extended by the Board for a period equal to the period of delay caused by the applicant. In addition to any extension authorized by the preceding sentence, in extraordinary circumstances, the Board may, by order, delay an initial or recommended decision or a final decision, or both, for not to exceed ninety days beyond the final date on which the decision is required to be made.".

(b) The amendments made by subsection (a) of this section shall apply to any application filed under section 401(b) of the Federal Aviation Act of 1958 on or after the three-hundred-sixty-fifth day after the date of enactment of this Act.

(c) That portion of the table of contents contained in the first section of such Act which appears under the side heading

"Sec. 401. Certificate of public convenience and necessity."

is amended by striking out

"(c) Notice of application."

and inserting in lieu thereof

"(c) Route applications.".

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 6 be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

The CHAIRMAN. Are there any amendments to section 6? If not, the Clerk will read.

The Clerk reads as follows:

ISSUANCE OF CERTIFICATE

SEC. 7. Paragraphs (1), (2), and (3) of section 401(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)(1)-(3)) are amended to read as follows:

The Clerk read as follows:

"(d)(1) The Board shall issue a certificate authorizing the whole or any part of the transportation covered by the application, if it finds that the application is fit, willing, and able to perform such transportation properly, and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder, and that such transportation—

"(A) in the case of interstate or overseas air transportation, is consistent with the public convenience and necessity; and

"(B) in the case of foreign air transportation, is required by the public convenience and necessity,

otherwise such application shall be denied.

"(2) In the case of an application for a certificate to engage in temporary air transportation, the Board may issue a certificate authorizing the whole or any part thereof for such limited periods—

"(A) in the case of an application for interstate or overseas air transportation, as is consistent with the public convenience and necessity; and

"(B) in the case of an application for foreign air transportation, as may be required by the public convenience and necessity,

if it finds that the applicant is fit, willing, and able properly to perform such transportation and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder.

"(3) In the case of an application for a certificate to engage in supplemental air transportation, the Board may issue a certificate to any applicant, not holding a certificate under paragraph (1) or (2) of this subsection authorizing interstate air transportation of persons, which authorizes the whole or any part thereof—

"(A) in the case of an application for interstate or overseas air transportation, for such periods as is consistent with the public convenience and necessity; and

"(B) in the case of an application for foreign air transportation, for such periods, as may be required by the public convenience and necessity,

if it finds that the applicant is fit, willing, and able properly to perform the transportation covered by the application and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder. Any certificate issued pursuant to this paragraph shall contain such limitations as the Board shall find necessary to assure that the service rendered pursuant thereto will be limited to supplemental air transportation as defined in this Act.".

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 7 be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

The CHAIRMAN. Are there any amendments to section 7?

If not, the Clerk will read.

The Clerk read as follows:

UNUSED AUTHORITY

SEC. 8. (a) Section 401(d) of the Federal Aviation Act of 1958 (59 U.S.C. 1371(d)) is amended by adding at the end thereof the following new paragraph:

"(5)(A) Except as provided in subparagraph (B) of this paragraph, if an air carrier is authorized by its certificate to provide round trip service nonstop each way between any two points in the forty-eight contiguous States or between any two points in overseas air transportation and if such air carrier fails to provide such service pursuant to published flight schedules at a minimum of five round trips per week for at least thirteen weeks during any twenty-six-week period (other than such a period during which service was interrupted by a labor dispute which lasted more than six weeks) the last day of which ends on or after the date of enactment of this paragraph and if such service, at a minimum of five round trips per week, has been provided between such points for at least thirteen weeks during such twenty-six-week period, pursuant to published flight schedules, by no more than one other air carrier, then the Board shall issue a certificate to the first applicant who, within thirty days after the last day of such twenty-six-week period submits an application which certifies that its aircraft meet all requirements established by the Secretary of Transportation for the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft in commerce and that it is able to conform to the rules, regulations, and requirements of the Board promulgated pursuant to this Act.

"(B) If an air carrier is authorized to provide seasonal round trip service nonstop each way between any two points in the forty-eight contiguous States in interstate air transportation or between any two points in overseas air transportation and if such air carrier fails to provide such service pursuant to published flight schedules at a minimum of five round trips per week during half of the weeks during such season (other than such a season during which service was interrupted by a labor dispute which lasted more than 25 per centum of such season) the last day of which ends on or after the date of enactment of this paragraph and if such service, at a minimum of five round trips per week, has been provided between such points for at least half of the weeks during such season, pursuant to published flight schedules, by no more than one other air carrier, then the Board shall issue a certificate to the first applicant who, within thirty days after the last day of such season, submits an application which certifies that its aircraft meet all requirements established by the Secretary of Transportation for the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft in commerce and that it is able to conform to the rules, regulations, and requirements of the Board promulgated pursuant to this Act.

"(C) With respect to any application which is submitted pursuant to subparagraph (A) or (B), the Board shall issue a final order granting such certificate within fifteen days of the date of such application.

"(D) Except as provided in subparagraph (E) of this paragraph, if an air carrier is authorized by its certificate to provide round trip service nonstop each way between any two points in the forty-eight contiguous States or between any two points in overseas air transportation and if such air carrier fails to provide such service pursuant to published

flight schedules at a minimum of five round trips per week for at least thirteen weeks during any twenty-six-week period (other than such a period during which service was interrupted by a labor dispute which lasted more than six weeks) the last day of which ends on or after the date of enactment of this paragraph and if such service, at a minimum of five round trips per week, has been provided between such points for at least thirteen weeks during such twenty-six-week period, pursuant to published flight schedules, by two or more other air carriers, then the Board, subject to subparagraph (F) of this paragraph, shall issue a certificate to the first applicant who, within thirty days after the last day of such twenty-six-week period submits an application which certifies that its aircraft meet all requirements established by the Secretary of Transportation for the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft in commerce and that it is able to conform to the rules, regulations, and requirements of the Board promulgated pursuant to this Act.

"(E) If an air carrier is authorized to provide seasonal round trip service nonstop each way between any two points in the forty-eight contiguous States in interstate air transportation or between any two points in overseas air transportation and if such air carrier fails to provide such service pursuant to published flight schedules at a minimum of five round trips per week during half of the weeks during such season (other than such a season during which service was interrupted by a labor dispute which lasted more than 25 per centum of such season) the last day of which ends on or after the date of enactment of this paragraph and if such service, at a minimum of five round trips per week, has been provided between such points for at least half of the weeks during such season, pursuant to published flight schedules, by two or more other air carriers, then the Board, subject to subparagraph (F) of this paragraph, shall issue a certificate to the first applicant who, within thirty days after the last day of such season, submits an application which certifies that its aircraft meet all requirements established by the Secretary of Transportation for the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft in commerce and that it is able to conform to the rules, regulations, and requirements of the Board promulgated pursuant to this Act.

"(F)(i) With respect to any application which is submitted pursuant to subparagraph (D) or (E) of this paragraph, the Board shall issue a final order granting such certificate within sixty days of the date of such application, unless the Board finds that the issuance of such certificate is inconsistent with the public convenience and necessity. Prior to issuing such final order, the Board shall afford adequate notice and opportunity for interested persons to file appropriate written evidence and argument, but the Board need not hold oral evidentiary hearings.

"(ii) For purposes of clause (i) of this subparagraph there shall be a rebuttable presumption that any transportation covered by an application for a certificate submitted pursuant to subparagraph (D) or (E) of this paragraph is consistent with the public convenience and necessity.

"(G)(i) Whenever the Board issues a certificate pursuant to subparagraph (A) or (D) of this paragraph, the air carrier receiving such certificate shall commence service pursuant to such certificate within forty-five days of such issuance. If such air carrier fails to commence service within such period, the Board shall revoke such certificate.

"(ii) Whenever the Board issues a certificate pursuant to subparagraph (B) or (E) of this paragraph to provide seasonal service, the air carrier receiving such certificate shall commence service pursuant to such certificate within fifteen days after the beginning of the first such season which begins on or after the date of such issuance. If such air carrier fails to commence service within such period, the Board shall revoke such certificate.

"(H) Not more than one certificate shall be issued under this paragraph for round trip nonstop service between two points in interstate air transportation based upon the failure of the same air carrier to provide such service between such points.

"(I) Whenever the Board issues a certificate pursuant to subparagraph (A) or (D) of this paragraph based upon the failure of any air carrier to provide the round trip service described in such subparagraph, the Board shall suspend the authority of such air carrier to provide such service, and suspend the authority of any other air carrier which failed to provide such service during the same twenty-six-week period, until such time as the air carrier to which a certificate is issued under such subparagraph fails to provide such service at a minimum of five round trips per week for at least thirteen weeks during any consecutive twenty-six-week period the last day of which ends on or after the date of enactment of this paragraph.".

(b) Section 401(f) of such Act is amended by striking out "hereinafter provided" and inserting in lieu thereof "provided in this section".

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 8 be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

AMENDMENT OFFERED BY MR. ERTEL

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

The Clerk read as follows:

Amendment offered by Mr. ERTEL: Page 84, line 24, strike out "and" and all that follows through "air carrier" on page 85, line 3.

Page 85, line 23, strike out "and" and all that follows through "air carrier" on page 86, line 2.

Page 86, strike out line 16 and all that follows through line 7 on page 89.

Page 89, line 8, strike out "(G)" and insert in lieu thereof "(D)".

Page 89, line 9, strike out "or (D)".

Page 89, line 15, strike out "or (E)".

Page 89, line 22, strike out "(H)" and insert in lieu thereof "(E)".

Page 90, line 3, strike out "(I)" and insert in lieu thereof "(F)".

Page 90, line 4, strike out "or (D)".

Mr. ERTEL (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 Pennsylvania?

There was no objection.

Mr. ERTEL. Mr. Chairman, this amendment is to strike a provision which was put in as a protective provision on part of the bill which I amended in the subcommittee.

Let me explain briefly what the committee bill provides on this particular situation. In regard to the airlines, there is something called dormant authority. Dormant authority is when an airline has a right to fly a route between two cities and subsequently elects not to do it and quits the market. In the United States there are a tremendous number of dormant markets where there is authority; for example, flights from Schenectady to Binghamton, or to other cities. Under the committee bill, if an airline applies for that dormant authority, they go ahead and get it, and they can go ahead and fly that authority. The CAB has already made a determination at one point that there should be in fact flights between those two cities, but nobody will fly them. Subsequently, if another airline comes in and wants to fly that route, it would have to go through the entire procedure to determine whether there is an economic need, and so on.

Under my provision, which is in the bill, any carrier certificated and deemed safe can come in and take over that route authority. However, in a deal that was made subsequently, after the amendment was defeated in the subcommittee and this had been accepted without any restriction, we then went to a substitute which was passed by one vote in the subcommittee, and then began the dealing outside the committee. When the bill came back to the full committee from the subcommittee to be passed, they had a restriction on this dormant authority which had been accepted and passed by the committee. That restriction said that if there are two or more carriers serving that market, and there is dormant authority, they will still have to go through a hearing to take over that dormant authority.

Now, let us look and see what this does and who it protects. It does not protect the little airlines. It does not protect the local service carriers, who need protection, if anybody. Who does it protect? This can be termed the "Big Boy Protection Act." In the top 100 markets of the United States, there is dormant authority, 16 dormant authorities, that can be exercised.

Who gets the protection from this bill? Let me lay it out for the Members. United gets three of its routes protected; Delta Airlines gets seven of its routes protected; American Airlines gets eight of its routes protected; TWA gets two protected, and Eastern gets five protected. This is a protection for the big boys. Little boys cannot come in and compete in the top markets.

So, what this bill would do is to allow the big boys to go into the little boys' markets, but it will not allow the little boys to go into the big boys' markets.

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

Mr. ERTEL. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I completely concur with the gentleman, but for the benefit of the House I wonder if the gentleman might tell us what routes he is talking about. What cities are not being served, where their people do not have the benefit of their service because of this?

Mr. ERTEL. I cannot spell out each and every route because there are numerous ones, but these are all major routes in the United States.

Mr. GLICKMAN. We are talking about routes between major cities that are not getting service?

Mr. ERTEL. No. They have two carriers already, but if a third carrier wants to take over dormant authority which has already been approved by CAB, they cannot come in freely into these markets. There is service already. I have taken care of all the little dormants under my initial amendment, but this is for those markets that have two carriers. They are the big boys we are protecting.

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

(At the request of Mr. VOLKMER and by unanimous consent, Mr. ERTEL was allowed to proceed for 3 additional minutes.)

Mr. ERTEL. Assume that American Airlines and Delta are in a market. They are not competing very much, but Ozark wants to come in and compete, and it is a big market, one of the top 100 markets. Ozark cannot come in even though there is dormant authority that somebody has and has let lapse. They have to go through the hearing procedures, whereas if it is one where the small boys are operating, the big boys can come in. So, it protects the big boys at the expense of the little boys.

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

Mr. ERTEL. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I would like to have the gentleman explain again, because I am not as familiar with this problem as the gentleman in the well. If the language in the bill is retained, would an applicant have to go through the full hearing process as outlined in the bill?

Mr. ERTEL. Yes.

Mr. VOLKMER. On a dormant authority?

Mr. ERTEL. If there are two or more carriers in the market they would have to go through it.

Mr. VOLKMER. Under the gentleman's amendment, in the same circumstances what would the applicant carrier have to do?

Mr. ERTEL. If there is only one carrier in the market and the dormant authority, he would merely apply and get the right to go in and take over the dormant authority, assuming he was safe, fit, willing, and able.

Mr. VOLKMER. He would not have to meet the immediate necessity test?

Mr. ERTEL. Not if there was one carrier in the market.

Mr. VOLKMER. But if there are two?

Mr. ERTEL. If there are two, the other side must prove that it is inconsistent with public convenience and necessity.

Mr. VOLKMER. The gentleman puts the burden of proof on the two carriers, or two or more, that are already serving the area, that they are providing all the required services necessary, is that correct?

Mr. ERTEL. Yes; as I understand it.

Mr. VOLKMER. If they did not, then of course the airline applicant would be able to go into that dormant authority and take over.

Mr. ERTEL. Let me give the gentleman my understanding of why this provision was put in. Of course, there were no hearings on it. There is no committee history of it. This was put in in an agreement where there were no public hearings on this provision, this restrictive provision, so we are shooting in the dark except for the information I have gotten from the CAB. But, I understand this was put in to protect one airline, specifically Texas International—and they really need protection, with 29.3 percent net profit last year, and out trying to gobble up National Airlines.

Mr. VOLKMER. How many dormant authorities does Texas International have?

Mr. ERTEL. I cannot answer that. All I know is, that was what I was told informally, who this was to protect, but it really protects the big boys such as Delta, United, American, Eastern basically. If we go into the next 200 markets numbers, United in two; Delta in seven; American Airlines in three; TWA in three; Eastern in six markets. So, those are the carriers getting the protection.

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

(At the request of Mr. LEVITAS and by unanimous consent, Mr. ERTEL was allowed to proceed for 3 additional minutes.)

Mr. LEVITAS. Will the gentleman yield?

Mr. ERTEL. I yield to the gentleman from Georgia.

Mr. LEVITAS. I would first of all like to inquire whether or not the gentleman from Pennsylvania has the figures and would make them available to the House and to this committee as to the number of routes which would be opened up by the provision in the bill without any CAB protection at all?

Mr. ERTEL. I do not have that because that would be impossible to accumulate, I think.

Mr. LEVITAS. Would the gentleman agree that the overwhelming number of unused routes would fall into that category?

Mr. ERTEL. A tremendous number of them would, but most of them are unused, as the gentleman is aware.

If I may reclaim my time, I would like to finish my statement. In the top 500 markets where we really want competition and low fares, 124 of those markets are dormant. Under this protective provision, 54 would be protected, 54 of the top 500 markets would be protected for the big boys.

Mr. LEVITAS. And those routes already are being served by two or more carriers. Is that correct?

Mr. ERTEL. That is correct.

Mr. LEVITAS. So, in the markets the gentleman says are being protected there is already at least two-carrier service, sometimes perhaps three- or four-carrier service.

Mr. ERTEL. Not just under this.

Mr. LEVITAS. No. In some of the markets the gentleman just described there is dormant authority where there are as many as three or four carriers.

Mr. ERTEL. Some of those are.

Mr. LEVITAS. The gentleman from Missouri (Mr. VOLKMER) asked a question about would there be a regular CAB proceeding for a person who wanted to apply to take up unused authority. I believe the gentleman said "yes." Is it not the truth that the provisions for taking up the unused authority where CAB comes into play are certainly much less stringent and much quicker than is presently required by law?

Mr. ERTEL. To answer the gentleman's question, they would be the same as any other provisions under this bill.

Mr. LEVITAS. With one exception, which I think is very important, and the gentleman will be addressing himself to it very shortly, that the bill establishes a premise of rebuttal to the application to replace dormant authority.

Mr. ERTEL. I believe that I explained to the gentleman from Missouri (Mr. VOLKMER) there is a lesser burden to some degree, but there has already been a determination by the CAB that there is dormant authority, the public convenience and authority, and now they have to go back and go through it again.

Mr. LEVITAS. One last question. If the gentleman has the data, will he provide the members of this committee with the number of routes with dormant authority which would come under second-tier proceedings in the case of local carriers or airlines? I assume there are a number.

Mr. ERTEL. I do not understand what the gentleman means by second-tier.

Mr. LEVITAS. If there is a market like Allegheny Airlines or Ozark Airlines.

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

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

Mr. ERTEL. Mr. Chairman, I am sorry I did not catch the gentleman's question.

Mr. LEVITAS. Let me restate it. The gentleman made a statement and read off some figures about routes that are being protected for the larger trunk carriers and their routes, as the gentleman says, would be protected which are now being serviced by smaller carriers, which would prohibit major carriers from coming in and wiping them out without having the CAB take a look at it.

Mr. ERTEL. There is no such statistic. Frankly, the smaller carriers are probably in markets where there are less than two carriers, so in effect this does not protect the little fellows. It really protects the big fellows.

As we go down through the top 500 markets, we will see United, Delta, American, TWA, and Eastern have about 90 percent of the protection, and those are the big 5. They get the protection.

Mr. LEVITAS. But you do not have the figures for the small, local service carriers that would fall into that category?

Mr. ERTEL. Quite frankly, we are only talking about the top major markets, and that is where the largest airlines are.

Mr. ANDERSON of California. Mr. Chairman, if the gentleman will yield,

there is a provision in the bill, which I will read, that says that with respect to any application which is submitted pursuant to subparagraph (D) or (E) of this paragraph, the Board shall issue a final order granting such certificate within 60 days of the date of such application, unless the Board finds that issuance of such certificate is inconsistent with the public convenience and necessity. Prior to issuing such final order, the Board shall afford adequate notice and opportunity for interested persons to file appropriate written evidence and argument, but the Board need not hold oral evidentiary hearings.

So, I think we have relaxed the procedural requirements a good deal.

Mr. ERTEL. Not quite as much as you would relax the procedure as I do in my amendment, and I anticipate that my reverse burden concept will be accepted by the House, this provision would be a harder burden and it would take longer.

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

Mr. Chairman, I oppose the amendment.

The committee's bill distinguishes between two kinds of markets in which there is dormant or unused authority. In dormant markets in which no more than one carrier is actually providing service, the CAB must grant replacement authority to any fit applicant. In dormant markets served by two or more carriers, the CAB is given some discretion to deny applications.

The amendment would take away the Board's power to deny replacement applications in markets already served by two or more carriers. This would not be desirable. We need a "safety valve" permitting denial of applications because there are cases in which markets served by two or more carriers are very important to one of these carriers, and represent a major portion of the carrier's profits. In these cases the CAB should have discretion to decide that added competition in the market would threaten the incumbent carrier's ability to provide needed, less profitable service elsewhere.

It is important to bear in mind that the bill's provisions for dormant markets served by two or more carriers encourage the Board to grant these applications whenever possible. The Board is required to issue its decision on an application for replacement authority for these markets within 60 days after an application is filed. The Board is required to grant the application unless it finds that the award would be inconsistent with the public convenience and necessity. There is a rebuttable presumption that a replacement application is consistent with the public convenience and necessity. In view of these provisions I anticipate that most applications for replacement of dormant authority in markets served by two or more carriers will be granted.

For these reasons I urge defeat of this amendment.

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

Mr. ANDERSON of California. I yield to the gentleman from Pennsylvania.

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

On the point of rebuttable presumption, if, in fact, the reverse burden test is made, and that gets into the bill, is it not true that the rebuttable presumption is more difficult to meet than the reverse burden which is being proposed in the amendment here?

Mr. ANDERSON of California. I think there is a disagreement as to whether rebuttable presumption or reverse burden of proof is the more difficult test. You can make an argument one way or another.

Mr. ERTEL. Does not the standard law say that the rebuttable presumption drops out, but the reverse burden remains, once there is evidence of reverse burdening, the burden remains with the party objecting, and is not that the standard rhetoric in this field?

Mr. ANDERSON of California. I think that the law is not clear on that point.

Mr. ERTEL. I guess we have a genuine dispute as to what reverse burden is and rebuttable presumption, but let us go one step further. But what airlines are best able to meet competition? The big ones?

Mr. ANDERSON of California. It depends on the particular carrier you are talking about.

In our bill we are opening up, as the gentleman from Georgia (Mr. LEVITAS) point out, a tremendous amount of dormant authority in the one carrier and monopoly markets. This bill liberalizes dormant authority a great deal.

Mr. ERTEL. Yes; I understand that, and that was my amendment. I appreciate my chairman for getting that amendment in the bill, but what we have here is different. Are we afraid to make more competition in that market? Are we talking about protecting a competitive market?

Mr. ANDERSON of California. No; as I pointed out earlier, there might be a case in which a particular market was the main one for a carrier, the main one from which they would get their profits, and the main one upon which they depend. If we take that market away from them, they would not be able to serve some of the other, less profitable areas.

Mr. ERTEL. It may be a case of one carrier being in a market in which that carrier makes the biggest profit, and we are not protecting them. However, we are going to protect those who have two competitors. Are we going to allow full competition in this area, or are we going to have them protected? I think that is the issue on this amendment.

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

Mr. Chairman, we are dealing in semantics.

In the first place, this bill is designed to provide additional means by which more competition can be injected into the airlines; but in this particular case there is already competition among the airlines or in those particular markets.

Mr. Chairman, there has to be, in the first place, two or more airlines competing. However, the important thing which is being overlooked is the great burden with which applicants have historically been confronted. The CAB has had to make a finding that that application is required by the public convenience and necessity, and that has been a very difficult test for airlines to meet. There have been relatively few new certificates granted because of the difficulty in meeting that test.

We have gone to great lengths to change that test, and it no longer will be in the law if this bill is passed. We will then have a much more easy test to meet. We also have in this bill a rebuttable presumption that the applicant, by filing his application, has already met the new test of being "consistent with" rather than being "required by" the public convenience and necessity. The applicant is presumed to provide service which is consistent with the public convenience and necessity, and that is much different than the test which is in the law.

It is true that some of the bigger airlines will benefit by this particular provision; but it is also true that most of the smaller airlines will benefit by it because they are the ones who are least able to meet additional competition since they have fewer markets to serve. They do not have the economic wherewithal to compete against a half dozen different applicants for the same markets. They do not have the economic strength that the bigger airlines have; and therefore, they will be the most affected or impacted by the gentleman's amendment.

Mr. Chairman, this bill is a finely tuned instrument to set forth a new balance in aviation legislation, in an effort to go down the route of deregulation; yet, at the same time, we want to know where we are advancing. We do not want to take a great airline transportation industry and destroy it; and until we try these provisions to see how they work and understand their ramifications, we should proceed cautiously.

Mr. Chairman, we heard in the committee after many days of hearings and much deliberation that it would be best to proceed in a cautious, slow manner, with the ultimate objective of trying to get as much deregulation as we could without destroying the airline industry.

Mr. Chairman, I urge that the committee defeat the amendment.

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

Mr. Chairman, as the Members, who are not on the committee but who have been listening to the debate, can understand, I am sure, this is a little bit more complicated than it sounds on its face.

I am probably going to say the same thing a couple of different ways in order that those who may be present but who are not on the committee or those who may be watching me can understand. Let me say first that I concur in the comments of my colleague, the gentleman from Ohio (Mr. HARSHA); and I concur somewhat in what the gentleman from Pennsylvania (Mr. ERTEL) said about the transaction and what went on in the committee.

We did have a lot of hearings on dormant authority per se. However, it is correct that in the early days of marking up the bill we did adopt a "use it or lose it" theory, which basically is what his

amendment calls for. Whoever got to the courthouse first with the CAB got any unused authority. I want to say this, though, that when we did that, I was not descended upon by the trunk carriers in objection to what we had done. I was decended upon by local service carriers, and there we are talking about smaller people insofar as airlines are concerned.

Now let us talk about what we are doing. First, I want to read from the committee report. On page 6 it says:

Under H.R. 12611, a certificate for a market becomes unused or dormant if the certificated carrier does not provide service of at least five round trips a week for at least 13 weeks during a 26 week period.

Which is half the time during a 6-month period. There is a different standard for seasonal routes where you are going into a resort.

The bill provides two types of procedures for replacement of carriers with dormant certificates.

Markets which do not receive any nonstop service or which receive nonstop service by only one carrier are the markets most in need of replacement service. For these markets, H.R. 12611 provides that CAB must authorize replacement service in fifteen days by the first applicant who certifies that it is in compliance with FAA regulations and is able to comply with CAB regulations.

If there is only one carrier in a monopoly, the first applicant who says, "I want it," who is a certificated carrier, who will comply with FAA safety requirements, gets it within 15 days. So there we have got to pick up automatic entry immediately.

For markets actually served by two or more carriers, H.R. 12611 provides that the CAB must authorize the first applicant who makes the foregoing certifications, unless the CAB finds, within 60 days, that award of replacement authority would be inconsistent with the public convenience and necessity.

So if there are already two carriers serving nonstop and another carrier applies, they are going to get it almost automatically within 60 days unless one can prove it is inconsistent with public convenience and necessity.

In addition to this, the bill provides and establishes a rebuttable presumption in favor of any carrier who files an application to replace a dormant authority over and above those that already have two or more—a rebuttable presumption that giving them the dormant authority would be consistent with the public convenience and necessity. So what I am saying to the Members is that we are going from a stage where we are now where dormant authority is almost locked up, unused authority, to where we are going to give it automatically virtually to anyone where there is one carrier or a monopoly, and almost as easily where there are only two serving it, and reversing the burden of proof to pick up the dormant authority beyond markets served by two or more carriers.

It is true that there are many dormant authorities. It is also true that we go much further in this bill than the Senate goes and that we are much more liberal, and it is much easier to pick up the dormant authority.

My basic political philosophy is, yes, let them have it, or let them warm up and fly if they can make the flight go. But, on the other hand, I have got to admit to the Members that if we move away from a regulated industry, we have got to do it with some sense; we have got to do it with some plan; we have got to do it so that we are not going to destroy what has become the best airline industry in the world.

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

Mr. SNYDER. I yield to the gentleman from Pennsylvania .

Mr. ERTEL. I thank the gentleman for yielding.

I am very interested in the gentleman's sense of how we are going to move out of this. Will the gentleman describe to me what hearings, what evidence we ever took in our committee on the two or more carriers in a dormant area? Can the gentleman tell me anybody who testified on that?

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. ERTEL and by unanimous consent, Mr. SNYDER was allowed to proceed for 3 additional minutes.)

Mr. SNYDER. I would say to the gentleman that we had a lot of evidence on dormant authority and the "use it or lose it" concept from a lot of people on both sides of it. We had no evidence of specifically where we ought to trigger the test of consistency with the public, conveniences, and necessity. We made that determination based upon weighing the evidence on the two sides, that were extreme sides, and we cut it down the middle. I think that is the sensible thing.

Mr. ERTEL. Let me ask the gentleman: Did we have any testimony at all on the provision of two or more markets? I suggest we never had it. The only person who ever got that evidence was me from the CAB.

Mr. SNYDER, I say to the gentleman I think I have responded to the question.

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

Mr. SNYDER. I yield to the gentleman from Georgia.

Mr. LEVITAS. If the gentleman will recall, during the markup of this bill in the subcommittee, the gentleman from Georgia (Mr. EVANS) offered an amendment which would have made a cutoff at one market or more similar to the two or more that is now in there. During that debate and during the discussion of the compromise which was finally brought out, the gentleman from Pennsylvania and others did make available to the committee evidence as to the dormant markets and where the cutoff would apply.

I think it is also important to emphasize for another reason the point the gentleman from Texas just made, that when this language was being developed the persons developing that language had no idea which airlines would be benefited and which airlines would not be benefited. It was done as the balancing of an issue that had to be resolved and I think we came up with a good resolution.

Mr. SNYDER. Mr. Chairman, I still say to the gentleman, I do not know who will be benefited and who will not. I am of the opinion that to adopt the Ertel amendment will hurt the local carriers, which are smaller than the trunk lines.

I only make the observation because they lobbied against the proposition with great vigor.

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

Mr. SNYDER. I yield to the gentleman from Pennsylvania.

Mr. ERTEL. Mr. Chairman, I would remind the gentleman that I did spell out these figures in the hearing and I did spell out the carriers that would be protected. I made the same speech on the "big boy" protecting provision which I just finished.

I might also point out that Chairman KAHN supports this amendment. He does not want to destroy the little boys at the expense of the big boys.

Let me point out that Continental and Texas International are competing in the Dallas-Albuquerque market. Bumping and overbooking is the No. 1 problem there. Two other airlines have tried to get into it and nobody can, even though there is dormant authority. Now we are going to protect them under this provision.

Mr. SNYDER. Mr. Chairman, I am not familiar with the bumping and the overbooking; but if the facts are right, if Continental and Texas International are serving it, then there are only two serving it.

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

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Pennsylvania.

Let me say that I understand the position and the concern of the gentleman. A critical aspect of our regulatory reform effort is the so-called use it or lose it concept. There is no question that in many instances dormant or unused authority is detrimental to the convenience of the traveling public.

But the gentleman's amendment, in my opinion, goes too far. In essence, it defines as dormant even those markets where service is being provided on a highly competitive basis. In fact, out of some 28,000 markets for service, there are only about 4,500 that are being used, about 84 percent. But they are in a competitive mode, and can serve the market demands.

The amendment strikes at management's ability to make decisions, decisions affecting competition that we, in fact, are seeking to encourage. It gives no flexibility, because it does not allow airlines to make decisions based on market trends or demands. Instead, it encourages, in essence, a defensive approach to market scheduling and service.

The committee, I think, has a strong dormant market section in this bill. It does represent a compromise and, in fact, I think many minds could agree or disagree on this particular issue, either on the side of the gentleman from Pennsylvania (Mr. ERTEL) or on the side of the committee. In fact, some people have told me that the committee went too far.

When there is no service or no competitive service, we have virtually given carte blanche to any new applicant. Even in markets where competition exists, we have provided expedited procedures for encouraging additional competition.

Let us live with what we have right now. Rome was not built in a day. Our committee and this House can always come back at a later time and reexamine the dormant authority; so therefore, Mr. Chairman, I think the committee's approach is a reasonable approach, recognizing that a compromise has been effected.

I would urge defeat of the gentleman's amendment.

Mr. WRIGHT. Mr. Chairman, I take this time in order that we may make some legislative history that will be clear to any and all who may undertake to administer this act.

I refer to the new section 8 which has been inserted in the bill by the amendment offered by the gentleman from Illinois (Mr. FARY). It refers to the encouragement of air service in major urban areas through secondary or satellite airports where consistent with regional airport plans of regional and local authorities. I emphasize the operative phrase, "where consistent with regional airport plans of regional and local authorities."

That is a concept which I certainly support. Situations and local desires vary widely throughout the country, and the needs and priorities of local authorities must by all means be respected. I know there are areas in the country such as Chicago and other localities where the local and regional authorities desire to get more service at satellite airports. There are, however, situations in this Nation which are exactly the reverse, and my purpose here is to give the Members one such illustration to make it abundantly clear to all for all time to come what this means with regard to them.

As the members of the committee are aware, I am sure, the cities of Dallas and Fort Worth, at the urging of the CAB, formally agreed that Love Field, as well as Meacham Field, the first in Dallas and the second in Fort Worth, would be closed to interstate and foreign flights as a part of their agreement to build and invest in the Dallas-Fort Worth Regional Airport. Based on that commitment, well over $500 million has been spent to build and develop the Dallas-Fort Worth Regional Airport.

As I understand it, the 1968 Regional Airport Concurrent Board Ordinance of the two cities specifically contains a regional airport plan which absolutely precludes the use of Love Field or Meacham Field for interstate or foreign flights. I am insistent that this decision shall be respected and that nothing be done to place it in jeopardy.

Now, if the CAB were to be allowed nevertheless to certificate any service into Love Field, let us say, then there would be a very serious concern that it could become a major air carrier airport once again, and that service would be drawn away from the Dallas-Fort Worth Airport into which all the cities' moneys and their futures have been pledged, to the serious inconvenience of Fort Worth passengers and also to the serious financial detriment of the cities of Dallas and Fort Worth and their ability to pay off the Dallas-Fort Worth Airport bonds. I want to leave no possibility that any future administration or board member could misconstrue any language in this bill as encouraging or permitting such a travesty.

Mr. Chairman, I refer once again to the language:

> The encouragement of air service at major urban areas through secondary or satellite airports where consistent with regional airport plans of regional and local authorities.

I should like to ask the manager of the bill, the gentleman from California (Mr. ANDERSON): Am I correct in understanding that if the Dallas-Fort Worth Regional Airport Board or the cities inform the CAB that any interstate service to Love Field is not in accordance with the plan of the 1968 Board Ordinance, and that they do not desire it, then the CAB could not certificate any such service to Love Field or to Meacham Field?

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

Mr. WRIGHT. I yield to my friend, the gentleman from California.

Mr. ANDERSON of California. Mr. Chairman, my understanding of the language is as the gentleman stated it.

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

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

Mr. WRIGHT. Yes, I yield.

Mr. GOLDWATER. Mr. Chairman, is it the purpose of this colloquy to make a point that the service offered between Fort Worth and Dallas shall only be at the Fort Worth-Dallas International Airport?

Mr. WRIGHT. In regard to interstate and foreign flights, yes. Mr. Chairman, the purpose of the colloquy is to make abundantly certain that nothing whatever in this bill shall interfere with the determination of the cities of Dallas and Fort Worth, since they invested $500 million of their futures in the bonds that will be guaranteed by their citizens upon the premise and upon the decision, and upon the encouragement of the CAB, that the Dallas-Fort Worth Regional Airport shall be the only airport to serve interstate or foreign flights.

The CHAIRMAN. The time of the gentleman from Texas (Mr. WRIGHT) has expired.

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

Mr. GOLDWATER. If the gentleman will yield further, it is not the gentleman's intention that we should abandon or destroy Love Field or perhaps other fields in the surrounding area, is it?

Mr. WRIGHT. Let me say to the gentleman that no commentary that I have made could lead to that conclusion. The cities of Dallas and Forth Worth, in their mutual, joint efforts, decreed that, in exchange for their putting huge sums of money into the development of this regional airport, there will be no interstate or foreign flights from any of the other airports in that region. Everybody is happy with that. I just want to make clear that nobody misreads anything in this bill as an encouragement to put competing flight in interstate commerce into any other airport, because it would be seriously detrimental to the citizens and the taxpayers of the area.

Mr. GOLDWATER. I think it was abundantly clear. But I am certain that the gentleman recognizes that aviation travel, the evolution aspect of it, with commuter service and short haul coming into being, that at some point in time, as long as it is compatible with the regional plan, perhaps Love Field, and other fields, might become once again an attractive place to land. It is not encouraging by the construction of another field.

Mr. WRIGHT. I think what the gentleman fails to appreciate is that presently their are short-haul intrastate flights and many private flights going into Love Field and into Meacham Field. There will be a continuing need for those airports. Meacham Field is currently undergoing an expansion program. We have no objection to that. What we would seriously object to would be any act on the part of the CAB which certificate any interstate or foreign flights into any place other than Dallas-Fort Worth Airport to serve those two cities.

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

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

Mr. SNYDER. I thank the gentleman for yielding.

Mr. Chairman, I want to say this, in support of chairman ANDERSON's response to the gentleman from Texas. During the full markup—and I mentioned this earlier—the gentleman from Illinois (Mr. FARY) offered an amendment similar to the one that the gentleman makes reference to today. And we recognized their problem at Midway. But we were also well aware of the situation at Love that the gentleman from Texas has laid out here, and our agreement with him was that we wanted to try to help his situation but under no circumstances did we want any language that might be interpreted to adversely affect the situation which the gentleman from Texas just described. It was with that understanding that the staff developed the language that the gentleman is making reference to and which we have earlier adopted today, and it was with that understanding, at least on this side of the aisle, that we were acceptable to the amendment.

I hope that clarifies my understanding.

Mr. WRIGHT. Mr. Chairman, I will say to the gentleman that I am grateful to him for that clarification.

The CHAIRMAN. The time of the gentleman from Texas (Mr. WRIGHT) has expired.

(On request of Mr. HARSHA and by unanimous consent, Mr. WRIGHT was allowed to proceed for 1 additional minute.)

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

Mr. WRIGHT. I yield to the gentleman from Ohio.

Mr. HARSHA. I thank the gentleman for yielding.

Mr. Chairman, I would also like to associate myself with the remarks of both the chairman of the subcommittee

and the ranking minority member of the subcommittee. When the gentleman from Illinois offered his amendment initially, I was the one who raised the most objections to it, because at that time it was so worded that it may have impacted on some litigation that was presently going on. So as a result of that, I met with the gentleman from Illinois and two or three other members from Illinois and the members of our committee. With the assistance of the staff, we worked out what we felt was an acceptable amendment, recognizing the problem with Midway and O'Hare Airport and the problems there that those members from Illinois were concerned with. While at the same time I made a commitment with my good friend, the gentleman from Illinois, relative to this amendment, I also believe I had an understanding that it in no way was to have a detrimental effect on the Fort Worth-Dallas Airport.

That is my understanding of the legislative history of it, and I hope it will so be interpreted.

Mr. WRIGHT. I thank the gentleman, and I am pleased and satisfied with the response.

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

If we can get back to the debate on the amendment before the committee at this time, I would just like to make one point in addition to those that have already been made in opposition to the amendment. I first would respectfully disagree with the argument made in the well that this benefits the big air carriers. During the committee deliberations and hearings on this bill, I was never approached by a single large carrier, and I represent some in my district. But, I was asked by practically all of the smaller local carriers to defeat this particular effort.

One segment that is going to be hurt or could be hurt if this amendment should be adopted would be the smaller cities. I have heard it mentioned that Texas International was one air carrier that was lobbying for this effort. That is true. But, I would point out to the Members that Texas International is one of the smaller air carriers in business. It is a local air carrier. It gets the name "International" because it flies to Monterey, Mexico, which is but a short distance from the Texas border.

Back when this airline first came into being, CAB granted it rights to serve blocks of cities, and it literally came up through the ranks by going into the county seat-size towns in some instances. That means that it has a "collector network" where it may start in Harlingen in far south Texas, drop into San Antonio or Houston, then on to Dallas. From Dallas, it will provide direct plane service as far as Los Angeles.

If we take away the cream route, such as a direct flight from Dallas to Los Angeles or from Houston to Los Angeles, or even Houston to Dallas, the loser would be the little town of Harlingen where passengers have direct plane service to as far as Los Angeles.

So, in adopting this amendment we may be depriving small- and medium-sized cities of direct plane service that they are now enjoying, or indeed, deprive them of any service at all. If left the way it is in the bill, each case can be looked at individually by the CAB. If an application has merit, it can be granted. Otherwise, we are turning loose virtually hundreds of routes, many of which were awarded back in the 1920's. In adopting this amendment, we may be seriously interrupting a very complex air transportation system.

So, Mr. Chairman, I urge the Members to vote down the amendment.

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

I speak, of course, not on behalf of any airline, large or small, but more on behalf of the consumers whom I once represented in my State. What we have seen here is precisely what we have seen in the Interstate Commerce Commission. Over the years, the phrase "public convenience and necessity," instead of being a spur to competition, has been a barrier. Nothing is more convenient to the public or more necessary to the consumer than competition, which increases efficiency and reduces costs.

The Civil Aeronautics Board and Interstate Commerce Commission have wound a cocoon around these two industries of transportation and airlines that is hampering normal development. There came a time when it was clear that the poor consumer could only choose between having champagne on one flight or steak on another; and the airlines, in order to compete, were compelled to run half-empty planes with fringe goodies given instead of competition.

I think we must make the phrase "convenience and necessity" a positive rather than a negative thing. It has been interpreted to a point where now unless one can absolutely prove that there is no alternative, that consumers cannot travel in any other way, there will be no new air transport. The further we can go from that the better.

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

Mrs. FENWICK. I yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Chairman, the gentleman is making a good argument for an amendment I understand the gentleman from Pennsylvania will offer later for reversing the test for public convenience and necessity. In cases where there is only one carrier serving a market there is no test to be met. Beyond that, if there is dormant authority, we do change the law from what it is. Today the law says it has to be required by public convenience and necessity. Our bill today says it only has to be consistent with the public convenience and necessity. I do not know whether or not the gentlewoman understood the situation.

Mrs. FENWICK. Yes, I did. And I would like to point out that one of the appointments of this whole administration is the appointment of the chairman, Mr. Kahn. He is an extraordinarily able and sensible human being and it is a great solace to all of us to have him.

Mr. ERTEL. Mr. Chairman, if the gentlewoman will yield, I am glad to say I support her remarks with respect to Chairman Kahn.

If we do not pass the Ertel amendments that would be strictly to protect the big boys in the big routes. Where the gentleman and Mrs. FENWICK would receive the benefits and where there are only two carriers flying, the rates would drop, because they would be able to enter that market. The Members are exactly correct, that this is an essential revision of this air service market.

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

Mr. Chairman, I would like to just put this discussion back into perspective in the context of this very important piece of legislation. The airline deregulation bill is one of the most important and complex pieces of economic legislation that this Congress will deal with. It is highly technical. The bill deals with all manner of major concerns, lower fares, greater service, more competition and indeed—I do not know where the gentlewoman from New Jersey has gone, but I would like point out to her—this bill would even abolish the CAB in 5 years by a sunset provision and then we will have full and complete competition. As such it is the only true and complete deregulation bill before Congress.

In moving toward the total deregulation of the airline industry and in trying to strike a delicate balance between the competing concerns, the committee has come up with a finely tuned and delicate and prudent approach to the transition from the highly overregulated climate of today to the totally deregulated climate after sunset.

The House bill in that respect is far superior to the bill of the other body in every respect. And indeed on the question of dormant authority the bill passed by your Public Works and Transportation Committee is far more liberal in opening up dormant authority routes than the bill passed by the other body.

But let us see what it does and why the amendment offered by my friend the gentleman from Pennsylvania is a mischievous amendment in this regard and can upset this delicate balance very easily and swiftly. If an amendment is adopted I must say there are other provisions in this bill I do not like, but if we are going to try to rewrite this complex piece of legislation on the floor I have some amendments over there which I intend to offer at the proper time.

But let us see what this does. This provision in the bill today says if there is dormant authority in a market and no service is being offered, any carrier can come in and pick up the dormant authority and use it and provide service without any CAB procedure. If there is only one carrier in a market and it alone is serving that market and therefore there is no competition in fares or service or anything else, and dormant authority, then any carrier can come in and service that market and provide competition without any proceedings.

The bill also says that where there is competition and dormant authority, a carrier who wants to serve that market can make application for it, it is presumed that the applicant is entitled to the authority, and only if the carriers in that market can show it would have a detrimental effect to the public and be inconsistent with public convenience and

authority, can they be kept out new service and that occurs in expedited CAB proceeding.

Now lets turn to the question of does this provision in the bill benefit the big boys? You know, it is one thing to argue on the merits of an issue and it is another to engage in the creation of false images.

I am perfectly willing for the Members of this House who are here and those who are listening to the debate on television to make that judgment on the issues. But let me deal with the comments made several times by my good friend the gentleman from Pennsylvania (Mr. ERTEL) that this is a "big boys protection provision." The exact opposite is the truth. The opposite is the case. As the gentleman from Texas and the gentleman from Kentucky have pointed out, the only people in the industry who have tried to keep this balance in this part of it rather than just throwing it wide open, right away, are the small, little carriers. Because this is what is going to happen, where you have a large carrier and a small carrier serving a small market, Frontier, a dormant authority exists there. If you let one of the big boys in then they will drive the small carrier out of the market altogether. It is not a question of letting Frontier compete with American and United, that is not what is at stake here. The small carriers I think perhaps know their own concerns better than the gentleman from Pennsylvania (Mr. ERTEL) does. It is a small carrier provision.

Mr. ERTEL. Mr. Chairman, will the gentleman yield on that point?

Mr. LEVITAS. I will yield to the gentleman as soon as I complete my sentence.

It is a small carrier's provision because, if we are transforming this regulated protectionist system into a completely deregulated one, do not let the big carriers wipe out the small carriers in the first few years, let them continue to provide competitive service and let the CAB be there to make the judgment and act as a safety valve.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. ERTEL and by unanimous consent, Mr. LEVITAS was allowed to proceed for 3 additional minutes.)

Mr. ERTEL. Will the gentleman yield?

Mr. LEVITAS. I will be happy to yield to the gentleman from Pennsylvania.

Mr. ERTEL. The gentleman indicated that there are markets where a big carrier and a little carrier are in the market. Have you any statistics where a big carrier and a small carrier are in a truly competitive market of two or more? Do you have any statistics on that? Since the gentleman made this statement, I would like to see his statistics because, this applies to all of the carriers, except one, who have over 10 million sea+ miles.

Mr. LEVITAS. Let me respond to the gentleman. I asked the gentleman earlier if the gentleman had those statistics and he said he did not and I can only point to a number of markets that I am personally aware of, and let me give you one example that the gentleman even called to our attention today, you talked about Dallas-Fort Worth and Albuquerque, what are the two carriers you now say are in that market?

Mr. ERTEL. Continental and Texas International.

Mr. LEVITAS. All right.

Mr. ERTEL. Let me answer the gentleman.

Mr. LEVITAS. Let me complete my statement.

You say Texas International and Continental. Who did the gentleman say was going to apply for it and could not get it? What little bitty carriers? I think the gentleman said American and United.

Mr. ERTEL. I did not. I did not say that.

Mr. LEVITAS. What are the carriers?

Mr. ERTEL. The carriers are TWA and American.

Mr. LEVITAS. TWA? So is that the big boy going after the little boy, or is it the other way around?

Mr. ERTEL. Let me read to you the conditions in that market, if I might. What has happened is that the current service is definitely inadequate:

. . . as there are perpetual waiting lists of passengers seeking to get on every flight to and from those cities. Bumping/overbooking is a common problem on that route.

Both TWA and American Airlines have interest in getting into that market. Albuquerque only expects that traffic will be even further expanded if a new carrier were to begin providing service.

Mr. LEVITAS. I agree they need more service and this bill would give them more service. I am dealing with the charge that the gentleman has made several times that it is protecting the big boys from the little boys, yet the two carriers that are trying to get into that market are little old American and little old TWA, and they are going after big old Texas International and big old Continental.

I am saying it is not a big boy's protection provision, and the gentleman's own facts bear that out.

Mr. ERTEL. Is the gentleman aware that Texas International is right now trying to buy National Airlines in a battle with Pan-Am? In addition, it had 29.3 percent net profits last year, the highest in the industry, yet you are worried about protecting this poor little boy who happens to fly 1,760,000-seat miles.

Mr. LEVITAS. Texas International has been described, I might point out, by the Wall Street Journal, as a sardine trying to swallow a whale. That might give you some idea.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. ERTEL).

The question was taken; and on a division (demanded by Mr. ERTEL) there were—ayes 7, noes 18.

Mr. ERTEL. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently 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.

The pending business is the demand of the gentleman from Pennsylvania (Mr. ERTEL) for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

The CHAIRMAN. Are there further amendments to section 8? If not, the Clerk will read.

The Clerk read as follows:

FILL-UP RIGHTS

SEC. 9. Section 401(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)) is further amended by adding at the end thereof the following new paragraph:

"(6) Any air carrier holding a valid certificate to engage in foreign air transportation is authorized, on any scheduled flight in foreign air transportation, to transport persons, property, and mail between points in the United States between which it is authorized to operate during such flight. The authority described in the preceding sentence shall be limited to one round-trip flight per day between any such pair of points, unless the Board authorizes more than one round-trip flight per day between any such pair of points.".

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 9 be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

The CHAIRMAN. Are there any amendments to section 9?

If not, the Clerk will read.

The Clerk read as follows:

EXPERIMENTAL ENTRY PROGRAM

SEC. 10. Section 401(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)) is further amended by adding at the end thereof the following new paragraph:

"(7)(A) Not later than the thirtieth day of the first calendar year which begins after the date of enactment of this subparagraph—

"(i) any air carrier which (I) has operated during the entire preceding calendar year in accordance with a certificate issued by the Board under this section which has been in force during such period of operation, and (II) has provided air transportation of persons during such calendar year; and

"(ii) any intrastate air carrier which has a valid certificate or license issued by a State regulatory authority to engage in intrastate air transportation and which has operated more than one hundred million available seat-miles in intrastate air transportation in the preceding calendar year.

may apply to the Board for a certificate under this subparagraph to engage in nonstop service between any one pair of points in interstate or overseas air transportation in addition to any pair of points authorized by any existing certificate or license held by such air carrier or intrastate air carrier, except that no air carrier may apply to engage in nonstop service between such pair of points if any air carrier has filed written notice to the Board pursuant to subpara-

graph (C) of this paragraph with respect to such pair of points. Not later than the sixtieth day after the date on which the Board receives an application from an applicant under this subparagraph, the Board shall issue a certificate to such applicant for the nonstop service specified in such application, unless within such sixty-day period the Board determines that the issuance of such certificate is likely to result in a substantial impairment of the national air transportation system or a substantial reduction in air service to small- and medium-sized communities in any region of the United States.

"(B) Not later than the one-hundred-twentieth day of the first calendar year which begins after the date of enactment of this subparagraph, any air carrier which submitted an application to the Board in accordance with subparagraph (A) of this paragraph in such calendar year and—

"(i) which did not receive a certificate to provide service between the pair of points set forth in the application because of a determination by the Board under such subparagraph (A); or

"(ii) which received a certificate to provide service between such pair of points, but was not the only air carrier to receive a certificate under such subparagraph (A) during such calendar year to provide nonstop service between such pair of points,

may reapply to the Board for a certificate to engage in nonstop service between any one pair of points in interstate or overseas air transportation (other than the pair of points specified in the first application submitted to the Board by such air carrier in such calendar year) in addition to any pair of points authorized by any existing certificate or license held by such air carrier or intrastate air carrier, except that no air carrier may apply to engage in nonstop service between such pair of points if any air carrier has filed written notice to the Board pursuant to subparagraph (C) of this paragraph with respect to such pair of points. Not later than the sixtieth day after the date on which the Board receives an application under this subparagraph, the Board shall issue a certificate to the applicant for such nonstop service, unless within such sixty-day period the Board makes a determination with respect to the issuance of such certificate in accordance with the second sentence of subparagraph (A) of this paragraph. If the Board issues a certificate to an applicant under this subparagraph, it shall revoke any authority in any certificate which it granted to such applicant in the same calendar year under subparagraph (A) of this paragraph.

"(C)(i) Subject to clause (ii) of this subparagraph, any air carrier which is authorized pursuant to paragraph (1) or (2) of this subsection to engage in nonstop service between any pair of points in interstate or overseas air transportation on the first business day of the first calendar year which begins after the date of enactment of this section and which wants to preclude any other air carrier from obtaining authority under subparagraph (A) or (B) of this paragraph to engage in nonstop service between such pair of points may, on such day, file written notice to the Board which sets forth such pair of points. Upon receipt of any written notice under the preceding sentence, the Board shall make such notice available to the public.

"(ii) No air carrier may file a written notice under clause (i) of this subparagraph with respect to more than one pair of points in interstate or overseas air transportation.

"(D) The Board shall conduct a study of the procedure for certification of air carriers and intrastate air carriers set forth in subparagraphs (A) and (B) of this paragraph to evaluate—

"(i) whether such procedure is consistent with the criteria set forth in section 102 of this Act; and

"(ii) the relative effectiveness of such procedure as compared with other procedures for certification set forth in the Act, including but not limited to, the procedures set forth in paragraphs (5) and (6) of this subsection, and in subsection (p) of this section.

Not later than June 30, 1980, the Board shall complete such study and report the results of such study to the Congress.".

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 10 be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

Mr. ERTEL. Mr. Chairman, I ask unanimous consent to go back to the previous section and offer an amendment to section 9.

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

Mr. SNYDER. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Are there any amendments to section 10?

If not, the Clerk will read.

The Clerk read as follows:

EXPERIMENTAL CERTIFICATES

SEC. 11. Section 401(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)) is further amended by adding at the end thereof the following new paragraph:

"(8) The Board may grant an application under subsection (d)(1), (2), or (3) of this section (whether the application be for permanent or temporary authority) for only a temporary period of time whenever the Board determines that a test period is desirable in order to determine if projected services, efficiencies, methods, rates, fares, charges, or other projected results will in fact materialize and remain for a sustained period of time, or to assess the impact of the new services on the national air route structure, or otherwise to evaluate the proposed new services. In any case where the Board has issued a certificate under any one of those subsections on the basis that the air carrier holding such certificate will provide innovative or low-priced air transportation under such certificate, the Board, upon petition, or its own motion, may review the performance of such air carrier, and may alter, amend, modify, suspend, or revoke such certificate or authority in accordance with the procedures prescribed in section 401(g) of this title, on the grounds that such air carrier has not provided, or is not providing, such air transportation.".

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 11 be considered as read, printed in the RECORD, and open to amendment at any point.

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

Mr. ERTEL. I object, Mr. Chairman.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk continued to read.

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 11 be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

The CHAIRMAN. Are there any amendments to section 11?

If not, the Clerk will read.

The Clerk read as follows:

REMOVAL OF RESTRICTIONS

SEC. 12. Section 401(e) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(e)) is amended by adding at the end thereof the following new paragraph:

"(7) Upon application of any air carrier seeking removal or modification of a term, condition, or limitation attached to a certificate issued under this section to engage in interstate, overseas, or foreign air transportation, the Board shall, within sixty days after the filing of such application, set such application for oral evidentiary hearings on the record, or begin to consider such application under the simplified procedures established by the Board in regulations pursuant to subsection (p) of this section for purposes of eliminating or modifying any such term, condition, or limitation which it finds is inconsistent with the criteria set forth in section 102 of this Act. Applications under this paragraph shall not be subject to dismissal pursuant to section 401(c)(1) of this Act.".

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 12 be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

The CHAIRMAN. Are there any amendments to section 12?

AMENDMENT OFFERED BY MR. ERTEL

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

The Clerk read as follows:

Amendment offered by Mr. ERTEL: Page 100, before line 4, insert the following new section:

DETERMINATION OF CONSISTENCY WITH PUBLIC CONVENIENCE AND NECESSITY

SEC. 12. Section 401(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)) is further amended by adding at the end thereof the following new paragraph:

"(9) Transportation covered by an application for a certificate described in paragraph (1)(A), (2)(A), or (3)(A) of this subsection shall, for the purposes of such paragraphs, be deemed to be consistent with the public convenience and necessity, unless the Board finds based upon clear and convincing evidence that such transportation is inconsistent with the public convenience and necessity.".

Renumber the succeeding sections of the bill accordingly.

Mr. ERTEL (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 Pennsylvania?

Mr. LEVITAS. Mr. Chairman, reserving the right to object, I wonder if we have had sufficient opportunity to see this amendment at this point.

Mr. ERTEL. Mr. Chairman, if the gentleman will yield, I received the amendment from the committee counsel.

Mr. LEVITAS. Mr. Chairman, the reason I reserved the right to object is to ascertain whether or not there is a point of order which should be reserved against the amendment.

Mr. Chairman, I withdraw my reservation of objection, but I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Georgia (Mr. LEVITAS) reserves a point of order on the objection.

Is there objection to the request of the gentleman from Pennsylvania?

Mr. SNYDER. Mr. Chairman, reserving the right to object, I take it this is the same amendment we had in the committee? I understand this is amendment No. 9, the same amendment that was going to be offered, and it has not been changed?

Mr. ERTEL. Mr. Chairman, if the gentleman will yield, this is the reverse burden amendment. We did not have it in the committee, but we did have it in a meeting.

Mr. SNYDER. Yes, I stand corrected. But this amendment is in the same language as the one that was in the meeting?

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

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

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

There was no objection.

Mr. ERTEL. Mr. Chairman, this is the reverse burden of proof amendment on which there has been a great deal of discussion in the Chamber. Perhaps I should basically explain what it is.

The 1938 act is silent on who would have the burden of proof in proving who should go forward and in fact prove that there should be new air service or air traffic brought into an area. Section 7 of the Administrative Procedures Act requires that the proponent of a particular proposal have the burden of proof. The existing law requires that a new applicant asking for service between cities, for instance, from Albuquerque to Dallas or anywhere else, would have the burden of proving that it was in the public convenience and necessity.

This is a very expensive burden for an applicant to have when he wants to apply for a new route. Even if there is not one scintila of evidence in the record that in fact it would be detrimental to the public convenience and necessity, the new applicant must in fact put forward evidence to prove it is economically feasible for him to service that route.

What my amendment does is it basically reverses that procedure. The person coming in and asking for the new route would not have the burden of proving it is an economic necessity, but anybody who is trying to hold him out would have the burden of proving that he should not be in.

In other words, the person who has the monopoly has to protect the monopoly rather than put the burden on the new applicant.

What the procedure has done is to stultify new applications. The applications procedure before the CAB is bogged down. Sometimes it takes 3 to 5 years to get new service into small communities.

In Peoria, Ill., which is a classic case, it took approximately 5 years to get an application through to get service from Peoria to Atlanta, Ga., and it cost the city of Peoria $200,000. Then after they got the service through, the fares fell 26 percent, and the boarding for passengers on planes went up tremendously.

So what we are doing is saying that those small communities are not going to have to meet this burden of going forward. We are going to say, "You have the presumption that new service will help," and we are saying to the new guy in town, "You can come in." We are going to be pro-competition and pro-free enterprise. We are saying to the new applicant that "a monopoly cannot hold you out and stultify the growth of new airlines.

Let us just take a look at what has happened in the airline industry, which we talk about as being the best transportation system in the world. In the past 10 years, because of this bureaucracy that has been created in the CAB, we have lost 10,000 jobs in the airline industry.

The indirect annual cost in airline regulation borne by industry and eventually by the public has been estimated by the General Accounting Office at $1.8 billion.

Now, remember, we do have the pro-competitive Kahn board, and things have changed in some regards. But since they have come in, the rate of return with this pro-competitive board has increased tremendously with the airlines, and before it was one of the lowest industrial group's rate of return in the Nation. So we have improved with the Kahn board, make no mistake about it. But they are pro-competitive. They are probably ahead of where the legislation will wind up out of this House and out of the Senate. What we are doing here is making an improvement in the law. Let us take a look at the people who are supporting this particular amendment, because it is really a wide spectrum of people. The airport operators in the 50 States contend that this amendment will save airport communities, in the overwhelming majority of cases, from having to expend large amounts of local public funds to engage consultants and attorneys to obtain economic data to file with the board. That is the local communities.

Take the Louisville service case. The Louisiville Air Board spent $500,000 to argue for air service in markets that included Louisville.

Kansas and Nashville both report that from $10,000 to $20,000 is likely to be spent developing data to support the case for new authority.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. ERTEL) has expired.

(On request of Mr. GLICKMAN) and by unanimous consent, Mr. ERTEL was allowed to proceed for 3 additional minutes.)

Mr. ERTEL. That was just for the economic aspects, and that does not include the attorneys' fees. I am an attorney, and I know what those fees cost and they are tremendous.

But let us take a look at who is supporting this amendment and why there is time for a change. We have the National Association of Counties, Common Cause, the American Conservative Union, Congress Watch, the National Association of Manufacturers, the Airport Operators Council International. Chairman Kahn has written a specific letter to every Member of this House supporting it.

The gentleman from California (Mr. MINETA), the gentleman from Illinois (Mr. CRANE), the gentleman from Michigan (Mr. STOCKMAN), the gentleman from Michigan (Mr. CARR), the gentleman from Pennsylvania (Mr. KOSTMAYER), the gentleman from Nevada (Mr. SANTINI), the gentleman from Michigan (Mr. SAWYER), and the gentleman from Ohio (Mr. WHALEN) support this amendment.

If you vote against this amendment, you are saying that competition is not a part of the American marketplace.

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

Mr. ERTEL. I yield to the gentleman from Kansas.

Mr. GLICKMAN. I thank the gentleman for yielding, and the gentleman might include Mr. GLICKMAN, too. But is this amendment roughly the same as the bill that came out of the Senate, that is, on the burden-of-proof issue?

Mr. ERTEL. It is.

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

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

Mr. McCLORY. Mr. Chairman, I want to associate myself with the remarks of the gentleman in the well, the gentleman from Pennsylvania (Mr. ERTEL), and say that, in my view, this amendment can help promote competition. It is fair, so far as both large and small airlines are concerned. Having had some experience in other types of regulatory bodies where certificates of convenience and necessity are required, I am well aware of the tremendous burden placed upon an applicant trying to enter a market which is already being served. And this would transfer the burden of proof so that it would facilitate entering the market and enhance competition and improve service and provide benefits to the consumer, it seems to me. I applaud the gentleman for offering his amendment.

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

Mr. ERTEL. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I want to commend the gentleman for offering this amendment. If there is one basic reason for the tremendous increase in inflation in recent years it is, in my opinion, the fact that competition is not nearly as strong as it once was in our free-enterprise system. If we are really going to mean what we say about deregulating airlines and promoting competition, it seems to me that this amendment is one of the things that we need to accept to make this real. If the burden of proof to enter a new mar-

ket is on the person who wants to compete, it creates a roadblock. The burden of proof should not be on that person. I think the gentleman is right on target with his amendment, and we should support the gentleman's amendment.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Georgia insist on his point of order?

Mr. LEVITAS. Yes, Mr. Chairman.

The CHAIRMAN. The gentleman will state the point of order.

Mr. LEVITAS. The amendment offered by the gentleman from Pennsylvania is purporting to amend page 96, line 10, by inserting a new section there. According to the reading of the Clerk, the Clerk had already begun to read section 12.

The CHAIRMAN. Does the gentleman from Pennsylvania wish to speak to the point of order?

Mr. ERTEL. Mr. Chairman, I cannot recall whether the Clerk started to read section 12 or not.

The CHAIRMAN. Section 12 had been considered as read by unanimous consent. The Chair is prepared to rule unless the gentleman from Pennsylvania wishes to address the matter further.

Mr. ERTEL. Mr. Chairman, I ask unanimous consent that section 12 be treated as not read.

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

Mr. MILFORD. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. GOLDWATER. Mr. Chairman, I would like to speak to the point of order.

I only rise to plead for a sense of reasonableness here. Mr. ERTEL has a number of amendments. He has a point of view, and recognizing the power in the opposition, it just seems to me that the gentleman ought to have an opportunity to present his amendments. Even though I am in opposition to his amendment, it just seems to me that we should not roll this thing through, but that the gentleman ought to have at least an opportunity.

I think we are nitpicking, making a point of order because for some reason we began reading a new section when the gentleman is sitting over there by himself trying to handle his amendments. I rise to appeal to a sense of reasonableness to my colleagues on that.

The CHAIRMAN. The Chair is prepared to rule.

The Clerk had read section 12, and in the opinion of the Chair the amendment adds a new section prior to section 12 and comes too late at this point, and the point of order is sustained.

Are there amendments to section 12? If not, the Clerk will read.

The Clerk read as follows:

PROCEDURES FOR PROCESSING APPLICATIONS

SEC. 13 (a) (1) Section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371) is amended by adding at the end thereof the following new subsection:

"PROCEDURES FOR PROCESSING APPLICATIONS FOR CERTIFICATES

"(p) (1) The Board shall promulgate rules establishing simplified procedures for—

"(A) the disposition of applications for a certificate to engage in air transportation pursuant to subsection (d) (1), (2), or (3) of this section; and

"(B) the alteration, amendment, modification, suspension, or transfer of all or any part of any certificate pursuant to subsection (f), (g), or (h) of this section.

Such rules shall provide for adequate notice and an opportunity for all interested persons to file appropriate written evidence and argument, but need not provide for oral evidentiary hearings.

"(2) In determining whether to employ such simplified procedures in a particular case, the Board shall give consideration to the magnitude of the potential impact of its decision in the case on the air transportation system. The rules adopted by the Board pursuant to this subsection shall, to the extent the Board finds it practicable, set forth the standards it intends to apply in determining whether to employ such expedited procedures, and in deciding cases in which such procedures are employed.".

(2) That portion of the table of contents contained in the first section of such Act which appears under the side heading

"Sec. 401. Certificate of Public Convenience and Necessity."

is amended by inserting at the end thereof

"(p) Procedures for processing applications for certificates.".

(b) (1) Section 402 of the Federal Aviation Act of 1958 (49 U.S.C. 1372) is amended by adding at the end thereof the following new subsection:

"PROCEDURES FOR PROCESSING APPLICATIONS FOR PERMITS

"(h) The Board shall promulgate rules establishing simplified procedures for—

"(1) the disposition of applications for a permit to engage in foreign air transportation pursuant to this section; and

"(2) the alteration, amendment, modification, suspension, or transfer of all or any part of any permit pursuant to subsection (f) of this section.

Such rules shall provide for adequate notice and an opportunity for all interested persons to file appropriate written evidence and argument, but need not provide for oral evidentiary hearings.".

(2) That portion of the table of contents contained in the first section of such Act which appears under the side heading

"Sec. 402. Permits to foreign air carriers."

is amended by inserting at the end thereof

"(h) Procedures for processing applications for permits.".

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 13 be considered as read, printed in the RECORD and open to amendment at any point.

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

There was no objection.

The CHAIRMAN. Are there any amendments to section 13?

AMENDMENT OFFERED BY MR. CHARLES WILSON OF TEXAS

Mr. CHARLES WILSON of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CHARLES WILSON of Texas: Page 99, before line 8, insert the following new section:

THROUGH SERVICE AND JOINT FARES

SEC. 14. Paragraph (4) of section 401(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)(4)) is amended to read as follows:

"(4)(A) Notwithstanding any other provision of this Act, any citizen of the United States who undertakes, within any State, 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 within such State granted by the appropriate State agency is authorized—

"(i) to establish services for persons and property which includes transportation by such citizen over its routes in such State and transportation by an air carrier or a 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 or services for such through services.

"(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 the State approved by the appropriate State agency, 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.".

Renumber the succeeding sections of the bill accordingly.

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

The CHAIRMAN pro tempore (Mr. SISK). Is there objection to the request of the gentleman from California?

There was no objection.

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

Mr. CHARLES WILSON of Texas. I yield to the gentleman from California.

Mr. ANDERSON of California. Mr. Chairman, I would just like to inform the gentleman that we support his amendment.

Last year we adopted legislation allowing intrastate carriers in California and Florida to enter into interline agreements with interstate carriers. Interline agreements relieve through passengers of the inconvenience of buying two tickets and making their own arrangements for baggage transfer. These benefits should also be available to passengers using intrastate carriers in Texas. I support the amendment.

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

Mr. CHARLES WILSON of Texas. I yield to the gentleman from Kentucky.

Mr. SNYDER. What the gentleman's amendment does is the identical, same thing that is accomplished by an amendment that had been circulated by the gentleman from Texas (Mr. KRUEGER).

Mr. CHARLES WILSON of Texas. Yes. I am offering the amendment as a favor to the gentleman from Texas (Mr. KRUEGER).

Mr. SNYDER. It looks like the same language. If the gentleman from Texas assures me it is the same, I supported the Krueger amendment.

Mr. CHARLES WILSON of Texas. I so assure the gentleman.

Mr. SNYDER. Then, Mr. Chairman, I support it.

The CHAIRMAN pro tempore. The question is on the amendment offered

by the gentleman from Texas (CHARLES WILSON).

The amendment was agreed to.

The CHAIRMAN pro tempore. The Clerk will read section 14.

The Clerk read as follows:

TERMINATION OR SUSPENSION OF CERTAIN SERVICE

SEC. 14. (a) Section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371) is further amended by adding at the end thereof the following new subsection:

"TERMINATION OR SUSPENSION OF CERTAIN SERVICE

"(q) If an air carrier holding a certificate issued pursuant to section 401 of this Act proposes to terminate or suspend nonstop or single-plane air transportation between two points being provided by it under such certificate, and such air carrier is the only air carrier certificated pursuant to such section 401 providing nonstop or single-plane air transportation between such points, at least ninety days before such proposed termination or suspension such air carrier shall file with the Board and serve upon each community to be directly affected notice of such termination or suspension.".

(b) That portion of the table of contents contained in the first section of such Act which appears under the side heading

"Sec. 401. Certificate of public convenience and necessity."

is amended by adding at the end thereof

"(q) Termination or suspension of certain service.".

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 14 be considered as read and open for amendment at any point.

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

There was no objection.

AMENDMENT OFFERED BY MR. ERTEL

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

The Clerk read as follows:

Amendment offered by Mr. ERTEL: Page 100, before line 4, insert the following new section:

DETERMINATION OF CONSISTENCY WITH PUBLIC CONVENIENCE AND NECESSITY

SEC. 15. Section 401(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)) is further amended by adding at the end thereof the following new paragraph:

"(9) Transportation covered by an application for a certificate described in paragraph (1)(A), (2)(A), or (3)(A) of this subsection shall, for the purposes of such paragraphs, be deemed to be consistent with the public convenience and necessity, unless the Board finds based upon clear and convincing evidence that such transportation is inconsistent with the public convenience and necessity.".

Renumber the succeeding sections of the bill accordingly.

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

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. SNYDER. Mr. Chairman, reserving the right to object, I do not have a copy.

Mr. ERTEL. This is the same amendment that I offered to a previous section, that was objected to because the Clerk had started to read section 12. It is the reverse burden.

Mr. SNYDER. Mr. Chairman, I will reserve a point of order on the amendment pending our receiving it, and I withdraw my reservation of objection.

The CHAIRMAN pro tempore. The gentleman reserves a point of order on the amendment.

Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. ERTEL. Mr. Chairman, this is the same amendment I had discussed previously which was subject to the point of order because the Clerk had gotten into the next section before I offered it. It is now being reoffered.

This is the reverse burden of proof. This is the same section which requires the one opposing a new entry to have the burden, to accept the financial burden of preventing someone from coming to the marketplace. This is the same amendment which was accepted in the Senate today. I have already discussed it previously and I will not discuss it again.

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

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

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

The question I ask is: Has not the incumbent airline had the burden of proving the convenience and necessity of serving that market?

Mr. ERTEL. If it is already serving the market at this point, he has been through the public convenience and necessity.

Mr. GOLDWATER. And he has already gone through that proof and he may have been awarded that route.

Mr. ERTEL. He may or may not have. He may have been grandfathered in.

Mr. GOLDWATER. But, nevertheless, he is the incumbent. He went through the pains of defending or acquiring that position, of making the presentation to the CAB that there was a need.

Mr. ERTEL. That may or may not be correct, based on the grandfathering in.

Mr. GOLDWATER. Under the gentleman's amendment, he would have to go through the whole scenario and prove it again, that in fact he meets all the requirements and standards.

Mr. ERTEL. That is not correct. The incumbent carrier would have to prove he is meeting the market and serving it adequately and that there is no need for another carrier. He is not proving he is necessary in the market. He is going to be there. But he has got to prove that the other carrier will not improve the service and cut fares. That is what he has to prove—not that he is capable but that the other fellow should not come into the market.

Mr. GOLDWATER. But he has to prove his service is a public convenience and necessity.

Mr. ERTEL. Not at all.

Mr. GOLDWATER. And if we require him to go through the same scenario again and throw the same burden of proof on his shoulders again, that is like trying a fellow a second time and requiring him to prove his innocence.

Mr. ERTEL. Not at all.

He is going to remain there. He does not have to prove he should be in the market. All we are saying is we believe in free competition and the free enterprise system and we are, in fact, procompetitive. A new applicant should be permitted to get into the market unless the incumbent thinks his monopoly is such that can serve the market entirely, then the incumbent can prove that the services are not needed.

Mr. GOLDWATER. That would be the same thing as if I held a patent, and it has been given to me under legal grounds and then you come along and want to infringe on the patent, the proof should be on you, but, under the amendment, the proof would have to be on the patent holder, and that is contrary to the law and practice.

Mr. ERTEL. No, it is not. If I am a patent holder and somebody comes along and starts to build something which is within my particular patent area, the burden is on me to prove that he infringed. That is a burden that remains with the patent holder, the monopoly holder, he must prove that the other person is infringing. That is exactly what we are doing here. We are saying to the monopoly holder, you have to prove that the other one is infringing or does not give good service. The patent law is very clear that the burden of proof remains with the patent holder.

Mr. GLICKMAN. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Pennsylvania (Mr. ERTEL).

Mr. Chairman, this is an incredibly important amendment for the future of air transportation in the United States. I believe that this is clearly the most important amendment that will be offered to this bill, and is an important amendment to insure that air transportation in the future remains competitive.

Let us start with two basic premises.

First, that the experience within the last year at the CAB, particularly the efforts by Chairman Kahn, has proved that in the air deregulation area that the free enterprise system works, without equivocation—and all you have to do is to go out to the airport and see the airplanes filled, see the airlines profits to know they are doing well, because of it.

Second, we have to come to the assumption that air transportation has replaced rail transportation, it has replaced bus transportation, as the only real feasible way in this country by which people can move around any more. Therefore, it is vital to the economic well-being throughout the 50 States that air services be as unrestricted as possible in order to promote a strong, solid economy throughout the entire country.

Basically there just are not any feasible ways for people to move in any large numbers except in air transportation. And, coming from a place where we make over half of the airplanes in the world, most of them general aviation, I have some interests to preserve and see that that industry is protected, but, more than that, I have an interest in being sure that our economy remains strong.

With reference to the burden of proof, the difference between the amendment

and the basic bill is on the question of whether the incumbent air carrier has to prove that the new service constitutes a public necessity or not. The amendment offered by the gentleman from Pennsylvania (Mr. ERTEL) sets up the burden of proof providing that an incumbent carrier, on a current route structure must show by clear and convincing evidence that a proposed new airline service on that route will not be in the public interest, therefore, making it easier for a new carrier to come in. That is the key. That is what the Senate adopted, that is what the President approved, that is what the Chairman of the CAB requested, and that is what is responsible for the increased air service.

Now let me tell you about my case in Wichita, Kans.

In May 1975 Kansas filed a case to increase air service to the Southeast. It was the Kansas case primarily which included Denver, Wichita, and Atlanta. That case took 3 years to complete, and it cost plenty in fees and other expenses directly attributable to the quest for new air service.

The Wichita airport authority, civic groups, and other people spent over $150,000. That does not include volunteer time expended. More importantly, it does not account for the sizeable economic loss which undoubtedly resulted for the firms choosing not to locate in the Wichita area, because of inadequate service.

We went through delay after delay after delay on route service, which was wanted, which was needed, which was economically sound, and which the public deserved.

After 3 years we got the service. By the way, people are eating this service up. The numbers of people who have taken advantage of this service have increased absolutely dramatically. However, the important point about it is the fact that what the Ertel amendment tries to do is to try to increase this kind of opportunity for people to have air service in a much quicker and a much more expeditious way in all parts of the country.

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

Mr. GLICKMAN. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I believe I understood the gentleman from Kansas (Mr. GLICKMAN) to say and I think I understood the author of this amendment to say that this was the provision adopted by the Senate as well; is that correct?

Mr. GLICKMAN. I believe it is roughly equivalent to the provision in the Senate.

Mr. ERTEL. If the gentleman will yield, Mr. Chairman, it is roughly the same. There are grammatical changes which we thought were better than the Senate's language.

Mr. LEVITAS. If the gentleman will yield further, I think this is an important, although perhaps technical, point which I would like to clarify.

I have here the bill passed by the other body, and I have here the amendment offered by the gentleman from Pennsylvania.

The bill passed by the other body says:

An opponent of the application shall have the burden of showing that such air service is not consistent with the public convenience and necessity.

The amendment offered by the gentleman from Pennsylvania says:

Unless the Board finds based upon clear and convincing evidence that such transportation is inconsistent with the public convenience and necessity.

Is there any significance to that difference in language?

Mr. GLICKMAN. I will yield to the gentleman from Pennsylvania (Mr. ERTEL) for an answer to that question.

Mr. ERTEL. There is not any significant difference in the language. It is a different way of saying the same thing.

The CHAIRMAN pro tempore. The time of the gentleman from Kansas (Mr. GLICKMAN) has expired.

(On request of Mr. LEVITAS and by unanimous consent, Mr. GLICKMAN was allowed to proceed for 2 additional minutes.)

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

Mr. GLICKMAN. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I just want to make certain that we understand this point.

The author of the amendment says that this difference in language is not a difference in substance; is that correct?

Mr. ERTEL. If the gentleman will yield further, Mr. Chairman, some people might consider that "clear and convincing" is a difference in the burden of proof; but I would suggest that they are substantially the same.

Mr. LEVITAS. That is what the gentleman, as the author of the amendment, is seeking; is that correct?

Mr. ERTEL. That is correct.

Mr. GLICKMAN. Mr. Chairman, I just want to add one additional point.

I go back to this issue of the competitive spirit of America. I would say to the people equivocating on this issue that the Ertel amendment puts into law a provision which will dramatically increase the ability of Americans to get air service; and inasmuch as air service is critical to our free economy, I really personally do not believe that there is any sound alternative except to support the Ertel amendment.

Mr. ERTEL. If the gentleman will yield further, Mr. Chairman, will the gentleman outline the various steps which the Wichita group had to go through until they finally got air service to Atlanta and will he outline the time delay as a result of those proceedings, which this bill would leave intact without the Ertel amendment?

Mr. GLICKMAN. It was 3 years, primarily waiting for a hearing examiner to issue his rulings. That hearing examiner decision was delayed somewhere between four and six times. In the meantime, my community was denied bona fide air service between Salt Lake City, Denver, Wichita, Memphis, and Atlanta. It was unfair to my constituents and I think unfair to those living in that entire part of the country and unfair to all Americans in general.

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

Mr. Chairman, I rise in support of the amendment offered by my colleague, Mr. ERTEL, which provides that the CAB can only deny an application for new route authority if it receives or develops clear and convincing evidence that the new authority would be inconsistent with the public convenience and necessity.

I am very pleased to be a cosponsor of this amendment, because I firmly believe that its considerable benefits will accrue to communities seeking new air service. Passage of this amendment will significantly reduce the expenses associated with the application process to receive new service. It will, in addition, reduce the congestion at the CAB which must review such applications.

Although H.R. 12611, the Air Service Improvement Act, is designed to increase competition in the aviation field, our bill does not address the issue of "burden of proof." It thus leaves intact existing practice under which route proceedings before the CAB are governed by section 7 of the Administrative Procedures Act. Section 7 provides that the proponent of a new rule or order (for example, an application to fly a new route), has the burden of proving to the CAB that new service is not inconsistent with the public convenience and necessity. As a result potential new competitors and small communities seeking additional service must face the substantial costs involved in engaging consultants and attorneys to develop data supporting an application for new route authority.

This amendment would simply reverse this situation by requiring that the airline seeking to keep out potential competitors must demonstrate that the new competition is inconsistent with the public convenience and necessity.

As many of my colleagues are aware, the Senate-passed legislation on aviation regulatory reform contains a similar provision to reverse the burden of proof. The amendment before us, however, makes two important improvements in the Senate language.

In the Senate language, in determining whether new service is consistent with the P.C. & N., the burden falls on the opponent. The question has been raised regarding this language as to what happens if there is no opponent. The amendment before us would correct that problem by removing the reference to "opponents."

Second, the Senate language, although stating where the burden is placed, does not state what is required to be proven. There are two legal tests for what is required to be proven; either a "preponderence of the evidence," or "clear and convincing evidence." Our amendment clarifies this matter by establishing the test as "clear and convincing evidence," which is the more rigorous of the two tests.

I believe that this simple but very important amendment will guarantee that opponents of new service and more competition will not continue to have

the upper hand in CAB proceedings. Without this amendment, carriers seeking to maintain monopoly routes will continue to be able to slow the regulatory proceedings by filing countless objections to new route applications. Placing the burden of proof upon the opponents of competition will dramatically improve the chances for a community to get new service and will thereby increase competition.

When Secretary Brock Adams was asked for his comments on the "burden of proof issue," he stated:

> The rules of the game should be that competition is consistent with the public convenience and you should have to prove your case if you're against new competition, not the other way around.

I certainly share the views of the Secretary in this matter.

I urge my colleagues to support this important procompetitive amendment to our bill.

Mr. PANETTA. Mr. Chariman, will the gentleman yield?

Mr. MINETA. I am pleased to yield to the gentleman from California.

Mr. PANETTA. I thank the gentleman for yielding.

My only concern with regards to the amendment is whether in changing the basic presumptions and procedures does this in any way impact on the safety issue with regards to those airlines that are seeking these routes. Is there any implication or any possibility that this would reduce safety requirements?

Mr. MINETA. Not at all. The whole bill itself is addressed to CAB. Safety matters involve the Federal Aviation Administration, and safety considerations are not touched at all in this bill. What safety considerations are involved relative to increased activity by commuter airlines are being addressed by several amendments I have offered. In fact, one has already been accepted by the committee and put into the legislation, and one which I will be offering shortly.

Mr. PANETTA. I thank the gentleman.

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

Mr. MINETA. I yield to the gentleman from Pennsylvania.

Mr. ERTEL. I thank the gentleman for yielding.

A fit, willing, and able test, which is still the basis for safety, still has to be met.

Mr. MINETA. I thank the gentleman.

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

Mr. Chairman, as has been said before in the debate, we spent a lot of time in committee, as a matter of fact, months and I guess a couple of years, trying to put together a good middle-of-the-road bill. I am very sympathetic with and understand very well the problems that the gentleman from Kansas outlined.

What has to be understood is that the provision for application for certificates, is only one of the many ways we will open up the bill for new route authority. Most of us heard the debate on the dormant authority proposition. That opens up hundreds of routes that can be picked up without any test other than being a qualified carrier. If there is a monopoly carrier, it is automatic that dormant authority be picked up by that new carrier.

In addition, I want to say to the gentleman from Kansas, we have had the same continuing problem in Louisville that the gentleman described in his area.

We have a provision for expedited procedures. Under no circumstances can approval of an application for new authority take more than 1 year. Normally under the bill it would take 180 days.

In addition to that, we have the automatic market entry provision that allows every airline to go in and pick up one new market and protect one market. In this instance, we have opened up hundreds of markets across the Nation.

Let me address reverse P.C. & N. specifically. Under existing law, the applicant has to prove that his application is required by the public convenience and necessity, which we refer to as P.C. & N. Under our bill, he only has to prove it is consistent with the public convenience and necessity. The applicant still has the burden of proof, but the burden of proof he has to meet is so much less than it is and in our policy statement we lay out that we want the board to decide it on the basis of allowing more competition; so we have laid out the guidelines that the applicant has to meet to fulfill the requirements of the certificate of public convenience and necessity, as opposed to the gentleman's amendment. As the gentleman from Georgia pointed out, the proponent has the burden of proof, but he does not have a consistent burden of proof. He has to prove by clear and convincing evidence, certainly a preponderance of the evidence ought to be enough; but you are putting it on the basis, my friends and colleagues in the House, where if we adopt this, you can say to all the airlines, "Warm up and fly." That is a pretty good philosophy, but when they start doing it, then you do not have the equipment looked after as it should be. You have a confused situation. They are vying for the dormant authority. They are vying for the automatic entries and now they are vying for the routes under P.C. & N.

We want deregulation of the airlines as fast as we can have it, but we want it in a methodical way. After 1 year, under the automatic market provision, the CAB is going to report back to us and we will see how much further we can go, if we can go all the way.

Finally, in this bill we sunset the CAB. It is a deregulation bill. It does not do it today, but it moves mighty fast.

I hope we will oppose this amendment and give us a fair shot with a good deregulation bill that moves methodically toward deregulation and does not go all the way in 1 day.

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

Mr. Chairman, first of all, I would like to commend the gentlemen from Pennsylvania for offering this amendment, because I do feel it focuses attention on one of the differences between the bill passed by the other body and this very delicately balanced piece of legislation reported out by the House committee.

As I said before, if we adopt major changes in this legislation, I think many Members will feel the whole bill will then be open for such other substantive amendments as they would desire to offer, including myself; but let us go back and address the concerns expressed by the gentleman from Kansas and compare that to the bill now before this House. The problems addressed by the gentleman from Kansas deal with the inherent problems in the existing law, which this committee believes is a very poor law and not suited to modern times. In order to get new authority under the present law, you have to prove to the CAB that this new authority was required—required by the public convenience and necessity.

We change that. We say that—

> All you have to do in order to get new authority is show that your application is consistent with the public convenience and necessity.

That is a major liberalizing procompetitive change.

The charter of the CAB by which it is to make these decisions has been changed entirely by the bill before the committee and it is a totally procompetitive charter which says:

> You are in your decision-making to bring in competition.

Finally, as the gentleman from Kentucky (Mr. SNYDER) so accurately points out, the provision in the bill before us has expedited administrative procedures under which specific time limits are imposed. So whether the amendment offered by the gentleman from Pennsylvania (Mr. ERTEL) is adopted or not, quite frankly, there is going to be a major procompetitive change, there will be shorter time periods involved, and there will be more competition.

So I think it is important for everybody to understand that this is not going to bring the competition in. This is a more competitive provision in the sense that it puts the burden on the person resisting the application, but the major changes for more competition, a procompetitive charter, and more airline service have already been written into this bill.

I think it is also important to emphasize that the amendment offered by the gentleman from Pennsylvania (Mr. ERTEL) is different from the provision in the bill passed by the other body, because not only does it shift the burden of proof, which may or may not be a good idea—in fact, in all candor I cannot vigorously argue against that concept—but it goes beyond that, I think, and it says that not only does the proponent have a burden, but that burden is one which in the law is quite high, because it requires clear and convincing evidence.

Perhaps this amendment could be improved substantially by accepting the language that the other body passed in this regard, and then we might have the type of balance that we are seeking. So except for those two or three points, I think we can address this issue appropriately.

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

Mr. LEVITAS. I am happy to yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, the remarks of the gentleman from Georgia

(Mr. LEVITAS) are scholarly as usual, and they do point out that the bill is a significant improvement over present law. But as a matter of policy, the question raised as between the amendment offered by the gentleman from Pennsylvania (Mr. ERTEL), apart from perhaps some wording, and the base bill is: Who has the burden of proof?

The base bill indicates that the applicant has the burden to prove that the service is consistent with public necessity. The gentleman from Pennsylvania (Mr. ERTEL) says, no, it is really up to the opposition to prove that it is not consistent. That as a policy matter appeals to my competitive conscience, and I think it appeals to the people who want air service.

Mr. LEVITAS. Mr. Chairman, if I may be allowed to reclaim my time, that is why I tried in my remarks to lay out very carefully what the issue is.

I do not want the members of this committee to believe that this is the provision that is going to bring us new competition. The provisions that accomplish are the dormant authority provision, the new pro-competitive charter, and the change in the requirement for what is consistent with public convenience and necessity. These are the important provisions.

The question we are resolving here is: Who should have the burden of proof? As I pointed out and as the gentleman from Kentucky (Mr. SNYDER) pointed out as well, perhaps we ought to look and focus on what that burden of proof should be, and then I think we could deal with the issue appropriately.

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

Mr. Chairman, I want to commend the committee and say I have a high regard for the gentleman from Kentucky (Mr. SNYDER).

In Illinois, for example, six cities: Alton-Wood River, Cairo, Lawrenceville-Vincennes, Galesburg, Sterling-Rock Falls, and Danville have lost all CAB-regulated air service with only the last three of these cities now being served by small commuter airlines. An additional six cities—Bloomington, Moline, Peoria, Quincy-Hannibal, Rockford, and Springfield—have lost the services of at least one CAB-certificated airline. A total of eight cities were authorized service, but never received it.

The Board has been less eager to authorize new or improved air service. Of the 251 route applications received for Illinois from 1972 through February 1978, the Board has approved 79. As of February 1978, 95 of these applications were still pending or had not been acted on.

In August and September 1974, North Central and Ozark requested nonstop authority between Minneapolis/St. Paul and Chicago, Cincinnati and Indianapolis. These two applications and 37 others were dismissed as stale in June 1978.

The CAB's problem is that it has its hands full. Under existing law it is charged with the impossible task of setting fares and routes, second-guessing airline management practices and, in effect, running the carriers from Washington while simultaneously protecting the system as a whole. As a consequence both carriers and the system suffer.

Regulatory reform legislation can improve these conditions by removing the Board from the day-to-day business of running the airlines, by lowering the artificial regulatory barriers that now prevent new competitors from entering the industry and by setting firm deadlines to speed up the Board's decisionmaking process.

Most important, such legislation would permit the Board to devote its efforts to insuring a viable air transportation system and to break away from its narrow preoccupation with protecting airline managements from their competitors, their customers, and themselves.

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

Mr. Chairman, I oppose the amendment.

The bill reported by the committee has been carefully structured to strike a balance between adding new competition and insuring that new competition does not become excessive, to the detriment of the public and the industry. A change in the burden of proof would tip the balance too far in the direction of adding new competition.

The bill as reported contains a number of provisions which will facilitate additional competition. The new policy statement requires the CAB to emphasize competition, low fares, and entry by new carriers in all its decisions. The new standard for awarding certificates provides that the Board need find only that award of a certificate is "consistent with" the public convenience and necessity. Under existing law the Board must find that award of a certificate is "required by" the public convenience and necessity. H.R. 12611 also encourages new competition by the dormant authority and experimental entry programs.

The committee concluded that these provisions were sufficient and that adding a change in the burden of proof could encourage too much additional competition. I share this concern and urge defeat of the amendment.

● Mr. UDALL. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Pennsylvania. This is a good amendment, a bipartisan amendment, overwhelmingly adopted by the Senate and strongly supported by the Chairman of the CAB.

This amendment really embodies what this legislation is all about—to promote competition in the airline industry in order to provide better service and lower fares to the public and higher revenues to the carriers.

By making it easier for carriers to enter new routes we honor both the goal of increased competition and the statutory mandate to accommodate "public convenience and necessity". If you assume that new routes are desirable and market entry should be easier, then it seems only reasonable that those who oppose new service should bear the burden of proving that it is not warranted or desirable.

Under the present system, with applicants having to prove need for their services, much time is consumed in the process and the burden is especially heavy on other beneficiaries such as small communities, airports, and consumers, all of whom might desire increased service.

In the course of the long debate on this bill, we have heard a lot about the potential dangers to small communities. It was certainly a matter of concern to me for with a couple of exceptions, Arizona is dominated by small cities and towns who have suffered from the lack of adequate air service or none at all. Fortunately, the CAB and the congressional committees involved have paid special attention to this problem. The Senate has already acted to assure access to new and reinstated service to small communities both by adopting an amendment similar to this one and through other provisions which I will address later. Unless we adopt stronger protections, small communities will continue to have to waste local tax dollars and local officials' time with the long process of supporting new air service to their communities.

And I cannot imagine very many instances when a community would not want another carrier serving its citizens. Increased competition can only improve service, either by forcing out the one unwilling or unable to compete and allowing the newcomer to pick up the business, or by simply providing a larger choice of flights among two or more carriers. The public cannot lose in this situation.

The public can lose, however, when it has to wait years for a decision from the CAB on whether to grant new route authority. And that is what this amendment seeks to correct—expediting the application process and placing the burden of proof where it belongs—on the opponents of new routes.

Probably every Member in this Chamber who is not from a major urban area could cite examples of air service cases which have dragged on before the CAB, because of this complicated process of proving the need for service to a particular area or community. Just this month, the CAB finally decided the Arizona service investigation that has been pending since March 1976. This case involved four air carriers; nine communities in Arizona plus four more in California and Nevada; numerous civil parties including the Arizona Department of Transportation, the Four Corners Regional Commission, the Arizona congressional delegation, and others in Arizona, Nevada, and Utah. An enormous amount of time, money, and effort went into this application. Even so, some small communities in Arizona will be left out when these new routes are instituted, although one of the carriers wanted to serve them.

So, let us really have competition, really let market forces work, let the public have a choice of service. I urge my colleagues to vote for this amendment which will go a long way toward achieving those goals.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. ERTEL).

The question was taken; and on a division (demanded by Mr. LEVITAS) there were—ayes 14, noes 14.

Mr. ERTEL. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently 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 of the Whole 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 clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Pennsylvania (Mr. ERTEL) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 300, noes 86, not voting 46, as follows:

[Roll No. 812]

AYES—300

Alexander	Crane	Gore
Andrews, N.C.	Cunningham	Gradison
Annunzio	D'Amours	Grassley
Applegate	Daniel, Dan	Green
Archer	Daniel, R. W.	Gudger
Ashbrook	Davis	Hagedorn
Aspin	Delaney	Hall
Baldus	Dellums	Hamilton
Barnard	Derrick	Hanley
Baucus	Derwinski	Hannaford
Bauman	Devine	Harkin
Beard, R.I.	Dicks	Harrington
Beard, Tenn.	Dodd	Harris
Bedell	Dornan	Heckler
Beilenson	Downey	Hefner
Benjamin	Drinan	Hillis
Bennett	Duncan, Oreg.	Holt
Bevill	Duncan, Tenn.	Holtzman
Biaggi	Early	Horton
Bingham	Eckhardt	Hubbard
Blanchard	Edgar	Huckaby
Blouin	Edwards, Calif.	Hughes
Boggs	Edwards, Okla.	Hyde
Boland	Emery	Ichord
Bonior	English	Ireland
Bonker	Erlenborn	Jacobs
Bowen	Ertel	Jeffords
Brademas	Evans, Colo.	Jenrette
Breckinridge	Evans, Del.	Jones, N.C.
Brinkley	Evans, Ga.	Jones, Tenn.
Brodhead	Evans, Ind.	Jordan
Brooks	Fenwick	Kasten
Broomfield	Findley	Kastenmeier
Brown, Calif.	Fish	Kelly
Brown, Mich.	Fisher	Kemp
Broyhill	Fithian	Keys
Buchanan	Flippo	Kildee
Burlison, Mo.	Flood	Kindness
Burton, John	Florio	Kostmayer
Burton, Phillip	Foley	Krebs
Butler	Ford, Tenn.	LaFalce
Byron	Forsythe	Lagomarsino
Carr	Fountain	Latta
Cavanaugh	Fowler	Le Fante
Cederberg	Fraser	Leach
Clausen, Don H.	Frenzel	Lederer
Clawson, Del	Frey	Leggett
Clay	Fuqua	Lehman
Cleveland	Garcia	Lent
Collins, Ill.	Gephardt	Long, La.
Collins, Tex.	Giaimo	Long, Md.
Conte	Gilman	Lott
Corcoran	Ginn	Lujan
Cornell	Glickman	Luken
Coughlin	Gonzalez	Lundine
	Goodling	McClory
McCloskey	Nolan	Solarz
McDade	O'Brien	Spellman
McDonald	Oakar	Spence
McEwen	Oberstar	St Germain
McFall	Obey	Stark
McHugh	Ottinger	Steers
McKay	Panetta	Steiger
McKinney	Pattison	Stockman
Madigan	Pease	Stokes
Maguire	Pickle	Stratton
Mann	Pike	Studds
Markey	Preyer	Symms
Marks	Price	Thompson
Marlenee	Pritchard	Thone
Marriott	Pursell	Traxler
Martin	Quillen	Treen
Mathis	Railsback	Trible
Mattox	Rangel	Udall
Mazzoli	Regula	Ullman
Metcalfe	Reuss	Van Deerlin
Meyner	Richmond	Vanik
Michel	Rinaldo	Waggonner
Mikulski	Robinson	Walgren
Mikva	Roe	Walker
Mineta	Rogers	Wampler
Minish	Rooney	Watkins
Mitchell, Md.	Rosenthal	Weaver
Mitchell, N.Y.	Rostenkowski	Weiss
Moakley	Rousselot	Whalen
Moffett	Runnels	White
Montgomery	Russo	Whitehurst
Moore	Ryan	Whitley
Moorhead, Calif.	Santini	Whitten
Moorhead, Pa.	Satterfield	Wilson, Tex.
Moss	Sawyer	Winn
Mottl	Scheuer	Wirth
Murphy, Ill.	Schroeder	Wolff
Murphy, N.Y.	Schulze	Wydler
Murphy, Pa.	Sebelius	Wylie
Murtha	Selberling	Yates
Myers, John	Sharp	Yatron
Myers, Michael	Simon	Young, Fla.
Natcher	Slack	Zablocki
Nedzi	Smith, Iowa	Zeferetti
	Smith, Nebr.	

NOES—86

Abdnor	Flynt	Perkins
Addabbo	Ford, Mich.	Poage
Akaka	Gibbons	Pressler
Ambro	Goldwater	Roberts
Anderson, Calif.	Guyer	Roncalio
Andrews, N. Dak.	Hammer-schmidt	Rose
Ashley	Harsha	Roybal
AuCoin	Hawkins	Ruppe
Badham	Heftel	Shuster
Bafalis	Hollenbeck	Sisk
Bolling	Howard	Skelton
Breaux	Jenkins	Skubitz
Brown, Ohio	Johnson, Calif.	Snyder
Burgener	Johnson, Colo.	Staggers
Burke, Fla.	Jones, Okla.	Stangeland
Burke, Mass.	Kazen	Stanton
Burleson, Tex.	Levitas	Steed
Carney	Livingston	Stump
Carter	Lloyd, Calif.	Taylor
Chappell	Lloyd, Tenn.	Thornton
Chisholm	McCormack	Vander Jagt
Coleman	Mahon	Vento
Corman	Milford	Volkmer
Cotter	Miller, Ohio	Walsh
Dingell	Mollohan	Wilson, Bob
Edwards, Ala.	Myers, Gary	Wright
Eilberg	Neal	Young, Alaska
Fary	Nowak	Young, Mo.
	Patten	Young, Tex.

NOT VOTING—46

Ammerman	Flowers	Rahall
Anderson, Ill.	Gammage	Rhodes
Armstrong	Gaydos	Risenhoover
Burke, Calif.	Hansen	Rodino
Caputo	Hightower	Rudd
Cochran	Holland	Sarasin
Cohen	Krueger	Shipley
Conable	Meeds	Sikes
Conyers	Miller, Calif.	Teague
Cornwell	Nichols	Tsongas
Danielson	Nix	Tucker
de la Garza	Patterson	Waxman
Dent	Pepper	Wiggins
Dickinson	Pettis	Wilson, C. H.
Diggs	Quayle	
Fascell	Quie	

The Clerk announced the following pairs:

On this vote:

Mr. Krueger for, with Mr. Sikes against.

Mr. Ammerman for, with Mr. Teague against.

Mr. Nichols for, with Mr. Risenhoover against.

Mr. Tucker for, with Mr. Nix against.

Messrs. CLAY, RUNNELS, and D'AMOURS changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. STAGGERS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, The proposed bill would, as I understand it, delete among other things, section 408(a)(5) of the present Federal Aviation Act, which required any person other than an air carrier who wishes to acquire control of any air carrier in any manner whatsoever to obtain prior Civil Aeronautics Board approval. At the same time however, section 401 of the present act (which we are going to keep) requires that any applicant for air transportation authority be "fit, willing and able" and section 401(h) states that any transfer of a certificate must be approved by the Civil Aeronautics Board as being consistent with the public interest.

Interstate and Foreign Commerce Committee was the committee of jurisdiction in 1969 when section 408(a)(5) was enacted. The bill was passed unanimously by both the Subcommittee on Transportation and Aeronautics and the full committee of Interstate and Foreign Commerce. The committee felt that the CAB should have the same reviewing authority whether the changes in the transportation rights of a corporation were affected by a carrier or noncarrier. As I stated at that time:

> Our air carriers are certificated by the Civil Aeronautics Board. They are authorized to provide service in the public convenience and necessity. Under the statute, the carrier, before it receives its authority, must establish that it is fit, willing and able to provide safe and adequate service, pursuant to its certificate, under honest and efficient management.

In passing that legislation, the House clearly indicated its intent that the CAB should be in a position to review changes in the control of an air carrier to ascertain whether or not the purpose for which the carrier was licensed; namely, to provide transportation, has been altered to the detriment of the public. I said then, "we should not have any group operating an airline in America that is not competent." I still believe that and I do not believe that someone should be able to come in after a company has acquired know-how and knowledge of how to operate and just acquire the airline. I hope the changes contained in this bill in no way implies the intent of Congress that the CAB will no longer have a responsibility to the traveling public to insure that someone acquiring an air carrier is fit, willing and able. Mr. DINGELL will recall this very well since he was a strong supporter of the legislation as was now Secretary of Transportation Brock Adams who was as that time a member of the committee and participated in the debate in support of the legislation.

If we are going to eliminate the requirement for prior Civil Aeronautics Board approval under section 408(a)(5),

I assume that any air carrier which has information that somebody is going to acquire it who does not meet the fit, willing and able standards of section 401 will be able to petition the Civil Aeronautics Board to investigate the matter and disapprove the new owner or take other action to insure that we continue to have air carriers who are fit, willing and able. In other words, I want to make sure that the elimination of the takeover provision in section 401(a)(5) does not open up the possibility that air carriers will be owned or controlled by persons who do not meet the requisite standards contained in section 401. Mr. Chairman, I would like to inquire that if this is the intent of the Committee, in my opinion, the Civil Aeronautics Board should continue to have absolute control to insure that our country's airlines are owned and controlled by persons who will conduct business in the public interest, and if that is not the intent of the committee, and if the Civil Aeronautics Board loses that control when we eliminate section 401(a)(5) then I am against it and think we should give it some further careful consideration.

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

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

Mr. ANDERSON of California. Mr. Chairman, under section 415 of the Federal Aviation Act, the CAB may inquire at any time into the management of the business of any air carrier and, in connection with such an investigation, obtain information from persons controlling such air carrier. Under section 401(g) of the act, the CAB may revoke the certificate of any air carrier which intentionally violates the Federal Aviation Act, the terms of its certificate, or the CAB's regulations.

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

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

Mr. GOLDWATER. Mr. Chairman, I think the House, in fact, our country, owes the chairman of the Interstate and Foreign Committee a great debt of gratitude for his leadership and his concern over this transportation by air.

In those days, around 1969, there was an emergency, a real problem. The Commerce Committee and the gentleman from West Virginia responded with an amendment that took care of that.

During our committee hearings and our reviews, it was determined that the situation had changed since 1969 and that new laws were passed requiring Government review of airline activities. Therefore, it is not necessary to retain that provision which the gentleman and the Commerce Committee put in the law back in 1969. In fact, this was a question of great concern to the committee, that there be a thorough review of new equity positions, of buy-outs, or purchases of airlines, so that we could maintain high standards and be assured of the capabilities of our Nation's airlines.

I only cite to the gentleman certain sections of the law, such as section 401 of the Federal Aviation Act of 1950 and I offer the words of that act:

AUTHORITY TO MODIFY, SUSPEND, OR REVOKE

401(g) The Board upon petition or complaint or upon its own initiative, after notice and hearings, may alter, amend, modify or suspend any such certificate, in whole or in part, if the public convenience and necessity so require, or may revoke any such certificate, in whole or in part, for intentional failure to comply with any provision of this title or any order, rule, or regulation issued hereunder or any term, condition, or limitation of such certificate: *Provided*, That no such certificate shall be revoked unless the holder thereof fails to comply, within a reasonable time to be fixed by the Board, with an order of the Board commanding obedience to the provision, or to the order (other than an order issued in accordance with this proviso), rule, regulation, term, condition, or limitation found by the Board to have been violated. Any interested person may file with the Board a protest or memorandum in support of or in opposition to the alteration, amendment, modification, suspension, or revocation of the certificate.

The CHAIRMAN. The time of the gentleman from West Virginia (Mr. STAGGERS) has expired.

(On request of Mr. GOLDWATER and by unanimous consent, Mr. STAGGERS was allowed to proceed for 3 additional minutes.)

Mr. GOLDWATER. If the gentleman will yield further, I think it is important to clarify this and to make certain that there are adequate safeguards.

In addition to the section 401 authority of CAB, under the Federal Aviation Act of 1958, sections 101(3), 101(13) and section 407 spell out citizenship requirements that limit purchasers to strictly U.S. citizens.

In addition to that, section 407 gives the CAB the right to investigate and inspect books and records of air carrier managers and controlling parties. Allow me to cite the actual language:

SEC. 101(3) "Air carrier" means any citizen of the United States who undertakes, whether directly or indirectly or by a lease or any other arrangement, to engage in air transportation: *Provided*, That the Board may by order relieve air carriers who are not directly engaged in the operation of aircraft in air transportation from the provisions of this Act to the extent and for such periods as may be in the public interest.

SEC. 101(13) "Citizen of the United States" means (a) an individual who is a citizen of the United States or of one of its possessions, or (b) a partnership of which each member is such an individual, or (c) a corporation or association created or organized under the laws of the United States or of any State, Territory, or possession of the United States, of which the president and two-thirds or more of the board of directors and other managing officers thereof are such individuals and in which at least 75 per centum of the voting interest is owned or controlled by persons who are citizens of the United States or of one of its possessions.

SEC. 407. [*72 Stat. 766, as amended by 83 Stat. 103, 88 Stat. 2105, 49 U.S.C. 1377*] (a) The Board is empowered to require annual, monthly, periodical, and special reports from any air carrier; to prescribe the manner and form in which such reports shall be made; and to require from any air carrier specific answers to all questions upon which the Board may deem information to be necessary. Such reports shall be under oath whenever the Board so requires. The Board may also require any air carrier to file with it a true copy of each or any contract, agreement, understanding, or arrangement, between such air carrier and any other carrier or person, in relation to any traffic affected by the provisions of this Act.

Disclosure of Stock Ownership

(b) Each air carrier shall submit annually, and at such other times as the Board shall require, a list showing the names of each of its stockholders or members holding more than 5 per centum of the entire capital stock or capital, as the case may be, of such air carrier, together with the name of any person for whose account, if other than the holder, such stock is held; and a report setting forth a description of the shares of stock, or other interest, held by such air carrier, or for its account, in persons other than itself. Any person owning, beneficially or as trustee, more than 5 per centum of any class of the capital stock or capital, as the case may be, of an air carrier shall submit annually, and at such other times as the Board may require, a description of the shares of stock or other interest owned by such person, and the amount thereof.

Disclosure of Stock Ownership by Officer or Director

(c) Each officer and director of an air carrier shall annually and at such other times as the Board shall require transmit to the Board a report describing the shares of stock or other interests held by him in any air carrier, any person engaged in any phase of aeronautics, or any common carrier, and in any person whose principal business, in purpose or in fact, is the holding of stock in, or control of, air carriers, other persons engaged in any phase of aeronautics, or common carriers.

Form of Accounts

(d) The Board shall prescribe the forms of any and all accounts, records, and memoranda to be kept by air carriers, including the accounts, records, and memoranda of the movement of traffic, as well as of the receipts and expenditures of money, and the length of time such accounts, records, and memoranda shall be preserved; and it shall be unlawful for air carriers to keep any accounts, records, or memoranda other than those prescribed or approved by the Board: *Provided*, That any air carrier may keep additional accounts, records, or memoranda if they do not impair the integrity of the accounts, records, or memoranda prescribed or approved by the Board and do not constitute an undue financial burden on such air carrier.

Inspection of Accounts and Property

(e) The Board shall at all times have access to all lands, buildings, and equipment of any air carrier or foreign air carrier and to all accounts, records, and memorandums, including all documents, papers, and correspondence, now or hereafter existing, and kept or required to be kept by air carriers, foreign air carriers, or ticket agents and it may employ special agents or auditors, who shall have authority under the orders of the Board to inspect and examine any and all such lands, buildings, equipment, accounts, records, and memorandums. The provisions of this section shall apply, to the extent found by the Board to be reasonably necessary for the administration of this Act, to persons having control over any air carrier, or affiliated with any air carrier within the meaning of section 5(8) of the Interstate Commerce Act, as amended.

In addition to that, under the Securities Act of 1934, sections 13(d) and 14(d) again provide for disclosure of corporate acquisition, including the identity of purchasers, the source of funds, and plans for corporate liquidation and changes in corporate structure. Again I include the actual language.

SEC. 13(d) Reports by persons acquiring more than five per centum of certain classes of securities

(1) Any person who, after acquiring directly or indirectly the beneficial ownership of any equity security of a class which is registered pursuant to section 78*l* of this title, or any equity security of an insurance company which would have been required to be so registered except for the exemption contained in section 78*l*(g)(2)(G) of this title, or any equity security issued by a closed-end investment company registered under the Investment Company Act of 1940 [15 U.S.C. 80a–1 et seq.]; is directly or indirectly the beneficial owner of more than 5 per centum of such class shall, within ten days after such acquisition, send to the issuer of the security at its principal executive office, by registered or certified mail, send to each exchange where the security is traded, and file with the Commission, a statement containing such of the following information, and such additional information, as the Commission may by rules and regulations prescribe as necessary or appropriate in the public interest or for the protection of investors—

(A) the background and identity of all persons by whom or on whose behalf the purchases have been or are to be affected;

(B) the source and amount of the funds or other consideration used or to be used in making the purchases, and if any part of the purchase price or proposed purchase price is represented or is to be represented by funds or other consideration borrowed or otherwise obtained for the purpose of acquiring, holding, or trading such security, a description of the transaction and the names of the parties thereto, except that where a source of funds is a loan made in the ordinary course of business by a bank, as defined in section 78c(a)(6) of this title, if the person filing such statement so requests, the name of the bank shall not be made available to the public;

(C) if the purpose of the purchases or prospective purchases is to acquire control of the business of the issuer of the securities, any plans or proposals which such persons may have to liquidate such issuer, to sell its assets to or merge it with any other persons, or to make any other major change in its business or corporate structure;

(D) the number of shares of such security which are beneficially owned, and the number of shares concerning which there is a right to acquire, directly or indirectly, by (i) such person, and (ii) by each associate of such person, giving the name and address of each such associate; and

(E) information as to any contracts, arrangements, or understandings with any person with respect to any securities of the issuer, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guaranties of loans, guaranties against loss or guaranties of profits, division of losses or profits, or the giving or withholding of proxies, naming the persons with whom such contracts, arrangements, or understandings have been entered into, and giving the details thereof.

(2) If any material change occurs in the facts set forth in the statements to the issuer and the exchange, and in the statement filed with the Commission, an amendment shall be transmitted to the issuer and the exchange and shall be filed with the Commission, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.

(3) When two or more persons act as a partnership, limited partnership, syndicate, or other group for the purpose of acquiring, holding, or disposing of securities of an issuer, such syndicate or group shall be deemed a "person" for the purposes of this subsection.

(4) In determining, for purposes of this subsection, any percentage of a class of any security, such class shall be deemed to consist of the amount of the outstanding securities of such class, exclusive of any securities of such class held by or for the account of the issuer or a subsidiary of the issuer.

(5) The Commission, by rule or regulation or by order, may permit any person to file in lieu of the statement required by paragraph (1) of this subsection or the rules and regulations thereunder, a notice stating the name of such person, the number of shares of any equity securities subject to paragraph (1) which are owned by him, the date of their acquisition and such other information as the Commission may specify, if it appears to the Commission that such securities were acquired by such person in the ordinary course of his business and were not acquired for the purpose of and do not have the effect of changing or influencing the control of the issuer nor in connection with or as a participant in any transaction having such purpose or effect.

(6) The provisions of this subsection shall not apply to—

(A) any acquisition or offer to acquire securities made or proposed to be made by means of a registration statement under the Securities Act of 1933 [15 U.S.C. 77a et seq.];

(B) any acquisition of the beneficial ownership of a security which, together with all other acquisitions by the same person of securities of the same class during the preceding twelve months, does not exceed 2 per centum of that class;

(C) any acquisition of an equity security by the issuer of such security;

(D) any acquisition or proposed acquisition of a security which the Commission, by rules or regulations or by order, shall exempt from the provisions of this subsection as not entered into for the purpose of, and not having the effect of, changing or influencing the control of the issuer or otherwise as not comprehended within the purposes of this subsection.

SEC. 14(d) Tender offer by owner of more than five per centum of class of securities; exceptions

(1) It shall be unlawful for any person, directly or indirectly, by use of the mails or by any means or instrumentality of interstate commerce or of any facility of a national securities exchange or otherwise, to make a tender offer for, or a request or invitation for tenders of, any class of any equity security which is registered pursuant to section 781 of this title, or any equity security of an insurance company which would have been required to be so registered except for the exemption contained in section 781(g)(2)(G) of this title, or any equity security issued by a closed-end investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.), if, after consummation thereof, such person would, directly or indirectly, be the beneficial owner of more than 5 per centum of such class, unless at the time copies of the offer or request or invitation are first published or sent or given to security holders such person has filed with the Commission a statement containing such of the information specified in section 78m(d) of this title, and such additional information as the Commission may by rules and regulations prescribe as necessary or appropriate in the public interest or for the protection of investors. All requests or invitations for tenders or advertisements making a tender offer or requesting or inviting tenders of such a security shall be filed as a part of such statement and shall contain such of the information contained in such statement as the Commission may by rules and regulations prescribe. Copies of any additional material soliciting or requesting such tender offers subsequent to the initial solicitation or request shall contain such information as the Commission may by rules and regulations prescribe as necessary or appropriate in the public interest or for the protection of investors, and shall be filed with the Commission not later than the time copies of such material are first published or sent or given to security holders. Copies of all statements, in the form in which such material is furnished to security holders and the Commission, shall be sent to the issuer not later than the date such material is first published or sent or given to any security holders.

(2) When two or more persons act as a partnership, limited partnership, syndicate, or other group for the purpose of acquiring, holding, or disposing of securities of an issuer, such syndicate or group shall be deemed a "person" for purposes of this subsection.

(3) In determining, for purposes of this subsection, any percentage of a class of any security, such class shall be deemed to consist of the amount of the outstanding securities of such class, exclusive of any securities of such class held by or for the account of the issuer or a subsidiary of the issuer.

(4) Any solicitation or recommendation to the holders of such a security to accept or reject a tender offer or request or invitation for tenders shall be made in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.

(5) Securities deposited pursuant to a tender offer or request or invitation for tenders may be withdrawn by or on behalf of the depositor at any time until the expiration of seven days after the time definitive copies of the offer or request or invitation are first published or sent or given to security holders, and at any time after sixty days from the date of the original tender offer or request or invitation, except as the Commission may otherwise prescribe by rules, regulations, or order as necessary or appropriate in the public interest or for the protecton of investors.

(6) Where any person makes a tender offer, or request or invitation for tenders, for less than all the outstanding equity securities of a class, and where a greater number of securities is deposited pursuant thereto within ten days after copies of the offer or request or invitation are first published or sent or given to security holders than such person is bound or willing to take up and pay for, the securities taken up shall be taken up as nearly as may be pro rata, disregarding fractions, according to the number of securities deposited by each depositor. The provisions of this subsection shall also apply to securities deposited within ten days after notice of an increase in the consideration offered to security holders, as described in paragraph (7), is first published or sent or given to security holders.

(7) Where any person varies the terms of a tender offer or request or invitation for tenders before the expiration thereof by increasing the consideration offered to holders of such securities, such person shall pay the increased consideration to each security holder whose securities are taken up and paid for pursuant to the tender offer or request or invitation for tenders whether or not such securities have been taken up by such person before the variation of the tender offer or request or invitation.

(8) The provisions of this subsection shall not apply to any offer for, or request or invitation for tenders of, any security—

(A) if the acquisition of such security, together with all other acquisitions by the same person of securities of the same class during the preceding twelve months, would not exceed 2 per centum of that class;

(B) by the issuer of such security; or

(C) which the Commission, by rules or regulations or by order, shall exempt from the provisions of this subsection as not en-

tered into for the purpose of, and not having the effect of, changing or influencing the control of the issuer or otherwise as not comprehended within the purposes of this subsection.

It is again a demonstration for the gentleman from West Virginia for his undying vigilance for the safety, for the enhancement in the future of American aviation.

The CHAIRMAN. The time of the gentleman from West Virginia has again expired.

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

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

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

Mr. MILFORD. Mr. Chairman, as I understood it during committee deliberations, one of the main reasons why this feature was added to the bill had to do with capital problems. In the case of some small carriers acquiring the next generation airplanes, it was my understanding that in order to acquire a next generation airplane the small carrier might have to increase its capital almost 100 percent.

Mr. STAGGERS. This has nothing to do with that. That has been the law. It has been in the law. That is for one carrier that is physically unable to acquire others, but this provision was put into the bill at that time. I just wanted to be sure that it was not taken out, and that they still have that authority to do it to protect themselves.

The CHAIRMAN. The time of the gentleman from West Virginia has expired.

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

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

Mr. STAGGERS. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I would also like to give the gentleman some assurances on that point. I should point out that the bill passed by the other body contains in section 16 a provision which specifically gives the CAB, on its initiative, authority to suspend any certificate of any carrier at any time when the public interest so requires. So, that is in the bill passed by the other body, and will be a matter of conference.

Mr. STAGGERS. I thank the gentleman.

The CHAIRMAN. The Clerk will read section 15.

The Clerk read as follows:

RATES OF CARRIAGE FOR PERSONS AND PROPERTY

SEC. 15. Section 404(a)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1374(a)(1)) is amended by inserting "authorized to engage in scheduled air transportation by certificate or by exemption under section 416(b)(3) of this title" immediately before the first semicolon.

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 15 be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

The CHAIRMAN. Are there amendments to section 15?

If not, the Clerk will read.

The Clerk read as follows:

RATES FOR TERMINATION OF MAIL

SEC. 16. (a) Clause (3) of the second sentence of section 406(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1376(b)) is amended to read as follows: (3) the need of each such air carrier (other than a supplemental air carrier) for compensation for the transportation of mail sufficient to insure the performance of such service, and—

"(A) during the period beginning on the date of enactment of this clause and ending on January 1, 1983, both dates inclusive, together with all other revenue of the air carrier from the service for which the compensation is being paid; and

"(B) after January 1, 1983, together with all other revenue of the air carrier,

to enable such air carrier under honest, economical, and efficient management, to provide (except for modifications with respect to an individual city determined after January 1, 1983, to be required by the public interest, after giving interested parties an opportunity for an evidentiary hearing with respect to air transportation for such individual city) air transportation of at least the same extent, character, and quality as that provided during the year ending December 31, 1977, to maintain and continue the development of air transportation to the extent and of the character and quality required for the commerce of the United States, the Postal Service, and the national defense.".

(b) Section 406 of the Federal Aviation Act of 1958 shall cease to be in effect after the last day of the ten-year period which begins on the date of enactment of this Act.

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 16 be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

AMENDMENT OFFERED BY MR. MINETA

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

The Clerk read as follows:

Amendment offered by Mr. MINETA: On page 101, line 12, after the word "defense," insert the following: "*Provided*, That rules of compensation paid to any carrier hereunder for service performed between the date of enactment of this proviso, and January 1, 1983, shall be based on the subsidy need of such carrier with respect to service performed to points for which such carrier was entitled to receive compensation for serving during calendar 1977, such subsidy need in the case of any local service carrier to be based on the adjusted eligible need of such carrier determined in a manner consistent with the provisions of Local Service Class Subsidy Rate VIII, with technical adjustments, and in the case of any other carrier receiving compensation during the twelve months ended June 30, 1978, to be determined pursuant to the method in effect during the twelve months ended June 30, 1978."

Mr. MINETA (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 California?

There was no objection.

Mr. MINETA. Mr. Chairman, I offer an amendment to section 16 of H.R. 12611, relating to subsidized air service.

One of the major concerns of the regulatory reform movement has been to assure that airline service to small communities be preserved while creating a more competitive and less regulated airline industry.

H.R. 12611, as drafted by the Committee of Public Works and Transportation, will maintain the small community air service now enjoyed in the United States. The bill requires continuation of the current subsidy system now administered by the CAB for a 4-year transition period. Under this program, which has broad congressional and community support, certificated local service airlines are paid Federal subsidy to provide service to more than 200 communities which would probably not otherwise receive airline service.

It was the committee's intention that the CAB not involuntarily replace the certificated local service carriers during the 4-year transition period we have allowed. While H.R. 12611 actually extends the current subsidy program for 10 years, it only guarantees it for the 4-year transition period after which the Board may, on a case-by-case basis and with an evidentiary hearing, substitute commuter airlines or air taxis for certificated local service carriers, if the Board finds that the public would be better served by such a change.

These provisions were developed by the committee for several reasons. First, there was concern that without a continuing subsidy program for the local service airlines they might abandon service to some small communities.

Second, while in the long run many communities might be better served by small aircraft with the possibility of reduced Government subsidy, we believed that such a change should occur gradually. In that way, the certificated local service airlines which have pioneered small community air service would be able to make the transition from small community service status to regional trunkline status.

The Senate, in its version of the regulatory reform legislation, has also passed a similar program.

Now, although the CAB has indicated its intention to proceed gradually in replacing the existing subsidy program, there has nevertheless been considerable concern expressed about the Board's recent proposals relating to subsidized air service. It is for this reason that I am offering an amendment to clarify the committee's intention with respect to the subsidy program during the 4-year transition period.

The CAB has under consideration a proposal which would eliminate subsidy for any community which is not "isolated from the national air transportation sys-

tem," and which enplanes fewer than 5 or more than 25 passengers per day. The isolation factor has been traditionally interpreted by the Board to mean any community which is more than a drive of an hour and one-half from an existing airport. The application of these two standards could eliminate most cities currently receiving subsidized air service.

My amendment, Mr. Chairman, simply reaffirms, in more precise language, the policy determination made by the committee that for the next 4 years the small community service program be maintained on the present basis; and that these new standards—while potentially appropriate after the 4-year transition period—not be applied during that time.

Let me say in concluding that it is not the intent of this amendment to freeze into law the exact subsidies paid at present under a rate known by the title. "Class Rate VIII." This amendment will permit the Board to develop new class rates as the need arises and make technical changes to insure that the rate is fair to the public and fair to the airlines. It will not, however, permit the abandonment of the principles embodied in the class rate which would lead to a new subsidy program comparable to that contemplated by the Board if it applied the "isolation factor" and enplanements factor.

In addition, I believe it is important to point out that if, under this amendment, any local service airline reaches the point where it is making enough profit over a sustained period without further need for subsidy, then the Board may, following procedures currently in effect, remove an airline from subsidy—notwithstanding the fact that the carrier may continue to serve cities which are eligible for subsidy-supported airline service. For example, 3 years ago the Board ended subsidy for Allegheny Airlines and more recently proposed that Texas International Airlines be removed from subsidy. Under the terms of this amendment, the Board would continue to have such authority.

I urge my colleagues to vote for this amendment which will assure a continuation of the present system of airline service to our small cities and towns during the 4-year transition period envisioned by H.R. 12611.

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

Mr. MINETA. I yield to the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON of California. Mr. Chairman, I support the amendment.

The objective of H.R. 12611 is to maintain the same extent, character, and quality of subsidized air service for the next 4 years. The amendment adds clarifying language to further this objective. At the same time the amendment leaves CAB flexibility to make adjustments in the subsidy formula, so that subsidy payments will be limited to the actual costs of providing air service efficiently.

Mr. SNYDER. Mr. Chairman, we have no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. MINETA).

The amendment was agreed to.

The CHAIRMAN. There being no further amendments to section 16, the Clerk will read.

The Clerk read as follows:

LOCAL SERVICE AIR CARRIER COMPENSATION

SEC. 17. (a) The last sentence of section 406(b) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1376(b)), is amended as follows:

(1) By striking out "the year 1966" and inserting in lieu thereof "the years 1964, 1965, and 1966".

(2) By striking out "Rate III–A" and inserting in lieu thereof "Rates III and III–A".

(3) By striking out "order E–23850 (44 CAB 637 et seq.)" and inserting in lieu thereof "orders E–21311 and E–23850 (41 CAB 138 et seq. and 44 CAB 637 et seq.)".

(b) Section 12(b) of Public Law 95–163, Ninety-fifth Congress, approved November 9, 1977, is amended by striking out "the year 1966" and inserting in lieu thereof "the year 1964, 1965, or 1966".

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 17 be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

AMENDMENT OFFERED BY MR. ERTEL

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

The Clerk read as follows:

Amendment offered by Mr. ERTEL: Page 101, strike out line 16 and all that follows through line 6 on page 102.

Renumber succeeding sections accordingly.

Mr. ERTEL. Mr. Chairman, this is a very simple amendment. It merely strikes the section which will give a subsidy to two airlines. What it does is it knocks out a subsidy for an airline that no longer exists, which is Mohawk, which was the subject of a very nice article in the St. Petersburg Times which says: "House panel votes money for airline that no longer exists."

What this is in my judgment is a gift from the U.S. Government to the Allegheny Airlines. If there is anybody here who should favor Allegheny, I should because they have a lot of constituents in my district. Allegheny Airlines was formed in a small city just to the north of where I live, so I should be here arguing for Allegheny Airlines to get this $1 million as a ripoff from the U.S. Government, and that is what it is, make no mistake about it.

Let me explain the facts of this particular situation. This is, incidentally, part of that well-balanced bill that was agreed upon by the committee.

Allegheny Airlines took over Mohawk in 1972 through a merger. Mohawk back in about 1966 or 1965 contended through a rate subsidy case that they were entitled to certain money.

They had a hearing on it and there was a compromise and an agreement, and Mohawk never took an appeal.

There was a compromise agreement and Mohawk never took an appeal. Other carriers who had the same arguments, appealed, and they won in some of them, some of them lost, at the circuit courts of appeals, there was a conflict in the circuit courts of appeals in the decision. Allegheny, incidentally, was one of those carriers that appealed and they won at the circuit court level. Meanwhile, back at Mohawk, Mohawk settled at the administrative level. We do not know what they got. We cannot find the records. The CAB has searched and they cannot tell us what the trade-off was, but it was a compromise. So what they chose to do was to settle their case. Allegheny won their case on appeal. Later Mohawk merged into Allegheny, now Allegheny comes back to us, the Congress, in a reform bill to reform the provisions of the Air Transportation Act and say, "Give us this money that Mohawk compromised away over 10 years ago. Give it to us because we took over Mohawk."

And we certainly voted them this money. And that is what we are doing here today.

Make no mistake about it, Allegheny has no valid claim to that money any more than you have a claim on the money that we may have underpaid the Indians for Manhattan Island.

To me it is inappropriate to have this in a reform bill. It is not reform. It is not even equitable.

I raised these objections in the committee and Allegheny sent their attorney in to see me. So I sat down and listened to their attorney and for about 2 hours we went through the whole process of what happened. The Allegheny attorney finally said, "You know, I argued this for Allegheny on appeal and I won at the circuit court level."

I said, "Can you tell me why Mohawk settled at the administrative level?"

He said, "No, I can't."

I said, "Did you ever think about suing him for malpractice if there was malpractice? Why are you coming to the U.S. Congress to give you the money which you did not get in a compromise which was made with the U.S. Government?"

And he never had an answer.

But, yet today you have the opportunity to pass this money from the U.S. taxpayers to Allegheny Airlines—and they certainly need it. I mean we need to give alms to the poor.

Let me read to you from an Allegheny press release which they have been kind enough to send me.

ALLEGHENY AIRLINES REPORTS RECORD JULY EARNINGS

WASHINGTON, D.C.—Allegheny Airlines today reported record net earnings of $3,050,000 for July, an increase of 82 percent over the $1,679,000 earnings for the same month last year. Total revenues were $49,800,000, up 17 percent from $42,645,000 reported for July 1977.

The CHAIRMAN. The time of the gentleman has expired.

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

Mr. ERTEL. Mr. Chairman, make no mistake about it, this is alms for the rich and there is no equitable basis on which to give it to them. You will hear the argument that this may be the last time, that we did it for other carriers but those were carriers who went to the

Court of Appeals and lost in the Court of Appeals; there was a conflict of decisions. There was no compromise in that decision.

So I urge my colleagues to stop this rip-off of the U.S. Treasury.

Mr. RONCALIO. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Pennsylvania (Mr. ERTEL).

Mr. Chairman, public law 95–163 included a provision which corrected an earlier inequity in the subsidy payment paid by the CAB to Texas International Airlines and Ozark Airlines, wherein subsidy payments to these carriers made in 1966, were reduced by tax loss carrybacks utilized by those carriers. Legislative history indicates that while these carriers had to refund part of their 1966 subsidies, other carriers did not. Section 406(b) of the Federal Aviation Act as amended by Public Law 95–163 directed the CAB to make a redetermination for 1966 and make a repayment to such air carriers so entitled.

This act, however, excluded three air carriers with the identical problem. The carriers excluded were Frontier, Lake Central, and Mohawk. Lake Central and Mohawk are now merged into Allegheny, but they excluded Frontier. At the time the legislation was considered it was disclosed through the hearings that other airlines, the three airlines mentioned, Frontier, Mohawk, and Lake Central, were affected, and should also be dealt with.

Mohawk, Lake Central, and Frontier were adversely affected and should also be dealt with. The committee provision would entitle Frontier to receive a subsidy refund of $433,000. That is what we are talking about for Frontier, and Allegheny would receive $486,000 for the 1964 Mohawk claim and $556,000 for the 1965 Mohawk claim.

I would assume that Allegheny Airlines took it on their shoulders to take the action they did because they were probably directed by the board of directors to proceed either in liquidation to get this item off the asset books or convert it one way or another. These are the sums of subsidy under issue in this amendment.

My good colleague, the gentleman from Pennsylvania (Mr. ERTEL), a most diligent member of the committee, I think misconstrued this provision, and feels that these airlines would receive a windfall. If it is a windfall, then everything we appropriate is a windfall. Last week we took care of every airline in America with a great windfall for noise abatement. That is alms for the rich as well as alms for the poor. We are a beloved Congress. But a subsidy is a subsidy, nevertheless.

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

Mr. RONCALIO. I am happy to yield to the gentleman from New York.

Mr. STRATTON. Mr. Chairman, the gentleman is a member of the committee, and I am sure he is more familiar with this legislation than I am.

I am disturbed about this amendment because Allegheny happens to be the only carrier which serves upstate New York. In fact, the members of the New York delegation were so concerned about the inadequacy of air transport in New York State that we met with Allegheny in an effort to try to determine whether we could get some transportation which would allow Members of Congress to get down here from time to time to attend the sessions, as well as serve the needs of our people.

My query is whether we are talking about a subsidy arrangement which would be available when Allegheny is not making a profit, or are we talking simply about a couple of ex post facto subsidies? The gentleman mentioned only the years 1964 and 1965. My impression has been that Allegheny has generally been in the same financial situation that Mohawk was in, namely, that it has had some good years and it has also had some bad years. The subsidy, of course, was available only in those bad years.

Now if the Ertel amendment is going to knock out that kind of arrangement, we get little enough service now, and if this further amendment is adopted, it might just finish airline service entirely for some of the smaller communities of upstate New York.

Mr. RONCALIO. In that case I would believe that the gentleman from New York (Mr. STRATTON) ought to vote against this Ertel amendment.

Mr. STRATTON. That is what I have intended to do.

But does the gentleman know whether this is just a one-shot subsidy we are talking about?

Mr. RONCALIO. It is my opinion that this provision would save a one-shot effect on the three specific amounts I mentioned, $433,000 for Frontier and two payments, one for 1964 and one for 1965, respectively, being $486,000 and $556,000, for Allegheny.

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

Mr. RONCALIO. I am happy to yield to the gentleman from Pennsylvania.

Mr. ERTEL. Mr. Chairman, I think we ought to clarify for this gentleman exactly what this is. This is not a subsidy for Allegheny. This is a subsidy for Mohawk, which, as a result of Allegheny's take-over, will now flow to Allegheny. It is a one-shot deal. It is not a continuing thing. Allegheny had nothing to do with this. Allegheny got its subsidy in 1966.

In fact, the CAB in their memorandum to our committee told us that the events relating to the subject matter of this amendment in question took place more than 12 years ago.

The records had been sent to Allegheny. They said later that they could not find them. Even when we went ahead and did it in the committee, the CAB could not substantiate any of this, and Allegheny itself could not substantiate what the deal was on the compromise. They did not have any records; at least, that is what they tell me.

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

Mr. Chairman, I rise in opposition to the amendment. It would be totally inconsistent and grossly unfair if the Congress did not place Allegheny and Frontier in the same status as Texas International Ozark and other local service carriers which did not have to return subsidy payments because of inconsistent CAB accounting procedures, court or congressional action.

During hearings on this issue in the aviation subcommittee, on which I serve, the ranking member of the subcommittee, Mr. SNYDER, pointed out there were other instances, besides 1966, where the CAB treated carriers differently. The CAB then told us that Frontier, Mohawk, and Lake Central had to make subsidy refunds because of tax loss carryback adjustments for 1964 and 1965. Allegheny, of course, represents the interests of Mohawk and Lake Central, having merged with these carriers.

The committee, in considering this issue again, believed that as a matter of simply equity, all local service carriers should be treated the same. This was the rationale in providing a refund to Ozark and Texas International last year. These two carriers had to return subsidy payments to the Government while other carriers did not because of inconsistent CAB accounting procedures.

As I have indicated, it would be absolutely unconscionable for the Congress to treat carriers differently under the same factual situation. The Public Works and Transportation Committee believes that Allegheny and Frontier must not be treated any differently than Ozark and Texas International. The only reason they did not receive reimbursement under the 1977 law is because Congress was not aware that the same situation existed in 2 previous years—1964–1965. If the committee had been fully aware of the situation, Allegheny and Frontier would surely have been included in the initial legislation, thus eliminating the need for the provision in this bill.

Congressional approval today would resolve a situation which has resulted in inequitable subsidy payments under the law. The Public Works and Transportation Committee strongly supported this "fairness" language in the bill. I urge the House to support committee action and reject this amendment.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. SHUSTER. I will be happy to yield to the gentleman from Colorado.

Mr. EVANS of Colorado. I thank the gentleman for yielding.

I understand there is some controversy about Allegheny, but is there any controversy in relation to Frontier?

Mr. SHUSTER. There certainly must be, because this amendment strikes Frontier as well.

Mr. EVANS of Colorado. That was going to be my next question. Then, to get at the problem of the gentleman from Pennsylvania, apparently both the other carriers are being stricken as well in his amendment.

Mr. SHUSTER. That is right. I am sure the gentleman recognizes that although a different company, Mohawk,

was involved here, when a corporation buys another corporation, it buys the assets and liabilities generally, and if there is something which in all fairness is due Mohawk, a predecessor corporation, that obviously would flow to the company that purchased them.

Mr. EVANS of Colorado. If the gentleman would yield again, I want to say to my friend, the gentleman from Pennsylvania, that if he has difficulties with Allegheny and wishes to strike Allegheny from the bill, that is fine, but I would have to oppose his amendment if it includes the striking of Frontier as well.

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

Mr. SHUSTER. I yield to the gentleman from Pennsylvania.

Mr. ERTEL. I thank the gentleman for yielding.

Frontier, according to the CAB, was involved within the same process: settlement. There is no difference.

Mr. SHUSTER. I thank the gentleman.

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

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

Mr. WALSH. I thank the gentleman for yielding.

As I understand this provision, this will be the final action that has to be taken by the Congress to settle this matter.

Mr. SHUSTER. That is correct, and we are assured that while the past action did not encompass all the airlines involved, this action will now rectify that unfairness, and there will be no further action required.

Mr. WALSH. I would further point out, if I may, that the gentleman from Pennsylvania's reference to the Allegheny balance sheet is totally irrelevant to this situation; is that not true?

Mr. SHUSTER. I believe that is an accurate observation.

Mr. WALSH. Mr. Chairman, as I understand, although I was not present in the committee at the time, the gentleman raised the same objection in the committee. The committee voted it down.

Mr. SHUSTER. That is correct.

Mr. WALSH. So it is without any standing as far as the committee is concerned.

Mr. SHUSTER. That is right. The motion was overwhelmingly defeated.

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

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Pennsylvania. This is a matter that was thoroughly discussed in committee and the overwhelming majority of our colleagues on the committee agreed that both Allegheny and Frontier have not been treated fairly in refunding mail compensation.

Actually, a precedent has been set in this area as we just heard. Are we to now deny the two airlines in question their just refund when only last year this House allowed a similar refund for Ozark and Texas International? It is simply a matter of fairness and equity.

The fact that one of the airlines in question was involved in a consolidation is totally irrelevant. If you own stock in company X and company Y buys the majority stock and changes the name of the company, you as a stockholder still reserve your ownership rights regardless of the change of name. When in a merger the acquiring company assumes assets and liability. Allegheny should not lose its financial arrangement simply because it bought another company, especially since it absorbed all the financial obligations of the previous company.

In regard to the courts, two circuit courts actually came to different opinions regarding this question. One court of appeals held that Allegheny should be refunded the subsidy and another circuit court held that Texas International and Ozark should not.

Because of the conflict of opinion the former Chairman of the CAB recommended to Congress that legislative action be taken to correct the inequity. Such action, as has been pointed out, was taken last year in behalf of Texas International and Ozark, but Congress inadvertently did not consider the case of Frontier and Allegheny who were in identical situations. The present legislation addresses the inequity. I think that Frontier and Allegheny have a good case.

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

Mr. GOLDWATER. I yield to the gentleman from Pennsylvania.

Mr. ERTEL. Mr. Chairman, the gentleman stated that Frontier and Allegheny was an identical situation. Did Frontier and Mohawk appeal?

Mr. GOLDWATER. The circumstances surrounding the original allegations were identical. The happenings in the court took several different directions.

Mr. ERTEL. Did they appeal? The proof is that they did not appeal. They settled the case. They are not identical. If you settle the case, that is the end of it. You do not come back and say, "We made a bad settlement."

Texas International went to the circuit court and lost.

Allegheny in its original suit went to the court and won. We corrected that conflict of court. This is an entirely different situation. Here they settled their case and now they are asking for additional money.

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

Mr. GOLDWATER. I yield to the gentleman from Missouri.

Mr. TAYLOR. Mr. Chairman, I would like to associate myself with the gentleman from California.

The committee went over this very thoroughly. The section that was added brings equity.

I believe it is incorrect that Texas International went to court and won. I think they went to court and lost and that was the reason for the action last year, because seven airlines were treated one way and the others were treated another in identical cases.

It was the recommendation of the Chairman of CAB that we made this legislative correction last year, which we did. The situations are identical and it only to bring simple equity to these airlines for that which they have been denied.

I think it should be our responsibility to correct it and I certainly support the provisions as it is in the bill and I hope we will reject the amendment as offered by the gentleman from Pennsylvania.

Mr. GOLDWATER. Mr. Chairman, I suggest the gentleman puts it in proper perspective.

I urge rejection of the amendment.

Mr. STRATTON. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, it seems to me that this amendment typifies one of the problems that many of us find with this particular bill. It seems to be based on the general conception that the airlines are all "rolling in dough." They are all "fat cats" and somehow if we let everybody in on the transportation bonanza, we are going to get better service.

The fact of the matter is that under some of these deregulations, I am afraid that many cities are going to find that they are going to get less service, rather than more.

Albany, for example, the capital of New York State, has virtually no service to the New York City area or to Washington or in any other direction except by Allegheny Airlines. The same thing is true of the entire upstate area.

As I mentioned a moment ago, the situation is so bad the flights have gradually been taken off by Allegheny because apparently they can do better financially somewhere else and make a little bit more money. It has gotten so bad that our Members of Congress from New York have had to meet together to try to find some way they could get some better air service from Buffalo, from Rochester, from Syracuse, and from Albany so that our constituents can go somewhere by air and, incidentally, so that even we Members of Congress can occasionally get down here for service in this body.

The fact of the matter is that Allegheny Airlines did take over from Mohawk. It is a good thing they did, because Mohawk was at the nadir in terms of service. They had some old two-engine prop jobs, and some of them were dangerous. They were not even operating on an on-time schedule.

When Allegheny came in, we got some new planes; we even got some new jet aircraft. So there was an upgrading, and I would assume that when they took over from Mohawk, they had some fairly substantial obligations that had to be settled.

I think it is completely misleading to suggest that because Allegheny may be making money in their last quarter they were not entitled to the sums that were due them in 1964 or 1965.

I do not pretend to be an expert in this field, and I am not on the committee, but I do know that the problem we face in upstate New York is that we have a minimum of airline service. It is getting worse, and I am afraid that with this bill the situation is going to deteriorate even further.

Mr. Chairman, Allegheny is not a line that I have been enchanted with, and I

have spoken rather frankly with the president of that company. In fact, we had a dinner up in my district, and the Speaker of the House was scheduled to be the main speaker, but he could not get up there because the plane could not get off the ground. Every time it went to the end of the runway to take off, something happened.

Allegheny needs new aircraft, and they need better maintennce. To suggest that they are rolling in dough and that we can, therefore, punish them by striking out this provision seems to me to be a very shortsighted point of view.

This appears to be, Mr. Chairman—and I am sure the gentleman who is Chairman of the Committee of the Whole House is aware of the situation—another amendment addressed against New York, although this one is directed primarily against upstate New York, not downstate New York. I would hope the amendment will be defeated so at least some of us can count on getting to Washington by air.

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

Mr. STRATTON. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I am quite interested in the gentleman's comments. The gentleman from New York (Mr. STRATTON) says this is an anti-New York amendment. I would say that it is probably not only an anti-New York amendment but an anti-Pennsylvania amendment. On the facts that have been presented, I cannot grasp for sure whether it is an anti-Pennsylvania amendment.

Mr. STRATTON. Mr. Chairman, I am better aware of the airline situation in New York than I am of the situation in Pennsylvania, but Allegheny does serve Pennsylvania, so perhaps the amendment would be directed against the gentleman's area as well. However, I dare say the gentleman has many more airlines serving Pittsburgh than we have serving Albany.

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

Mr. STRATTON. I am glad to yield to my colleague, the gentleman from New York.

Mr. WALSH. Mr. Chairman, I think the gentleman from New York (Mr. STRATTON) has put this amendment in the proper perspective.

Allegheny Airlines is providing a service to the Northeastern section of the country that is not being provided by any other airline. For example, Eastern Airlines walked away from the Syracuse-to-Washington market, leaving us totally without service, either going to Syracuse or coming to Washington. The only airline that could pick that service up and did pick it up was Allegheny. They stepped into the breach, and they are now providing better service than Eastern provided.

The CHAIRMAN. The time of the gentleman from New York (Mr. STRATTON) has expired.

(On request of Mr. WALSH, and by unanimous consent, Mr. STRATTON was allowed to proceed for 1 additional minute.)

Mr. WALSH. Mr. Chairman, if the gentleman will yield further, as I was saying, Allegheny is now providing the type of service we need. The gentleman from New York (Mr. STRATTON) has mentioned that Allegheny's equipment is not good. That is true, it is not good. It is a "white-knuckle" airline most of the time, but they are trying to provide some service with the equipment they have. With the subsidy that they will rightfully get because of the settlement with Mohawk, that will perhaps enable them to buy better equipment and to provide better service.

It is not just air service to Syracuse, Schenectady, or Buffalo; it is service to the entire Northeast.

We have helped the other airlines, we have helped them all along. This is an airline that is responsive to our needs. It is not as responsive as we would like sometimes, but they are trying.

So I do not think we should deprive them of this rightfully earned subsidy. It is not a subsidy. It is a payment. It is a moral payment that they should have.

Mr. Chairman, I urge the defeat of the amendment.

Mr. STRATTON. Mr. Chairman, the gentleman has spoken very eloquently, and I subscribe to all he has said.

The CHAIRMAN. The time of the gentleman from New York (Mr. STRATTON) has expired.

(On request of Mr. ERTEL and by unanimous consent, Mr. STRATTON was allowed to proceed for 3 additional minutes.)

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

Mr. STRATTON. I yield to the gentleman from Pennsylvania.

Mr. ERTEL. Mr. Chairman, I notice the gentleman's eloquent argument that New York State should have additional air service. I am all in favor of that. I am in favor of Pennsylvania having additional air service. Allegheny has pulled out of my town. It is not very good service, I agree. But why should the gentleman say we ought to give them a gift? Are we going to nationalize the airlines, give them a gift every time they are in trouble? Did the gentleman take the time to call CAB and ask if they settled the case?

Mr. STRATTON. My understanding is that it is not a gift. Allegheny bought Mohawk Airlines. They took over, as I think the gentleman from Pennsylvania indicated, Mohawk's liabilities as well as their assets, and the liabilities were pretty substantial. If those liabilities entitled them to a subsidy, then I think they ought to get it. Other airlines have gotten the same subsidy in similar circumstances. I do not see why we should discriminate against Allegheny just because they pulled out of the gentleman's town.

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

Mr. STRATTON. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. I thank the gentleman for yielding.

Mr. Chairman, I certainly would emphasize the fact that the gentleman is making. This is not a gift. This is a matter of simple equity. There are a lot of us who are not enthralled with the quality of Allegheny's service in Pennsylvania, for example. I suppose I could strike out against Allegheny, to try to get even with them for eliminating service in one of my cities, but I think that is the wrong way to go. I think the constructive and fair thing to do is to face up to our obligations and treat all airlines alike.

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

Mr. STRATTON. I yield to the gentleman from Pennsylvania.

Mr. ERTEL. I think the gentleman missed the point. Does the gentleman know of a settlement and a lawsuit? Is the gentleman a lawyer?

Mr. STRATTON. I am not a lawyer.

Mr. ERTEL. If you have a settlement, you do not go back and say to the U.S. Congress, "Give me a lot of money." They had a right to go to court. They did not do that.

Mr. STRATTON. This is a poorly conceived amendment. If there is a legal case then maybe it ought to be settled in the courts. But it seems to me that adopting this kind of an amendment is the wrong way to go.

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

Mr. STRATTON. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, the point was made that this was settled in 1977 for the other airlines, so while they tried to get a solution they did not get a solution until 1977, and now they all should be treated separately. Any settlement took place before 1977 when the Congress acted.

Mr. STRATTON. I think the gentleman has explained it very clearly. I am strongly against discrimination in airlines.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. ERTEL).

The question was taken; and on a division (demanded by Mr. ERTEL) there were—ayes 9, noes 29.

Mr. ERTEL. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently 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 of the Whole 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 clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from Pennsylvania (Mr. ERTEL) for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

The CHAIRMAN. There being no further amendments to section 17, the Clerk will read.

The Clerk read as follows:

CONSOLIDATION, MERGER, AND ACQUISITION

SEC. 18. (a) Section 408(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1378) is amended—

(1) by striking out "It shall be unlawful unless approved by order of the Board as provided in this section—" and inserting in lieu thereof "Except as provided in subsection (b) of this section, it shall be unlawful—"; and

(2) in paragraph (5) thereof, by striking out "or any other person to acquire control of any air carrier in any manner whatsoever: *Provided*, That the Board may be order exempt any such acquisition of a noncertificated air carrier from this requirement to the extent and for such periods as may be in the public interest;' and inserting in lieu thereof "to acquire control of any air carrier in any manner;".

(b) Section 408(b) of such Act is amended—

(1) by amending the first sentence thereof to read as follows: "(1) In any case in which one or more of the parties to a consolidation, merger, purchase, lease, operating contract, or acquisition of control, specified in subsection (a) of this section is an air carrier holding a valid certificate issued by the Board under section 401(d) of this section to engage in interstate or overseas air transportation, a foreign air carrier, or a person controlling, controlled by, or under common control with, such an air carrier or a foreign air carrier, the person seeking approval of such transaction shall present an application to the Board, and thereupon the Board shall order a public hearing on the application and shall notify the persons involved in the consolidation, merger, purchase, lease, operating contract, or acquisition of control, and other persons known to have a substantial interest in the proceeding, of the time and place of a public hearing.";

(2) in the second sentence thereof, by striking out: ": *Provided*, That the Board" and all that follows down through the period at the end of such subsection and inserting in lieu thereof a comma and the following: "except that the Board shall not approve such consolidation, merger, purchase, lease, operating contract, or acquisition of control—

"(A) if such consolidation, merger, purchase, lease, operating contract, or acquisition of control would result in a monopoly or would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize air transportation in any region of the United States; or

"(B) if the effect of such consolidation, merger, purchase, lease, operating contract, or acquisition of control in any region of the United States may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade,

unless the Board finds that the anticompetitive effects of the proposed consolidation, merger, purchase, lease, operating contract, or acquisition of control are outweighed in the public interest by the probable effect of the consolidation, merger, purchase, lease, operating contract, or acquisition of control in meeting significant transportation needs of the community to be served, and unless it finds that such significant transportation needs may not be satisfied by any reasonably available less anticompetitive alternative. In any case in which the Board determines that the transaction which is the subject of the application does not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, does not result in creating a monopoly, and does not tend to restrain competition, and determines that no person disclosing a substantial interest then currently is requesting a hearing, the Board, after publication in the Federal Register of notice of the Board's intention to dispose of such application without a hearing (a copy of which notice shall be furnished by the Board to the Attorney General no later than the day following the date of such publication), may determine that the public interest does not require a hearing and by order approve or disapprove such transaction."; and

(3) by adding at the end thereof the following new paragraph:

"(2)(A) In any case in which none of the parties to a consolidation, merger, purchase, lease, operating contract, or acquisition of control, specified in subsection (a) of this section, is an air carrier holding a valid certificate issued by the Board under section 401(d) of this title to engage in interstate or overseas air transportation, a foreign air carrier, or a person controlling, controlled by, or under common control with, such an air carrier or a foreign air carrier, any person seeking approval of such transaction shall file with the Board not later than the forty-fifth day before the effective date of such transaction, a statement of its intent to enter into any of the prohibited acts set forth in subsection (a) of this section. The Board may, within forty-five days after the date of such filing, require such person to file an application for approval pursuant to the requirements of paragraph (1) of this subsection if it finds either that the proposed transaction may monopolize, tend to monopolize, or otherwise restrain competition in air transportation in any section of the country or that the person may not be fit, willing, and able to properly perform the transportation authorized by any license which is a part of such transaction and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board issued pursuant to this Act. Subject to subparagraph (B) of this paragraph, if the Board fails to require such person to file an application pursuant to such paragraph (1) within such forty-five days, the proposed transaction shall not be subject to subsection (a) of this section.

"(B) If the Board determines that any transaction is not subject to subsection (a) of this section as a result of the last sentence of subparagraph (A) of this paragraph and such transaction received such statutory exemption due to any fraud, misrepresentation, or omission of relevant and material facts, the Board may, pursuant to rules which it is authorized to prescribe, make such transaction subject to subsection (a) of this section.".

(c) Section 408(c) of such Act is amended by inserting "any person controlling such air carrier," after "air carrier," the first place it appears in such subsection.

(d)(1) Section 408(f) of the Federal Aviation Act of 1958 is repealed.

(2) That portion of the table of contents contained in the first section of such Act which appears under the side heading.

"Sec. 408. Consolidation, merger, and acquisition of control."

is amended by striking out

"(f) Presumption of control.".

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 18 be considered as read, printed in the RECORD and open to amendment at any point.

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

There was no objection.

The CHAIRMAN. There being no amendments to section 18, the Clerk will read.

The Clerk read as follows:

AGREEMENTS AND CARRIER DISCUSSIONS

SEC. 19. (a)(1) The center heading of subsection (a) of section 412 of the Federal Aviation Act of 1958 (49 U.S.C. 1382(a)) is amended by striking out "REQUIRED" and inserting in lieu thereof "AND REQUESTS TO DISCUSS COOPERATIVE WORKING ARRANGEMENTS".

(2) Subsection (a) of such section 412 is further amended by inserting "(1)" immediately after "(a)" and by inserting at the end thereof the following new paragraph:

"(2) Any air carrier may request authority from the Board to discuss possible cooperative working arrangements between such air carrier and any other air carrier, foreign air carier, or other carrier.".

(b) Section 412(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1382(b)) is amended to read as follows:

"PROCEEDINGS UPON FILING

"(b) Upon filing of any contract or agreement, or any modification or cancellation thereof, pursuant to subsection (a)(1) of this section, or upon the filing of a request by an air carrier for authority to discuss possible cooperative working arrangements, pursuant to subsection (a)(2) of this section, the Board, in accordance with regulations which it prescribes, shall provide to the Attorney General and the Secretary of Transportation written notice of, and an opportunity to submit written coments on, the filed document. The Board may, upon its own initiative or if requested by the Attorney General or such Secretary, hold a hearing, in accordance with regulations prescribed by the Board, to determine if a contract or agreement, or request for discussion authority, whether or not previously approved, is consistent with the provisions of this Act.

"CONDITIONS FOR APPROVAL

"(c)(1) The Board shall by order disapprove any contract or agreement filed pursuant to subsection (a)(1) of this section, whether or not previously approved by it, which it finds to be adverse to the public interest, or in violation of this Act, or which substantially reduces or eliminates competition, unless the contract or agreement is necessary to meet a serious transportation need or to secure important public benefits. The Board shall by order approve any such contract or agreement, or any modification or cancellation thereof, which it does not find to be inconsistent with the standards set forth in this section, except that the Board may not approve any contract or agreement between an air carrier not directly engaged in the operation of aircraft in air transportation and a common carrier subject to the Interstate Commerce Act, as amended, governing the compensation to be received by such common carrier for transportation services performed by it.

"(2) The Board shall by order disapprove any request for authority to discuss possible cooperative working arrangements which the Board finds may be adverse to the public interest or which it finds may substantially reduce or eliminate competition, unless the discussions are necessary to meet a serious transportation need or to secure important public benefits. The Board shall by order approve any such request which it does not find to be inconsistent with the standards set forth in this section.".

(c) That portion of the table of contents which appears under the side heading

"SEC. 412. Pooling and other agreements."

is amended by striking out

"(a) Filing of agreements required.

"(b) Approval of Board."

and inserting in lieu thereof

"(a) Filing of agreements and requests to discuss cooperative working agreements.
"(b) Proceedings upon filing.
"(c) Conditions for approval.".

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 19 be considered as read, printed in the RECORD and open to amendment at any point.

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

There was no objection.

AMENDMENT OFFERED BY MR. OBERSTAR

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

The Clerk read as follows:

Amendment offered by Mr. OBERSTAR: Add at the end of Line 17 on page 109 a new subsection "(d)" as follows:

"(d) Any contract between air carriers relating to pooling or to the apportionment of revenues for the purpose of providing financial assistance to any air carrier when employees of such air carrier are engaged in a lawful work stoppage is hereby declared to be unlawful."

Mr. OBERSTAR. Mr. Chairman, and colleagues, today is the day we vote on welfare reform—corporate welfare reform.

The mutual aid pact is no less than welfare checks paid by airlines with good labor records to those with poor labor records.

About the kindest description I can think of is that it is strike insurance by airlines, for airlines.

Without mincing words, the mutual aid pact is one of the most anticompetitive practices in the history of labor-management relations.

The mutual aid pact is a cozy arrangement among the airlines, under which brother airlines guarantee any one of their members 50 percent of average operating expenses during a strike.

This food-stamps-for-airlines sweetheart deal has paid out over a half billion dollars to member airlines since the pact was approved by the CAB in 1958.

My amendment will end the pact. It has never been sanctioned by act of Congress. Quite the contrary, the pact is a creature of the CAB, which allowed it to come into being and which monitors the pact's existence.

The mutual aid pact has so tilted the balance of power in the collective bargaining process in favor of one party—management—that its very existence actually encourages the carriers not to bargain seriously—to the point where management does not even try to avoid a strike.

Why should they, when the mutual aid pact strike insurance fund virtually assures them a profit while they are on strike.

For example, during the recent 109-day work stoppage at Northwest Airlines, the company received $108 million in mutual aid pact payments—$920,000 a day—and made a $22 million profit.

Over the life of the pact, Northwest has paid in some $15.9 million, and received about $209 million in pact payments—making a handsome multi-million-dollar profit during every one of their four strikes.

American Airlines, on the other hand, has paid in $93 million, and received $24.7 million. Braniff has paid in $15.6 million, and received $620,000 in benefits. No wonder many of the airlines themselves, quietly, to be sure, want out of the pact.

By whatever yardstick you choose to measure it, the mutual aid pact is improper, has no place in labor-management relations, and should be banned.

It so tilts the collective bargaining process in favor of the airlines as to actually prolong strikes.

In the prepact days, airline strikes lasted an average of only 15 days. Today, the average airline strike is 92 days. The average in nonpact industries is 25 days.

Longer strikes mean hardship on the traveling public and economic losses to communities—especially towns in remote areas.

Committee hearings on this issue have documented numerous cases of community hardship caused by airline work stoppages. In 1972, Fargo, N. Dak., petitioned the CAB to rescind Northwest's operating certificate and issue a new one to another airline, so severely hurt was it by the 95-day strike in that year.

North Dakota Governor Guy said of that strike that "North Dakota businesses have suffered economic losses—far greater losses, I would suspect—than Northwest Airlines."

A 124-day strike at Texas International deprived 26 Texas cities of all airline service. It hurt New Mexico and Louisiana cities to the extent that the Lafayette, La. City Council wrote the Louisiana congressional delegation saying: "The economic impact on the area and the oil industry is catastrophic."

The city of Rapides, La., understood the issue and stated it clearly in their message to the congressional delegation: "Citizens of central Louisiana have suffered the loss of needed air service while Texas International is being compensated for not serving our community."

The New Mexico legislature in 1972 memorialized Congress to end the Mutual Aid Pact because of economic adversity caused by the long strike resulting from the Mutual Aid Pact.

These are only a few representative examples of hardships, of actual economic injury caused by the pact. There are many more—including numerous cases of individual anguish—which have been reported, but which we just do not have the time to report here.

Suffice it to say that the Mutual Aid Pact is an inherently unfair antilabor practice. It should not have standing in our collective bargaining process—certainly not status approved by an agency of the Federal Government.

You know, it just goes against the grain of our American sense of fair play to allow this practice to continue. It stacks the deck—with Governmental approval—against one of the parties in a labor-management negotiation, and the weaker part at that.

Let us restore fairness and equity to collective bargaining in the airline industry. Let us ban the pact.

I urge my colleagues to join me in relegating the pact to the history books.

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

Mr. OBERSTAR. I am happy to yield to our chairman, the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON of California. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I support the amendment.

By furnishing substantial payments to airlines on strike, the Mutual Aid Pact encourages prolonged strikes which seriously inconvenience the public. It is difficult to see why most airlines want to participate in the pact, since most benefits go to a few airlines with a long history of labor difficulties. Although the unions do have some economic self-help measure, they are very small in comparison to mutual aid benefits. The modifications of the pact recently proposed by the industry will lessen the problem, but it is a classic of "too little too late."

I support the amendment.

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

Mr. OBERSTAR. I yield to my colleague, the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Chairman, I want to commend the gentleman for his work on this amendment. It is something that I had envisioned when I first began serving in the Congress as did my predecessor who labored diligently over the years to eliminate such counterproductive arrangements and I know that the gentleman from Minnesota (Mr. OBERSTAR) has had a keen interest during his service in this House.

I think if we are going to deregulate then I think we ought to go all the way and eliminate the airline MAP. It's the type of deregulation we all should agree with.

The reason that there is this MAP agreement today is because it is a regulated industry. The CAB authorizes its existence. You know we extend tremendous benefits to regulated industries in our society; they have franchises, protection of their routes, and it remains virtually inviolate, for practical purposes, during a strike or a labor dispute. The MAP is a protection they do not need, because it raises the total cost of airline services for everyone who uses the carriers that participate in this type of payment arrangement.

I think we ought to strike a blow here for deregulation all the way. To eliminate this anachronism, to eliminate this unreasonable mutual aid pact, this method of making payments to airlines. That is all it does. Members of this organization, this mutual aid pact, and there are few of

them, have strikes that last twice as long as nonmembers, because it is the bigger airlines that use it, it is not the small ones. We are not protecting the little guys with this, because it is basically the large carriers who are members.

So, I would urge my colleagues to vote for the amendment offered by the gentleman from Minnesota (Mr. OBERSTAR) that will let us do away with this mutual aid pact and restore equality at the bargaining table and restore the service so vital to the people we represent in States that have been unreasonably affected by MAP-prolonged labor disputes.

I rise in support of the amendment that, in effect, will prohibit the continuation of such arrangements between air carriers as the so-called Air Lines Mutual Aid Pact which provide companies affected by work stoppages with substantial amounts of lost operating revenues.

It is now well documented that since 1959 when the MAP was first organized the average length of strikes in the industry has increased threefold.

The northern tier of our country just experienced the economic disaster of a 109-day airline shutdown during which North Dakota and Montana suffered a loss of $155 million and Minnesota another $37 million. Since 1970 the management of the airline serving these States deliberately chose to shut down four times for a total of almost 1 year in the last 8 years, because the MAP made it possible to turn a profit without flying its routes.

Here is a major corporation which during MAP's existence has chiseled $210 million in benefits from its peers and saying in effect "the public be damned." Yet we talk about the welfare cheats, the poor and sick who try to eke out a few extra dollars for food and medicine.

Belatedly, the industry itself is making some tentative moves to close the open-ended cornucopia. First, Pan American and recently Eastern have withdrawn from MAP or announced their intention to do so. Next, on Tuesday the MAP members have met and agreed on revision which is to be submitted to the Civil Aeronautics Board when the matter of the extension comes up. The MAP expired last February 27 but has been observed as being in effect since then.

Interestingly, the new benefit schedule reduces the 50-percent rate of benefits to 35 percent of operating revenue of the struck airline for 2 weeks and 25 percent for 8 weeks. The revised MAP will, however, continue providing the so-called windfall payments from competing carriers for the duration of the stoppage. Windfall payments are those revenues left after operating costs are paid by nonstruck airlines who enjoyed traffic at the expense of the nonflying company.

Tuesday's action of the air carriers in revamping the discredited Air Lines Mutual Aid Pact indicates to me that even they are belatedly recognizing that is a dying scheme.

The pact has caused companies with enlightened labor-management policies to waste millions of shareholders' and taxpayers' dollars. I am disappointed that the executives did not have the guts to kill the pact outright and voted to prolong its dying agony. If my colleagues and I in Congress have to do the job of killing it for them, so be it.

Since the millions of dollars paid to a struck airline are considered as legitimate business expenses to MAP members, mutual aid payments are "rolled into" the higher price of each airline ticket or air freight bill. I suggest that under the present circumstances such increases contribute to inflation.

I think the termination of the Mutual Aid Pact contemplated by this amendment is the preferable way of encouraging airline managements to continue serious bargaining in labor-management disputes. Others have recommended such drastic measures as decertification of nonoperating airlines or the encouragement of the CAB to grant permission to competitors to fly unserviced routes. However, I have confidence in the efficacy of free collective bargaining in our democratic system and believe that if airline managements are not insulated from economic reality by the "security blanket" of MAP they will have the economic incentive to bargain in good faith and quickly agree on contracts with airline workers.

Early in this Congress, I introduced H.R. 1606, which would kill the pact. Recently, as the abuses of the Mutual Aid Pact again became apparent, many of my colleagues and I from the Northern Tier joined in a variety of efforts to facilitate the settlement of the most recent dispute.

We appealed to the CAB, the National Mediation Board, and to the Department of Commerce, but to no avail. Sixty-four of us to date have joined in a resolution calling upon the CAB to cease payments under the expired pact and to conduct a study to alleviate strikes in the air transportation industry.

However, because of the lateness in the session and the impossibility of holding hearings on this important issue, I urge my colleagues to vote for the Oberstar amendment and to end, once and for all time, this anachronistic antilabor Airlines Mutual Aid Pact which has done so much economic damage to our country.

If we are going to streamline national air service, let us go all the way and get rid of the antilabor Air Lines Mutual Aid Pact which harks back to the open-cockpit Jenny era, not today's jet age.

I hope the amendment will be adopted.

Mr. OBERSTAR. Mr. Chairman, I want to thank the gentleman from Minnesota (Mr. VENTO) for his contribution and for his predecessor in the Fourth Congressional District in St. Paul, Joe Karth, who championed this cause in earlier years.

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

Mr. OBERSTAR. I yield to the gentleman from Ohio.

Mr. HARSHA. Mr. Chairman, I rise in support of the amendment offered by the gentlemen from Minnesota (Mr. OBERSTAR). The Airline Mutual Aid Pact (MAP) is antibusiness and antilabor.

Adoption of the Oberstar amendment would abolish MAP and would be completely consistent with the thrust of H.R. 12611. Section 19 of the bill, which deals with interairline agreements such as the pact, is designed to prohibit anticompetitive agreements that do not serve an important air transportation function. It is clear from the record that MAP does not serve such a function.

Proponents of the pact will claim it is needed to protect financially weaker carriers from the effects of a strike. Recent experience with MAP destroys that argument. More than half of the estimated $530 million in payments to struck carriers since 1968 has gone to just two airlines—Northwest and National.

Northwest is one of the only two airlines that has been profitable each year since 1968. The other, Delta, has never belonged to MAP. National has made money each year since 1971, but 13 other airlines did not.

On the other hand, Pan American lost between $25 and $82 million each year from 1969 to 1975. During that time, the financially troubled airline paid out $45 million in MAP payments. It is not surprising that Pan Am withdrew from MAP at the end of 1975.

Eastern Airlines announced last July that it is withdrawing from the pact. Through the end of last year, the airline received $26.1 million in MAP payments, but paid out $74 million. Most of that amount was paid in recent years as the carrier's financial situation worsened. Clearly, the weaker airlines have been supporting the stronger ones. Since the pact in practice runs counter to one of its basic justifications, it should be abolished.

MAP also puts airlines that strive to develop a competitive edge promoting good relations with employees at a serious disadvantage. A strike at a competing airline with poor employee relations means any competitive advantage gained by an airline still flying is offset by its having to turn over a portion of its revenue to the struck carrier.

Those of us who believe deeply in free enterprise, Mr. Chairman, consider MAP opposed to those principles. All the pact does is encourage a few airlines with bad employee relations to continue them, knowing that competing carriers will, in effect, pick up the cost.

It is time to follow the lead of the airlines themselves and put an end to this practice. I urge the adoption of the amendment.

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman for his support.

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

Mr. OBERSTAR. I yield to the gentleman from Minnesota.

Mr. NOLAN. Mr. Chairman, I just want to commend the gentleman from Minnesota (Mr. OBERSTAR) and associate myself with his remarks.

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

Mr. Chairman, this amendment should be voted down.

Voluntary action has already been

taken by airlines, who are members of the mutual assistance agreement, to eliminate entirely the possibility that an airline could show a profit while on strike. Furthermore, the entire matter of mutual aid is under current and careful review by the Civil Aeronautics Board. For this reason alone, it is totally inappropriate and precipitous for us to take any action at this time.

Mutual aid agreements in the airline industry, whether they affect management or labor, should undergo careful consideration and have full public examination of all viewpoints before being executed.

Obviously, we cannot do that here today. It would be untimely and irresponsible for us to act without full consideration of the complicated details of this matter. Like many of you, in the past I have been very concerned about some of the features contained in the Mutual Aid Pacts. I was particularly offended by charges that a carrier could make a profit during a strike.

I am impressed by the fact that the airline members of the mutual aid agreement have now submitted to the Civil Aeronautics Board for approval, amendments which will significantly reduce benefits to a carrier which is struck.

As all of us know, airlines are particularly vulnerable to strikes because an empty airline seat is a totally perishable item.

It is important also for all of us who are concerned about inflation to recognize that if airlines arbitrarily are denied any form of mutual aid, while such assistance is authorized for airline employees, the end result of this discrimination inevitably will be soaring wage demands and inevitably soaring costs for air travel and air shipments. Let me add that no other industry of which I am aware can match the anti-inflation record of air transportation, with average fares for coach travel in the United States actually less than it was a year ago.

The fact of the matter is, of course, that the more than 300,000 employees of the airlines are the best paid of any employees in any U.S. industry. The average airline employee today receives more than $27,000 a year in pay and benefits. Many airline captains make more money than Cabinet officials and Members of Congress.

I recognize, of course, that many Members of the House understandably have been concerned, because it had been possible in the past for an airline to show a profit while on strike. That is no longer the case.

Under the amended agreement that is being presented to the Civil Aeronautics Board, guaranteed benefits payable to a struck airline will be reduced by approximately one-third and there will be no guaranteed benefits at all if a strike should last more than 10 weeks.

So, I submit to you that we would be acting recklessly if we took any action before the House Public Works and Transportation Committee and the Civil Aeronautics Board have had an opportunity to examine all aspects of this matter in full public hearings.

I submit that the mutual assistance agreement has served the public well during its 20 years of existence. This is attested by the fact that on numerous occasions, after full public discussions, its validity has been reaffirmed here in the Congress, in the Civil Aeronautics Board, and in our courts.

We need time to assess fully the changes that have been made and we need time to reexamine the entire matter of agreements that relate to industry and labor. As you know, unions have mutual assistance arrangements too.

In conclusion, I urge that we avoid premature action today, and thereby make certain that this matter will receive comprehensive consideration by the committee on which I have the honor to serve, by the Civil Aeronautics Board, and by all other interested parties.

That is the fair and responsible way to act in the public interest. I urge you to vote down the amendment.

Mr. SHUSTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am troubled by the fact that we have not had any hearings on this matter. The distinguished gentleman from Minnesota (Mr. OBERSTAR), who offered this amendment, is a member of our committee. We certainly had many, many months of open hearings. Anybody who wanted to testify could have come before the committee to do so.

I would ask the gentleman why was this not brought before the committee in an orderly fashion so that we might carefully consider this proposal, rather than having it sprung on us here in this fashion?

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

Mr. SHUSTER. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. I thank the gentleman for yielding.

Hearings were held by the Committee on Public Works and Transportation 2 years ago on the Mutual Aid Pact. In fact, I testified at those hearings as well as sat in as a member not of the Aviation Committee but as a member of the full Committee on Public Works and Transportation. The Senate Public Works and Transportation Committee, or our counterpart in the other body, I should say, had extensive hearings on this more recently. So we have heard this issue discussed.

Mr. SHUSTER. As the gentleman knows, the Aviation Subcommittee which did hold hearings relative to this legislation received no testimony relative to this legislation this year, and there are many members of the committee who were not on the committee. Indeed, am I correct in saying—I would address this question to the chairman of the subcommittee—that the previous testimony was not even submitted to be entered into the RECORD during the hearings this year?

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

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

Mr. ANDERSON of California. I thank the gentleman for yielding.

It was 2 years ago that we held hearings, and we had testimony presented at that time.

Mr. SHUSTER. Yes, but we did not hold hearings this year on this bill.

Mr. ANDERSON of California. There has been, I believe, an election since our hearings, so there may have been some Members who did not get that testimony, but we had good, full hearings about 2 years ago.

Mr. SHUSTER. But we had no hearings on this legislation which is before this Congress.

Mr. ANDERSON of California. Here is the hearing record, some 250, almost 300 pages.

Mr. SHUSTER. But we have had no hearings, am I correct in saying, in this Congress on the legislation which is before us today?

Mr. ANDERSON of California. If the gentleman will check, he will find, as I say, almost 300 pages. It all goes to the subject of the mutual aid pact.

Mr. SHUSTER. In previous Congresses. It does not pertain to the legislation on the floor today.

May I ask another point of the gentleman. I am also concerned about when the Congress begins to tell voluntary associations, in this case airlines, that they cannot ban together in mutual aid, should we not in the interest of equity and in the interest of fairness take the same position with regard to the labor unions? What is the difference between our ordering by law that airlines cannot ban together for mutual aid during a strike, but not giving exactly the same direction to the other parties to a strike—the labor unions?

Mr. OBERSTAR. Mr. Chairman, if the gentleman will yield, first of all, little has changed since the hearings were held 2 years ago. We have had longer, extensive labor-management disputes since that. As for the gentleman's point about labor unions, there is no agreement among labor unions that is sanctioned by an agency of the Federal Government, and that is the case of the Mutual Aid Pact. It is sanctioned by an agency of the Federal Government; namely, the CAB.

Second, I just cannot conceive of any valid comparison between a few hundred pilots, about 1,500 of them, or a few hundred other cabin attendants, stewardesses, and a few hundred machinists who join together to help each other out, as compared with the enormous corporate wealth raid against the $16 billion combined wealth of all of the airlines joined together. When you put $5 billion of stockholder equity against that, I am sure that the net worth of all the airline employees would not make up the cost of one aircraft, one 727.

Mr. SHUSTER. So the gentleman is saying the difference is the magnitude; the principle is the same. Does the gentleman agree with me that what I think I hear him saying is that the principle is the same; it is the difference in the magnitude?

Mr. OBERSTAR. The magnitude is so great as to make a difference.

Mr. SHUSTER. I thank the gentleman and yield back the remainder of my time.

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

Mr. Chairman, there is a lot more difference than what the gentleman from Pennsylvania would have the Members believe between MAP and a union strike benefit fund. It is a very serious matter for an airline in our area. One has been on strike 1 whole year in the last 8 years. Another airline has been on strike 1 whole year in the last 6 years. During this period of time tremendous economic loss occurred in the communities I represent in the northern tier States particularly. We find evidence that the recent strike of 109 days caused a $210 million loss collectively to the States effected. The difference here, of course, is we are dealing with a regulated industry. The CAB in 1959 decided to approve this, because the airlines were considered to be an infant industry. I do not think it is an infant industry any more. It is a big industry. It is powerful. It has the resources to deal with labor disputes. What we are talking about is the means of bringing money back to these airlines on strike which have demonstrated they want to prolong a strike. That is the case. That is the fact.

As far as the economy of it goes, whether or not they have been able to hold down salaries and be an inflation fighter, I think quite the contrary is the case, because if the airlines, if the members of the mutual aid pact pay back to an airline effected by a labor dispute, they are in essence raising their prices in order to meet and pay that particular expense.

I would remind my colleagues that in the first quarter of this year Northwest Orient had a profit of $25 million. In the second quarter, being out on strike 2 out of the 3 months, they still had a profit of $20 million. This is the magnitude of what we are talking about. We are not talking about the $5 a day a machinist gets when he walks the picket line. I do not think there is any comparison. MAP payments are a blatant violation of the Sherman Antitrust Act. But because the CAB has authorized it this has thrown a protective insulation over these arrangements. There is the substantial difference between MAP and a union strike benefit fund. If this were not a regulated industry you would not have that protection. That is what this body had to consider when voting on this amendment.

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

Mr. VENTO. I yield to the gentleman from Ohio.

Mr. MOTTL. Mr. Chairman, I rise to compliment both gentlemen from Minnesota for offering the amendment. I would like to associate myself with their remarks.

Mr. Chairman, I rise in support of the amendment to H.R. 12611 offered by my distinguished colleague Mr. OBERSTAR.

The airlines mutual aid pact is not conducive to earnest collective bargaining.

Anyone who doubts that, has only to look at the recently concluded strike by pilots against Northwest Airlines.

The strike lasted 109 days, but Northwest was able to show second quarter earnings topping $22 million thanks to the mutual aid pact.

The real loser in the strike was the airline passenger who for more than 3 months was forced to frantically search about for connections to cities normally served by Northwest.

I have introduced H.R. 13735 which would prevent the Civil Aeronautics Board from approving any similar mutual aid pacts in the future.

I commend Mr. OBERSTAR for his amendment and will enthusiastically support him.

● Mr. RUSSO. Mr. Chairman, I rise in support of Mr. OBERSTAR's amendment to terminate the airline mutual aid pacts. As a member of the Subcommittee on Transportation I would, at this time, like to address the need for abolishing mutual aid pacts which exist in the railroads.

Like the airline industry, railroads have formed mutual aid pacts. As a supporter of abolishing mutual aid pacts in the airline industry, I believe mutual aid pacts will have the same unsettling effects on labor-management relations in the railroads as its does for the airlines. Since July 10, 1978 Norfolk and Western Railroad employees have been on a legal strike. Men and women are receiving minimal benefits of $145 a week, and the Norfolk and Western Railroad earning $800,000 a day while not in operation.

When I attend hearings, I hear the cries of the airline and railroad industry that since the employees are receiving large benefits from unemployment compensation and union strike funds, then why should not the industry be entitled to such benefits? I believe this is a comparison of apples and oranges. The apples being the ability of a large corporation to make money and stimulate profit and the oranges being an individual head of household who must meet basic food and housing needs and must dip into his savings to exist.

The obvious difference in apples and oranges leads us to greater unsettled labor-management negotiations.

Let us look at the facts: During the pre-mutual-aid pact era, airline strikes averaged 15 days—the last strike against Northwest Orient lasted 109 days. Before mutual aid pacts, there was only one major railroad strike—it was in 1955 and lasted 55 days. With the advent of mutual aid pacts, the Norfolk & Western railroad strike has already lasted 70 days.

There are 24,600 people directly affected by the Norfolk & Western strike. Not only are these railroad workers being effected but so are the coal workers in West Virginia, and the economies of 12 States, including Illinois, Indiana, Michigan, Missouri, Nebraska, Iowa, New York, Ohio, North Carolina, Pennsylvania, Virginia, and West Virginia.

In the near future, we will be addressing the issue of railroad mutual aid pacts. The facts speak for themselves. Mutual aid pacts makes a travesty of the negotiating process. They should be terminated.●

● Mr. LAFALCE. Mr. Chairman, I rise in favor of the amendment to H.R. 12611 offered by the gentleman from Minnesota (Mr. OBERSTAR), which eliminates a major impediment to the prompt and equitable resolution of conflicts between labor management, by terminating the mutual aid pact between airlines.

As the consponsor of a bill which would have accomplished the same end, I believe that the mutual aid pact (MAP) has only been an inducement for the airlines to conduct labor contract negotiations in a very intransigent fashion. The history of the recent strike by the airlines pilots against Northwest Airlines sadly demonstrated what the consequences of the existence of MAP could be.

Under the provisions of MAP, an airline confronted by a work stoppage was guaranteed 35 percent of its usual weekly operating costs without having to share 1 cent of these funds with its striking employees. These funds were supplied by other airlines which adhered to the pact and which would be enjoying windfall profits because of their increased business. Understandably, there is very little inducement for members of MAP to work for an early settlement of the issues involved in a strike.

Clearly, the prolonged and unnecessary deadlocks in contract negotiations which have been the direct result of MAP have not been in the public interest. Thousands of travelers have been delayed, rerouted, and inconvenienced; and some areas have been virtually deprived of all air service. Millions of dollars in tax revenues have been lost because of elimination of thousands of flights. In the last 10 years, there have been 20 strikes against MAP members, and the average duration of those strikes has been 65 days. Before MAP was instituted in 1958, airline strikes averaged 15 days. The average strike duration for all industries in the United States in recent years has been approximately 25 days. These statistics speak for themselves.

As serious as the injury to the public interest is the harm which MAP inflicts on employees of the airlines. While many airlines continue to make profits during strikes, as was recently the case with Northwest Airlines, employees suffer grievous economic hardships. Many airline unions pay no strike benefits at all, which means that their members are forced to live on their saving during work stoppages. I might add that a union which does not have a strike fund is not a union which is going to engage in irresponsible and unreasonable bargaining during contract negotiations.

The Federal Government should be encouraging prompt and just settlements of differences between labor and management. The Civil Aeronautics Board's approval of MAP has placed the Federal Government in the position of encouraging the airline industry to be incorrigible at the bargaining table. The Board's sanction of MAP has given the airlines a financial club to be held over the head of its unions, which has resulted in longer and longer strikes and increased hardships for the general public.

The proposed termination of MAP will result in more "good faith" bargaining between the airlines and the airline unions, which should decrease the number of strikes and the length of strikes. The general public will benefit, and the members of airline unions will no longer be subjected to needless distress. Finally, the airlines will not suffer, if they adopt other industries' more modern attitude toward labor relations, which means a flexible attitude at the bargaining table.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. OBERSTAR).

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 299, noes 78, not voting 55, as follows:

[Roll No. 813]

AYES—299

Addabbo	Dicks	Jenrette
Akaka	Dingell	Johnson, Calif.
Alexander	Dodd	Johnson, Colo.
Ambro	Downey	Jones, N.C.
Anderson, Calif.	Drinan	Jones, Tenn.
Andrews, N.C.	Duncan, Oreg.	Jordan
Andrews, N. Dak.	Duncan, Tenn.	Kasten
Annunzio	Early	Kastenmeier
Applegate	Edgar	Kazen
Ashley	Edwards, Ala.	Keys
Aspin	Edwards, Calif.	Kildee
AuCoin	Emery	Kostmayer
Baldus	Ertel	Krebs
Barnard	Evans, Colo.	LaFalce
Baucus	Evans, Ga.	Lagomarsino
Beard, R.I.	Evans, Ind.	Le Fante
Bedell	Fary	Leach
Bellenson	Findley	Lederer
Benjamin	Fish	Leggett
Bevill	Fisher	Lehman
Biaggi	Fithian	Lent
Bingham	Flippo	Levitas
Blanchard	Flood	Livingston
Blouin	Florio	Lloyd, Calif.
Boggs	Foley	Lloyd, Tenn.
Boland	Ford, Mich.	Long, La.
Bolling	Ford, Tenn.	Long, Md.
Bonior	Fowler	Lott
Bonker	Frey	Lujan
Bowen	Fuqua	Luken
Brademas	Gammage	Lundine
Brinkley	Garcia	McCloskey
Brodhead	Gilman	McCormack
Brooks	Ginn	McDade
Broomfield	Glickman	McFall
Brown, Calif.	Goldwater	McHugh
Buchanan	Gonzalez	McKay
Burke, Fla.	Gore	McKinney
Burke, Mass.	Grassley	Madigan
Burlison, Mo.	Green	Maguire
Burton, John	Gudger	Mahon
Burton, Phillip	Guyer	Mann
Byron	Hagedorn	Markey
Carney	Hamilton	Marks
Carr	Hammer-schmidt	Marlenee
Carter	Hanley	Marriott
Cavanaugh	Hannaford	Mattox
Cederberg	Harkin	Mazzoli
Chisholm	Harrington	Metcalfe
Clausen, Don H.	Harris	Meyner
Clay	Harsha	Michel
Cleveland	Hawkins	Mikulski
Coleman	Heckler	Mikva
Collins, Ill.	Hefner	Miller, Ohio
Conte	Heftel	Mineta
Conyers	Hillis	Minish
Corman	Holland	Mitchell, Md.
Cornell	Hollenbeck	Moakley
Cotter	Holtzman	Moffett
Coughlin	Horton	Mollohan
Cunningham	Howard	Moorhead, Pa.
D'Amours	Hubbard	Moss
Danielson	Hughes	Motti
Davis	Hyde	Murphy, Ill.
Delaney	Ichord	Murphy, N.Y.
Dellums	Ireland	Murphy, Pa.
Derwinski	Jacobs	Murtha
	Jeffords	Myers, John
	Jenkins	Myers, Michael
		Natcher
Neal	Rostenkowski	Thornton
Nedzi	Roybal	Traxler
Nolan	Runnels	Udall
Nowak	Russo	Ullman
O'Brien	Ryan	Van Deerlin
Oberstar	Sawyer	Vander Jagt
Obey	Scheuer	Vanik
Ottinger	Schroeder	Vento
Panetta	Seiberling	Volkmer
Patten	Sharp	Walgren
Pattison	Shuster	Walsh
Pease	Simon	Wampler
Perkins	Sisk	Waxman
Pike	Skelton	Weiss
Pressler	Slack	Whalen
Preyer	Smith, Iowa	White
Price	Snyder	Whitten
Pritchard	Solarz	Wilson, C. H.
Pursell	Speliman	Wilson, Tex.
Rangel	St Germain	Wirth
Reuss	Staggers	Wolff
Richmond	Stanton	Wright
Rinaldo	Stark	Wydler
Risenhoover	Steed	Wylie
Roberts	Steers	Yates
Roe	Steiger	Yatron
Rogers	Stockman	Young, Alaska
Roncalio	Stokes	Young, Fla.
Rooney	Studds	Young, Mo.
Rose	Taylor	Zablocki
Rosenthal	Thompson	Zeferetti

NOES—78

Abdnor	Fenwick	Pickle
Archer	Flynt	Poage
Ashbrook	Fountain	Regula
Badham	Frenzel	Robinson
Bafalis	Gephardt	Rousselot
Bauman	Gibbons	Ruppe
Beard, Tenn.	Goodling	Satterfield
Bennett	Gradison	Schulze
Breaux	Hall	Sebelius
Breckinridge	Holt	Skubitz
Brown, Mich.	Huckaby	Smith, Nebr.
Broyhill	Jones, Okla.	Spence
Burgener	Kelly	Stangeland
Burleson, Tex.	Kindness	Stratton
Butler	Latta	Stump
Chappell	McClory	Symms
Clawson, Del	McDonald	Treen
Collins, Tex.	McEwen	Trible
Corcoran	Martin	Waggonner
Daniel, Dan	Mathis	Walker
Daniel, R. W.	Milford	Watkins
Devine	Montgomery	Whitehurst
Dornan	Moore	Whitley
Edwards, Okla.	Moorhead, Calif.	Wilson, Bob
English	Myers, Gary	Winn
Erlenborn	Pettis	
Evans, Del.		

NOT VOTING—55

Ammerman	Flowers	Quillen
Anderson, Ill.	Forsythe	Rahall
Armstrong	Fraser	Railsback
Brown, Ohio	Gaydos	Rhodes
Burke, Calif.	Giaimo	Rodino
Caputo	Hansen	Rudd
Cochran	Hightower	Santini
Cohen	Kemp	Sarasin
Conable	Krueger	Shipley
Cornwell	Meeds	Sikes
Crane	Miller, Calif.	Teague
de la Garza	Mitchell, N.Y.	Thone
Dent	Nichols	Tsongas
Derrick	Nix	Tucker
Dickinson	Oakar	Weaver
Diggs	Patterson	Wiggins
Eckhardt	Pepper	Young, Tex.
Eilberg	Quayle	
Fascell	Quie	

The Clerk announced the following pairs:

On this vote:

Mr. Eilberg for, with Mr. Sikes, against.

Mr. Cornwell for, with Mr. Nichols against.

Mr. Ammerman for, with Mr. Teague against.

Messrs. ENGLISH, WATKINS, SYMMS, and BEARD of Tennessee changed their vote from "aye" to "no."

Messrs. HEFNER, LENT, ROSE, and GUDGER changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. There being no further amendments to section 19, the Clerk will read.

The Clerk read as follows:

ANTITRUST EXEMPTION

SEC. 20. (a) Section 414 of the Federal Aviation Act of 1958 (49 U.S.C. 1384) is amended to read as follows:

"ANTITRUST IMMUNITY

"SEC. 414. In any order made under section 408, 409, or 412 of this Act, the Board may, as part of such order exempt any person affected by such order from the operations of the 'antitrust laws' set forth in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12) to the extent necessary to enable such person to proceed with the transaction specifically approved by the Board in such order and those transactions necessarily contemplated by such order, except that the Board may not exempt such person unless it determines that such exemption is required in the public interest.".

(b) 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 striking out

"Sec. 414. Legal restraints."

and inserting in lieu thereof

"Sec. 414. Antitrust exemption.".

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 20 be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

The CHAIRMAN. There being no amendment to section 20, the Clerk will read.

The Clerk read as follows:

CLASSIFICATIONS AND EXEMPTIONS

SEC. 21. (a) The center heading of section 416 of the Federal Aviation Act (49 U.S.C. 1386) is amended by striking out "OF CARRIERS".

(b) Subsection (a) of such section is amended by—

(1) striking out "air carriers" the first place it appears and inserting in lieu thereof "air carriers and foreign air carriers"; and

(2) striking out "air carriers" the second place it appears and inserting in lieu thereof "air carriers or foreign air carriers".

(c) Paragraph (1) of subsection (b) of such section is amended to read as follows:

"(1) Except as provided in paragraph (2) of this subsection, the Board from time to time and to extent necessary, may exempt from any requirement of this title, or from any rule, regulation, term, condition, or limitation prescribed under authority of this title, any person or class of persons if the Board finds (A) that such exemption is or will be justified by unusual circumstances, or by reason of the limited extent of the activity to be exempt, and (B) that the exemption is not inconsistent with the public interest.".

(d) 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 striking out

"Sec. 416. Classification and exemptions of carriers."

and inserting in lieu thereof

"Sec. 416. Classifications and exemptions.".

Mr. ANDERSON of California (during

the reading). Mr. Chairman, I ask unanimous consent that section 21 be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

The CHAIRMAN. There being no amendments to section 21, the Clerk will read.

The Clerk read as follows:

COMMUTER EXEMPTION

SEC. 22. Section 416(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1386(b)) is amended by adding at the end thereof the following new paragraph:

"(3) Any air carrier in air transportation which provides (A) passenger service solely with aircraft having a maximum passenger capacity of less than fifty-six passengers, or (B) cargo service in air transportation solely with aircraft having a maximum payload capacity of less than eighteen thousand pounds, shall be exempt from the requirements of subsection (a) of section 401 of this title, and of such other sections of the Act as may be prescribed in regulations promulgated by the Board, if such air carrier conforms to such liability insurance requirements and such other reasonable regulations as the Board shall from time to time adopt in the public interest. The Board may by regulation increase the passenger or property capacities specified in this paragraph when the public interest so requires, except that with respect to air transportation between points both of which are within the State of Alaska, or one of which is in Alaska and the other in Canada, the Board may decrease the passenger or property capacities specified in this paragraph or require air carriers engaged in Alaskan intrastate air transportation to obtain operating authority from the State of Alaska, as the public interest may require.".

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 22 be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

The CHAIRMAN. There being no amendments to section 22, the Clerk will read.

The Clerk read as follows:

COMMUTER AIR CARRIER COMPENSATION

SEC. 23. (a) Title IV of the Federal Aviation Act of 1958 is amended by inserting immediately after section 418 the following new section:

"COMMUTER AIR CARRIER COMPENSATION

"ESTABLISHMENT OF COMPENSATION

"SEC. 419. (a)(1) If, on the date of enactment of this section, any air carrier is (A) providing service to any point in the United States pursuant to a certificate issued to such carrier under section 401 of this title, or (B) authorized pursuant to such certificate to provide such service, but such service is suspected on such date of enactment and such suspension is conditioned as a commuter air carrier providing such service, and is thereafter terminated or reduced below the essential level of air transportation for such point, the Board, upon a determination that essential air transportation will not be provided by any other air carrier or commuter air carrier for such point without Federal financial assistance, shall establish a rate of compensation to be paid for providing such essential air transportation, and any additional air transportation to such point which the Board determines is required in the public interest, to that commuter air carrier which by order of the Board provides such air transportation. If after establishing such rate of compensation for such commuter air carrier the Board determines that a commuter air carrier or an air carrier will provide essential air transportation to such point without Federal financial assistance, the Board shall terminate the payment of such compensation to any commuter air carrier. Federal financial assistance shall not be paid under this paragraph after the last day of the tenth year which begins after the date of enactment of this section.

"(2) No later than January 1, 1980, the Board shall commence a review of each point (A) which has been deleted from a certificate issued under section 401 of this Act, or (B) set forth in such a certificate but to which service has been suspended without a condition that substitute service be provided, between July 1, 1968, and the date of enactment of this section, both dates inclusive, to determine whether the Board should provide Federal financial assistance under this paragraph to a commuter air carrier to provide essential air transportation to such point. The Board shall complete each such review no later than January 1, 1982. Whenever, after completing a review of any point pursuant to the preceding sentence, the Board determines that the public interest requires interstate or overseas air transportation for persons, property, or mail to such point and that no adequate service will be provided by any air carrier or commuter air carrier to such point without Federal financial assistance, the Board may establish a rate of compensation to be paid for providing such service to that commuter air carrier which by order of the Board provides such service. Federal financial assistance shall not be paid under this section for the same period of time to more than one commuter air carrier for providing such service to such point.

"(3) Notwithstanding section 416(b) of this Act, the Board shall not provide any Federal financial assistance under this section to any commuter air carrier to provide service to any point, and the Board shall prohibit any commuter from providing service to any point described in clause (A) or (B) of paragraph (1) of this subsection, unless the Board determines that such commuter air carrier—

"(A) is fit, willing, and able to perform such service; and

"(B) that all aircraft which will be used to perform such service and all operations relating to such service will conform to the safety standards established by the Administrator under paragraph (4) of this subsection.

"(4) Not later than the one-hundred-eightieth day after the date of enactment of this paragraph, the Administrator, by regulation, shall establish safety standards (A) for aircraft being used by commuter air carriers to provide any service described in paragraph (3) of this subsection, and (B) for all operations relating to such service. In promulgating such safety standards, the Administrator shall take into account the safety standards applicable to service being replaced by such commuter air carriers.

"PROCEDURES

"(b)(1) The Board may make any determination or establish any rate of compensation under subsection (a) of this section, with or without evidentiary hearings as the Board deems necessary, and the Board may impose such terms and conditions as it deems necessary on any commuter air carrier paid compensation under such subsection.

"(2) The Board in establishing any rate of compensation under this section may—

"(A) base such rate upon aircraft mile, load factor, pound mile, weight, space, or any combination thereof; and

"(B) establish such rate for such period of time as it deems appropriate.

"(3) In making any determination under this section to provide compensation to any commuter air carrier, the Board shall consider, among other things, the cost of such compensation, the number of persons to be benefited by the service, the availability of air transportation at nearby communities, and the methods of surface transportation which are available to the point to be served by such commuter air carrier.

"CONSULTATION

"(c) Prior to making any determination under this section, the Board shall consult with appropriate State and local governmental officials.

"(d) For purposes of this section, the term 'commuter air carrier' means an air carrier exempt from any requirement of this Act under section 416(b)(3) of this title.".

(b) 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. 419. Commuter air carrier compensation.

"(a) Establishment of compensation.

"(b) Procedures.

"(c) Consultation.

"(d) Definitions.".

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 23 be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

AMENDMENT OFFERED BY MR. JOHN L. BURTON

Mr. JOHN L. BURTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JOHN L. BURTON: Page 116, line 6, strike out "In promulgating such" and all that follows through the period at the end of line 9 and insert in lieu thereof the following:

Such safety standards shall become effective not later than the last day of the eighteenth month which begins after such date of enactment and shall impose requirements upon such commuter air carriers to assure that the level of safety provided to persons traveling on such commuter air carriers is, to the maximum feasible extent, equivalent to the level of safety provided to persons traveling on air carriers which provide service pursuant to certificates issued under section 401 of this title.

Mr. JOHN L. BURTON (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. JOHN L. BURTON. Mr. Chairman, this is an amendment that is a result of a report issued by the Government Operations Committee unanimously. It would provide that 18 months after the effective date of this measure, the FEA would impose safety require-

ments on commuter air carriers to assure a level of safety provided to persons to the maximum feasible extent, equivalent to the level of safety provided to persons traveling on air carriers which provide service pursuant to certificates issued under section 401 of this title.

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

Mr. JOHN L. BURTON. I yield to the gentleman from California.

Mr. ANDERSON of California. Mr. Chairman, I support the amendment.

The bill and committee report include provisions designed to insure that the traveling public is not required to accept lower safety standards when subsidized commuters replace certificated air carriers. As the gentleman explained, this amendment will strengthen these provisions by requiring that the rules governing subsidized commuters be effective within 18 months, and by clarifying that the safety level on commuters shall be the same as that on certificated carriers, to the maximum feasible extent. These amendments will strengthen the reported bill.

Mr. JOHN L. BURTON. Mr. Chairman, I thank the chairman.

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

Mr. JOHN L. BURTON. I yield to the gentleman from Ohio.

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

Will the gentleman inform me as to what his intent is when he uses the phrase "to the maximum feasible extent"?

Mr. JOHN L. BURTON. Mr. Chairman, in response to the inquiry of the gentleman from Ohio, let me say that this language would be consistent with the attempt of the gentleman from Ohio (Mr. HARSHA) in the committee, where the FAA could not impose burdensome conditions upon commuter airlines that would make it impossible for them to operate but still require them, to the maximum feasible extent, to meet the highest level of certificated aircraft.

Mr. HARSHA. The gentleman is aware, I am sure, that there are two safety standards. The first is FAR part 121, which imposes the highest safety standards required of the most sophisticated aircraft. Then there is another standard, FAR part 135, which is somewhat less stringent than the other because it takes into account the differences in the type of aircraft to which it is applicable.

Is it the intent of the gentleman in this amendment to require commuter airlines to meet a standard which is somewhat less than that for the largest, most sophisticated aircraft, but, yet, meet the highest standards which are possible considering the size of the aircraft?

Mr. JOHN L. BURTON. The highest standards consistent with the type of aircraft.

What the FAA has done, they were considering issuing regulations say for 10–C planes, and nothing for 9–C planes. What we are saying is that if you are flying in a commuter aircraft you should have the highest level of safety standards feasible. That is certainly consistent with the gentleman's language that was put in the committee.

Mr. HARSHA. I thank the gentleman.

I think safety is of interest to every Member of the House. I hope the House will see fit to adopt the gentleman's amendment. I think it strengthens the amendment I put in the bill regarding safety. I thank the gentleman for his contribution to this and urge the adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. JOHN L. BURTON).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. M'HUGH

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

The Clerk read as follows:

Amendment offered by Mr. McHUGH: Page 117, line 14, at the end thereof, insert the following new subsections to the proposed new section 419:

"Essential Air Transportation

"(e)(1) For the purposes of this section, 'essential air transportation' means scheduled air transportation of persons of the extent, character, and quality which the Board finds necessary to satisfy the needs of the community concerned for air transportation to one or more communities of interest and to insure the community's access to the Nation's air transportation at rates, fares, and charges which are not unjust, unreasonable, unjustly discriminatory, unduly preferential, or unduly prejudicial."

"(2) In determining the criteria for the character and quality of essential air transportation, the Board shall consider the community's needs for among other services, the frequency of service, the advance reservation of passenger seats, baggage handling and insurance, pressurized or other specialized equipment, timely departures and arrivals, joint fares, and the establishment of single plane or connecting plane service to points beyond the primary community or communities of interest.

"(3) As soon as practicable after enactment of this section, but no later than January 1, 1980, the Board shall, by rule, and after the consultation required by subsection (c), establish the criteria for essential air transportation for all points specified in subsection (a)(1).

"Continuity of Guaranteed Essential Air Transportation

"(f)(1) No air carrier shall terminate, suspend, or reduce air transportation to any point specified in subsection (a)(1) below the standards of essential air transportation established by the Board unless such air carrier has given the Board, the appropriate State agency or agencies, and the communities affected at least 90 days notice of its intent to do so.

"(2) Upon receipt of a notice required by subsection (f)(1) for a point specified in subsection (a)(1), the Board shall assist the communities affected to secure essential air transportation from another air carrier, whether or not such alternate air transportation is to be compensated under this section. The Board shall require the air carrier serving a notice required under subsection (f)(1) to postpone such termination, suspension, or reduction in service until another air carrier has begun to provide essential air transportation. If the Board requires an air carrier to postpone an intended service change for more than 90 days, then the Board shall, in accordance with the procedures of subsection (b), compensate such air carrier for any losses that the air carrier demonstrates that it incurred in complying with this requirement, unless such an air carrier is already provided compensation under this section or section 406.

"(3) With respect to any point specified in subsection (a)(1), unless the Board has completed the consultation required by subsection (c) and determined the essential air transportation for such point, either individually or by rule adopted under (e)(3), the Board shall, upon petition of any appropriate representative of such point, prohibit any termination, suspension, or reduction of air transportation which reasonably appears to deprive such point of essential air transportation, until the Board has completed such determination.

"(4) The Board's authority under this subsection shall cease to be in effect on the last day of the tenth year which begins after the date of to enactment of this section."

Page 117, line 18, insert the following items at the end thereof:

"(e) Essential Air Transportation

"(f) Continuity of Guaranteed Essential Air Transportation

Mr. McHUGH (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 New York?

There was no objection.

Mr. McHUGH. Mr. Chairman, I believe that the amendment which I am offering is of vital importance to small and medium size communities, and, more specifically, to those communities that are now dependent upon certificated air carriers for their essential air transportation.

We all know that these smaller communities are the most vulnerable as we move toward less regulation of the airline industry. Many of them now rely upon the certificated carriers for their essential service. Yet, those carriers will be reducing and terminating that service as they increasingly opt for the more profitable routes. Without adequate protection, at least during a transition period, our smaller communities will be in serious trouble.

The administration and others assume that the commuter air carriers will pick up the slack. If a route is profitable, they say, a commuter will come in to replace the certificated carrier. If the route does not have potential for profit, this bill authorizes the CAB to compensate a commuter air carrier to provide essential air transportation to a community. The authority for this subsidy extends for 10 years, the period the committee believes is a reasonable transition period during which smaller communities may need this special help.

Mr. Chairman, the bill is fine as far as it goes. Unfortunately, however, it provides no assurance to smaller communities that there will be no interruption in their essential air transportation, that is, that they will enjoy continuous essential air transportation during the transition period. In this respect, the bill is critically deficient.

Under section 401(q) of the bill, a certificated carrier must give 90 days notice to the CAB and any affected community if it wants to terminate or suspend service between two points. However, no such notice is required if it seeks a reduction in service which is short of total abandonment of the market. This is true even if the proposed change in service would deprive a community of its essential air transportation.

Moreover, even when such notice is required, if the termination or reduction in service is less than complete abandonment of the market, there is nothing to prevent the certificated carrier from terminating or reducing essential air transportation to the community at the end of 90 days.

How can we be sure that replacement service will be found within 90 days? We cannot be sure, and indeed in many cases it will not be found. The fact that the CAB can pay a commuter air carrier to provide essential air transportation does not mean that a commuter carrier will want to provide the transportation, or, if it is willing, that it will be able to move that quickly. It may need to hire additional personnel. It may need to acquire new equipment. It may need to seek FAA approval for that equipment. Any number of things may make it impossible for a commuter carrier to respond promptly when a certificated carrier decides to deprive a community of its essential air transportation.

Mr. Chairman, the implications of this are clear. Many of our smaller communities will be left without essential air transportation established by the CAB for the affected communities. Since notice would be given to the CAB, the appropriate State agencies, and the affected communities, they could all cooperate in attempting to find replacement service. However, if such service were not found within 90 days, the CAB would require the carrier seeking the change to maintain essential air transportation until replacement service was in place. The community would then be assured of continuous essential air transportation.

This requirement of notice and maintenance of essential service would apply to any air carrier, including a commuter carrier, if its proposed change in service would affect a community's essential air transportation. The purpose, of course, is to assure continuous service for 10 years regardless of the nature of the carrier.

My amendment would also authorize the CAB to compensate a carrier for any losses it might sustain as a result of its being required to maintain service after 90 days. The Board would determine the amount of compensation in such a case in accordance with the procedures of section 419(b).

In addition to assuring that essential air transportation is not interrupted, my amendment would broaden the definition of "essential air transportation." This definition is critical, because it is this transportation that we are seeking to guarantee. In my judgment, Mr. Chairman, the definition in the bill is too narrow and would not be appropriate for every community.

The bill now provides that "essential air transportation" is: First, two round trips per day at least 5 days per week, or second, the level of service provided by any air carrier serving the community in 1977, whichever is less. Under this definition the maximum service a community would be guaranteed is two round trips a day, 5 days a week. While that may be essential air transportation for some communities, it would be less than essential for many others.

In defining essential air transportation we should also take into account quality of service. An air carrier may be willing to provide frequent flights, but the quality of its service may be so abysmal as to be totally unacceptable to the public. In such a case, the community would not be receiving essential air transportation.

In an effort to meet these concerns, my amendment would require the CAB to establish criteria for essential air transportation for every community we are seeking to protect, that is, for every community receiving certificated service when this bill goes into effect. The criteria would be established by rule no later than January 1, 1980, and the CAB would be required to consult with the local community before establishing its criteria.

In promulgating its definition of essential air transportation for a community, the CAB would have to take into account the community's needs and some of the factors affecting quality of service. These would include not only frequency of flights, but such things as baggage handling, advance reservations, through service, joint fares, timely scheduling, and necessary equipment. While these would not be mandated, and while I recognize that commuter air carriers cannot be expected in all cases to provide the same quality of service as certificated carriers, it is important that the CAB consider some minimum standards in defining "essential air transportation."

After the CAB has established a definition of essential air transportation for a community, any carrier seeking to terminate, suspend, or reduce service to that community will know if its proposed change will affect essential air transportation. If it would, then the carrier must give the 90 days notice required by this amendment, and, if no replacement is found within the 90 days, the CAB must require the carrier to maintain its service until a replacement carrier is in place, with or without compensation under section 419.

In the event a carrier wants to terminate, suspend, or reduce service prior to the time the CAB defines essential air transportation for the affected community, my amendment provides that the CAB shall require the carrier to stay on if it reasonably appears that the proposed change will deprive the community of essential air transportation. This determination would be made after consultation with the community and upon the Board's own initiative or upon the petition of the affected community.

Mr. Chairman, I believe that the movement toward less regulation of the airline industry is a healthy one. In the long run, it will promote more competition and greater efficiency. For many travelers the cost of airline service will be less. However, in the short run, we must recognize that our smaller communities need special protection. Without such protection during a transition period, they will suffer substantial losses in essential air transportation. The bill recognizes this in principle, but it falls short of providing the protection that is required.

I would, therefore, urge the adoption of this amendment, which in my judgement will rectify some serious deficiencies in the proposed legislation.

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

Mr. Chairman, I support the amendment.

The amendment supplements the program of H.R. 12611 of guaranteeing essential air service to communities which are now listed in air carrier certificates.

Under existing law, which H.R. 12611 does not change, an air carrier which wishes to terminate all service at a city may not do so without permission of CAB. As I understand the amendment, it is not intended to weaken these requirements.

The amendment applies to cities which are guaranteed air service by H.R. 12611. The amendment provides that when a carrier wishes to reduce its service at one of these cities below the level of "essential air transportation," the carrier must give 90 days notice of its intention to do so. Upon receipt of notice, CAB must find a replacement carrier. CAB is directed to postpone the proposed reduction of service until replacement service is available. Carriers which are required to continue service under this provision are entitled to compensation for any losses incurred.

I believe that these provisions are a good addition to our program of small cities air service, and I support the amendment.

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

Mr. Chairman, this amendment is much more complicated and does much more than has been explained, in my opinion.

I rise in opposition to the amendment, because I think it is deficient in several respects. First, by January 1, 1980, the CAB would be required to determine on a case-by-case basis what essential air transportation is for each community in the United States which is listed on a section 401 certificate. This would involve assessment of some 400 to 500 cities across the United States.

I believe that this would impose an unreasonable burden on the Board, and I suspect that many of the 400 to 500 cities now are receiving service equal to or better than essential air transportation at the present time. It is not reasonable to ask the Board to examine all of these cities to make that determination.

We say in the bill that essential air transportation is two round trips a day, at least 5 days a week.

Now, this amendment says, in addition, that essential air transportation is to be determined by the CAB. The CAB is to decide whether or not communities are receiving adequate air transportation by considering such things as pressurized equipment, baggage handling and advance reservations, the timeliness of their departures and arrivals, whether the airplanes are running on time, joint

fares, and whether or not there is single-plane or connecting-plane service to points beyond the primary community or communities of interest.

Now, all of us would like to have such service. We recognized this when we put this bill together. We said: We realize there will be communities which will be losing service when we go to deregulation, so what did we do? We established a commuter program under which some routes now served by subsidized local service carriers will be served in the future by commuter carriers. The commuter carrier will come in and replace the local service carriers. And the commuter carrier will be eligible for a subsidy. But what this amendment says is that for any community to obtain what the CAB determines to be essential air transportation will involve determining whether they handle the baggage right or whether the reservations are right or whether the planes are running on time. The amendment also says that the CAB can tell the carrier now serving the community to continue serving for 10 years. If they lose money, CAB would have to pay them a subsidy for their losses for up to 10 years. This includes the trunk carriers, which are not now participating in the subsidy program.

So what I am saying is that we could begin to subsidize trunk carriers with this amendment. And you would be placing an unreasonable burden on the CAB by requiring them to make these determinations by 1980.

Now, in addition, the amendment makes no provision for any change in the needs of the community. What may be essential air transportation under these provisions by 1980, may not be in 1982, or 1984, or any other time during the 10-year period. Conditions will surely change. The definition of essential air transportation we put in the bill is at least two round trips a day, 5 days a week, or the service the community was receiving in 1977, whichever is less. This is the minimum we are locking in as essential air transportation in the bill. The thrust of the amendment is contrary to the concept of deregulation, of moving away from the subsidy program, as we are attempting to do in this bill. It is not consistent with that concept to put the additional regulation required by this amendment in the bill.

I say this is the wrong way to go. We can and do provide for essential air transportation for these smaller communities in the bill. We can and do provide for a minimal subsidy for the commuter carriers in the bill. But it may mean that there will be smaller aircraft. It may mean that some baggage handling will not be as adequate as when the large aircraft were in service. But we also will be moving toward a reduced subsidy program. And we certainly do not move toward subsidies for trunk carriers in the bill, as this amendment provides.

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

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

Mr. SNYDER. The amendment also says that even though there might now be service by two carriers operating two, three, or four nonstop flights, with 727's, a determination could be made that the community was not receiving air transportation. If one carrier wanted to drop out, then it would become eligible for a subsidy to cover its losses. How is this justified? Maybe it was just not doing a good job of merchandizing its product.

I say this is a bad amendment. It is a mischievous amendment. It ought to be defeated.

Mr. Chairman, I am sorry that the chairman of my subcommittee is in support of the amendment because it does violence to the concept of deregulation. I think it does violence to the concept of the bill.

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

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

Mr. GOLDWATER. Mr. Chairman, did the gentleman say the matter was taken up before the subcommittee?

Mr. SNYDER. Mr. Chairman, the general concept of replacing service was considered, and we deal with it in the bill under the new commuter subsidy program. But the concept of continuing to have the same kind of equipment serving these communities for 10 years, even though they would do so at a loss with Government subsidies to recover the loss, was not dealt with.

Mr. GOLDWATER. But did we get into the matter of intervention by the CAB? This appears to be an economic matter.

Did we ever get into that aspect of it?

Mr. SNYDER. I do not recall that we did. No.

Mr. GOLDWATER. Mr. Chairman, it just seems to me that we are requiring, through this amendment, an unnecessary intervention on the part of the CAB. There generally is an economic consideration and evaluation as to levels of service and relationship to the cost of equipment and the operation of equipment, and that ought to be market-dictated without certification or determination by the CAB.

Mr. SNYDER. Mr. Chairman, the gentleman from California (Mr. GOLDWATER) is eminently correct in that respect.

We are attempting to continue small community service by, in effect, allowing the present local service carrier subsidy to flow down to the commuters who may come in and replace them. But at no time did we ever contemplate subsidizing service by trunk carriers. The gentleman is correct. We can and do define essential air transportation in terms of frequency in the bill. But we should not attempt to mandate a minimum quality of service, as the amendment seeks to do. After all, we might wind up subsidizing a higher quality of service with subsidies than is provided at present without subsidies. It would be possible under this amendment. I think the author of this amendment should have limited himself to the problem of interrupted service which he has encountered in his district and not gone to the question of quality of service.

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

Mr. Chairman, the gentleman from New York (Mr. MCHUGH) and I have had unfortunate and considerable experience with the termination of service to small and medium-sized communities. We have found that there has to be a reasonable standard for replacement service, and I think this amendment goes a long way toward assuring that in the interest of deregulation we will not cut out air service which is essential to the economic viability of many small and medium-sized communities in this country.

We in Binghamton, N.Y., in Elmira, N.Y., in Corning, N.Y., and in Ithaca, N.Y. have found air service was not adequate, and it is not a trivial matter when we talk about such things as baggage-handling. In fact, our commuter service has gained wide notoriety recently for having bumped the President's consumer adviser and FTC officials and other distinguished persons, including Congressmen, off planes and for again and again not having been there to provide service.

Mr. Chairman, there is a very deep concern in the small communities of this Nation, including those in my own congressional district, that they will be abandoned as major air carriers seek the high profit concentration of large markets following passage of this legislation.

Gov. Robert W. Scott, Federal Co-chairman of the Appalachian Regional Commission, has confirmed the fact that many certificated carriers have already left the smaller, marginal markets in Appalachia under liberalized exit policies of the CAB in recent years. Those markets have since seen the growth of many noncertificated commuter airlines.

High-quality air service is vital to the economic health of any community where more than local industries exist. Americans today are increasingly choosing to live and work outside metropolitan centers. They must not be denied safe, reliable air service that will support their economic growth.

It matters little in most of the smaller communities of America whether the airline to their city is a certificated prestige airline or a commuter line capable of equal service. But after conversations with my constituents, and after my own experiences, I am concerned that not all airlines are created or operated with equal care and responsibility. Today, there are two primary commuter airlines serving cities in my district where all or some certificated service was discontinued. Both have demonstrated admirable safety records, but there is a wide variance in their dependability records.

In my home city of Jamestown, the commuter airline is both safe and dependable. In the city of Elmira, however, the commuter operator is extremely cavalier in approach to service. Flight times and passenger guarantees are irregular, and even routing is sometimes changed in midair. I would like to enter into the RECORD two articles which appeared this week in the Washington Post which demonstrate this point. Both deal with the problems of this commuter operation. They started the week by bumping from a flight to my district White House con-

sumer specialist Esther Peterson, and following by leaving an FTC official also headed to my district without transportation after a runway accident.

Community leaders in Elmira who are expected to use this commuter to fill gaps left by the certificated carrier can do nothing to assure an upgrading of the uncertificated operator's dependability factor. While the CAB assumes that one carrier is equal to another regardless of size, service to Elmira is a very clear example of the fallacy of this assumption.

Passage of this legislation means that commuter airlines stand to inherit a windfall business with increased passenger loads. These greatly expanding lines, however, must take seriously the responsibility as well as the opportunity of their new positions.

I strongly endorse the principles behind this legislation: deregulation of a private industry and the encouragement of open market competition. My constituents, even with major problems with their commuter service from one operator, also endorse these principles. If such commuter airlines demonstrate that they will not live up to their responsibilities to provide safe and dependable service during this next year, however, I will return to the CAB and to this Congress to demand stricter oversight and controls on their operations.

As one community leader told me recently, airlines are not just another business. They are as vital to our well-being as telephones and other utilities. Where the livelihood of entire communities is at stake, we have every right to expect high standards of performance or the right to take steps to assure that the need is met.

I would like to offer articles headlined "Commuter Airlines Bumps Peterson," from the Post of September 19; and "Problems Mount for Washington Commuter Line" from the Post of September 21.

The articles follow:

[From the Washington Post, Sept. 21, 1978]

PROBLEMS MOUNT FOR WASHINGTON COMMUTER LINE

(By Larry Kramer)

This just hasn't been Commuter Airline's week.

On Monday, if you remember, the airline inadvertently bumped White House consumer advocate Esther Peterson from a flight to Corning, N.Y., where she was scheduled to be the keynote speaker at the first annual convention of consumer "Action Line" reporters.

But then things got worse.

On Tuesday night, Gary Laden, who studies the problems of unexpected product risks for the Federal Trade Commission, and who was scheduled to be a featured speaker at the same convention yesterday, boarded Commuter's last night—Number 551—scheduled for Corning.

But 10 feet down the runway, the plane's nose gear collapsed, crashing the front end of the aircraft into the ground.

Laden never got to Corning.

"What REALLY bothered me," said Laden, "was the fact that they didn't do anything to help me find another flight, and there were no efforts made to accommodate any other passengers."

Laden said he first sensed problems when he got to the gate for the 6:15 p.m. flight at 7:30 p.m., and "no one was there to check us in."

"There was a sign saying that there would be a person there an hour before flight time," Laden said, "and there was also an "800" (toll free) number for people to call if no one was there."

Laden said when he called the "800" number he was told that sometimes the pilot of the arriving plane comes out, takes tickets, and checks passengers in.

"Sure enough," he said, "that's what happened. Only the flight was about half an hour late coming in."

And after the accident, in which none of the four passengers of the Navajo Piper was hurt, the pilot scurried to the back, opened the door and asked everyone to leave, Laden said.

After he discovered that the airline would do nothing to get him to his destination that night, Laden discovered that Commuter, because of its size, is virtually unregulated by the Civil Aeronautics Board, and is thus not required to compensate stranded passengers.

Commuter president Jerry Winston said, "it was the end of the day and our pilots were out of flying time. We asked the passengers involved to take our first flight the next day, and two of them did. The problem is we don't have enough equipment to handle all the people we have to."

Commuter's business soared when Allegheny Airlines dropped some unprofitable routes, including Washington to Corning, last summer.

But even though Commuter purchased two 50-seat Convairs from Allegheny, the Federal Aviation Administration has yet to certify the airline to fly the large planes. "We only have a total of 158 seats," Winston said. "We are flying with backup equipment now."

One of Commuter's biggest customers, and the now speakerless consumer conference sponsor, is Corning Glass Works, Inc. Corning's president, Thomas MacAvoy, called Commuter Airlines "a real problem from my standpoint. I only hope that Esther and Gary's problems help to focus attention on this, and the problems with deregulation when it causes cities to be served with small commuter airlines like this one.

He called Commuter's personnel, "barely civil. The company is just not responsive and it's difficult even to talk to them."

Commuter owner Winston disagrees: "I think we should be applauded. We try to do the best we can."

[From the Washington Post, Sept. 19, 1978]

COMMUTER AIRLINES BUMPS PETERSON

(By Larry Kramer)

Commuter Airlines has had more than its share of consumer complaints, but yesterday was a day company officials would like to run through again.

White House consumer affairs advocate Esther Peterson, the highest ranking consumer affairs official in the federal government, was bumped from a Commuter flight to Elmira, N.Y., from National Airport yesterday.

To make matters worse, Peterson was on her way, with an official of the Federal Trade Commission and a public relations adviser, to Corning, N.Y. for the first annual convention of "Action Line" consumer affairs reporters from more than 100 newspapers.

Peterson was scheduled to be the keynote speaker at last night's opening dinner.

Peterson was told there was no room for her on the 11:40 flight of Commuter's 16-seat Navajo Piper Chieftan to Elmira—even though she was at the gate twenty minutes before flight time.

"What really irked us," said Ira Furman, the FTC official, "was that two gentlemen came after we did, but got on the plane because they had something called guaranteed reservations—which was never mentioned to any of us." He and PR adviser Edie Fraser, who helped set up the program, were bumped.

At the last minute, however, a passenger with a guaranteed reservation nobly gave up his seat to allow Peterson to get to her conference on time.

Several years ago, consumer advocate Ralph Nader won damages in a court case against an airline that bumped him from a flight despite his confirmed reservation. Because of Nader's suit, the airlines are required to post warnings that they deliberately overbook passengers to compensate for no-shows.

But Civil Aeronautics Board spokesman Howard Schmeltzer said that Commuter is a small enough airline not to be governed by that rule.

Schmeltzer did point out, however, that the CAB had 21 complaints about Commuter's service last year which, when considering the total number of passengers flying, proved to be five times the industry average for complaints.

For its part, Commuter, a Binghamton, N.Y.-based airline, said that Peterson wasn't really bumped at all. Commuter spokesman Marc Winston said that there were really supposed to be two aircraft there to make the Elmira run, but one experienced mechanical troubles.

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

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

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

If I may, I would like very much to respond briefly to a few of the points which the gentleman from Kentucky (Mr. SNYDER) made, because I think he has misread this amendment.

The gentleman has suggested that somehow this amendment would impose a great administrative burden on the CAB, and that we would be unreasonably interposing the CAB into the marketplace. I do not think there is a person in the country who is any more interested in deregulation of the airline industry and withdrawal of the CAB from the market than the chairman of the CAB, Mr. Kahn. As I pointed out in my remarks, Mr. Kahn supports this amendment and does not believe that it would impose any unreasonable administrative burden.

The gentleman from Kentucky (Mr. SNYDER) talked of 500 airports across the country. The fact is there are 417 cities which are now receiving certificated service and would be affected by this amendment. However, there are only 207 of those that are small enough that we really have to be concerned with. And as a matter of fact, many of those cities are now being considered and reviewed by the CAB.

Therefore, there is no administrative burden here that the CAB cannot handle.

Second, the gentleman from Kentucky has cited some of the factors in my amendment which relate to quality of service. This amendment would not mandate that every commuter airline provide that standard of service. We simply say that the CAB should take these factors into account when defining "essential air transportation" for a community.

Let me give one example. One of the

items on our list is pressurized or other special equipment. We do not expect commuter airlines to provide pressurized equipment in every case. That would be unreasonable. However, if a commuter airline were providing service in a mountainous region, it may be necessary for reasons of safety and comfort to provide pressurized cabins. We only ask that the CAB take that into account when guaranteeing service to such communities.

Mr. Chairman, I hope the committee does not take too seriously some of the objections which the gentleman from Kentucky raised, because my amendment would not do the things he suggested.

Mr. LUNDINE. I thank the sponsor of the amendment for his comments.

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

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

Mr. BALDUS. I thank the gentleman for yielding, and I want to commend the author of this amendment.

Mr. Chairman, I want to support the amendment very strongly. There are small communities in my area which I think are very concerned about the whole idea of deregulation, because they are the ones which are most vulnerable. It is not just the people of the cities but the businessmen in those cities who are very concerned. I think this would go a long way toward responding to that concern and also making it reasonable, should the event come up, where a termination of service takes place.

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

Mr. BAUCUS. Mr. Chairman, I support the McHugh amendment to the Air Service Improvement Act. The McHugh amendment is a useful step toward insuring adequate service for our small communities.

In the past, I have strongly opposed airline deregulation due to the potential loss of service to small communities such as the towns in Montana I represent. The bill we are considering today includes some safeguards for communities. But I do not believe it provides adequate safeguards for our Montana service.

Representative McHugh's amendment goes a long way toward making this bill more palatable for rural communities. As the bill is written, communities will be assured "essential air transportation" which means two flights a day or the 1977 level of service, whichever is smaller. That is not enough.

The McHugh amendment would expand the definition of essential service to consider the special needs of low population areas.

Mr. Speaker, I would like to submit for the RECORD some amendments to the Air Service Improvement Act that were suggested by the National Association of Counties and other members of the Small Communities Air Service Committee.

While I will not introduce these amendments formally, I would hope that the soon-to-be-appointed conferees will keep them in mind during their negotiations with the Senate.

These amendments offer a strong small communities program. They would help insure that these communities would receive adequate service by certified carriers and be recognized as full participants in our national air system.

No one can predict the final impacts of this airline deregulation bill. There may be significant benefits: Montanans traveling nationally and internationally may profit from lower fares, and commuter airline service might expand. Easier entry provisions could help new airlines enter our State.

But on balance, the dangers of this bill outweigh the benefits. Reluctantly, I will vote against final passage of H.R. 12611.

RECOMMENDED AMENDMENTS TO THE AIR SERVICE IMPROVEMENT ACT OF 1978

SECTION 1. The title of Section 419 is amended to read as follows:

SMALL COMMUNITY AIR SERVICES

SEC. 2. Section 419(a)(1) is amended to read as follows:

Until, at least January 1, 1989, the Board shall insure the provision of essential air transportation at all points in the United States currently included in a certificate issued to a carrier, by, if necessary, financial assistance to an eligible air carrier. Eligible carriers are those which the Board shall certificate without hearing for a period of not less than seven years, upon a finding of fitness and ability. Such certificates shall only permit the use of aircraft having a seating capacity of 36 passengers or less and a maximum certificated gross takeoff weight of 40,000 pounds or less, and such certificate shall specify geographic limitations and may include relief from such other Sections of this title as determined by the Board.

SEC. 3. Section 419(a)(2) is amended to read as follows:

By January 1, 1980, the Board shall establish rules which provide for financial assistance for small community air services at points in the United States not included in subsection (1), and to determine the eligibility of all points after January 1, 1989. Criteria for such determinations shall include, but are not limited to: (A) Need for Economic Development, (B) Isolation and desirability to connect small communities to the National Air Transportation System by air, (C) Degree of local and community assistance, and (D) Fuel conservation. In the rulemaking, the Board shall solicit and respond to the comments of state, local and regional civic bodies.

SEC. 4. Subsection (3) is amended to read as follows:

Essential air transportation is the provision of certificated service with appropriate aircraft providing two or more, reasonably scheduled daily roundtrips, a minimum of 5 days per week.

SEC. 5. Section 419(b) "PROCEDURES" is amended to read as follows:

(1) Carrier Selection. In selecting eligible applicants for financial assistance the Board shall consider, at least, the following:

(A) the connecting of a number of small communities in a region into a system served by one or more carriers;

(B) State, local and regional requirements, including coordination between State, local, regional authorities and the Board;

(C) service quality;

(D) cost;

(E) experience of the operator; and

(F) potential for quality service without financial assistance.

In determining (B) the Board shall solicit the participation of such civic parties, and if the Board makes findings contrary to such views it shall detail the reasons therefor.

(2) The minimum term for the guarantee of financial assistance shall be seven years. During that term, the Board shall, with civic participation, periodically review the carrier's performance, including the carrier's progress to service without financial assistance, and whether the carrier is meeting local needs. If the carrier's performance is unsatisfactory the Board shall give the carrier 90 days to correct any deficiencies, before the Board may institute a proceeding, under this Section, to replace the carrier.

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

Mr. Chairman, under this amendment, conceivably, you could have one of the largest airlines serving a particular community and because of the economic situation it desired to terminate its service, but under this amendment that service could not be terminated until such time as a replacement had been found. In the meantime, the CAB could order that airline, it being a trunk carrier, a large airline to continue to serve that particular community even though it was serving the community at a loss. In that event, the Federal Government would be required to compensate that air carrier for the loss it sustained.

Now, that immediately raises a question of who is going to look for any replacement service. In the first place, unless we get into the approach that is used in the bill, where there is a smaller airline or a commuter airline which could be reasonably subsidized to provide service for that area, there is no incentive, no incentive whatsoever, for the airline itself to look for a replacement, because it is going to be compensated for making this service. There is no incentive for the community to go out and look for a replacement because they have an airline which the Federal Government is compensating to serve that area. So this subsidy will run ad infinitum, until it expires according to the language of the amendment for at least for 10 years. But nowhere have we been able to find out what this particular amendment would cost the U.S. Treasury because we do not know how many of these cities which are now getting service would lose service. An airline would terminate service, and we do not know how much the Federal Government is going to have to subsidize until a replacement service actually comes in.

We are dealing with an amendment which conceivably could cost the Federal Treasury and the taxpayers of the United States millions and million of dollars to subsidize and continue at a loss the existing service in that area, and without any incentive to try to replace it with more efficient and economical service.

Mr. Chairman, I urge the defeat of the amendment.

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

Mr. HARSHA. I will be happy to yield to the gentleman from New York.

Mr. McHUGH. Mr. Chairman, I appreciate the gentleman yielding. Please bear in mind that this provision would come into play only if the carrier seeking to reduce service to a community would thereby deprive the community of essential air transportation.

Mr. HARSHA. It applies in every case an airline wants to cease service in an area.

Mr. McHUGH. The gentleman raises a theoretically possible situation. There is no question about it. It is possible that if a large carrier wanted to leave, and by so doing would deprive a community of essential air transportation, the Board would hold it in; and if the carrier were losing money it could apply to the CAB for compensation after 90 days. The whole theory of the legislation, however, is that commuter airlines will, over a period of time, be growing to the point where they will replace and will want to replace these larger carriers.

Thus, the hope and belief of the legislation is that there will not be any lengthy period of broken service. What this amendment is trying to do is to assure that there will be no break in essential air transportation. We do not know how much the compensation for commuter airlines, which is now in the bill, will cost. We do not know.

Mr. HARSHA. We know now because we know what those subsidies are right now. The CAB can give the gentleman that information, but under his definition of what essential service is, he is not going to be satisfied with a commuter coming in there and replacing a trunk carrier.

Mr. McHUGH. That is not true.

Mr. HARSHA. Because he is not going to have all these things he defines as criteria to be taken into consideration with a commuter.

Mr. McHUGH. Apparently the gentleman did not hear what I said before. What I said before is that I fully expect commuter airlines to be replacing these certificated air carriers in many communities. That is a fact of life in the industry. What I am saying is, in defining essential air transportation, we want the Board to take into consideration—not mandate—take into consideration some standards affecting quality of service. We are not telling the Board that it has to require a commuter air carrier to provide all those things.

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

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

Mr. HARSHA. Under the gentleman's amendment, he would not have to accept the commuter replacement if it did not meet all of those criteria or was not a comparable service to what the trunk carrier was providing.

Mr. McHUGH. That is not what my amendment says. It says that when the Board defines essential air transportation, it should take into account some of those items which relate to quality of service. It does not require the Board to say that the replacement service has to provide all these things.

Mr. HARSHA. The problem is, some of the commuter services do not have pressurized equipment. Some do not have advance reservations for passengers. Some do not even have baggage handling, but unless they do have that, under the gentleman's amendment they do not have to accept them.

Mr. McHUGH. That is not true. My amendment simply says that when the Board defines essential air transportation, it should at least consider these things.

Mr. HARSHA. Does the gentleman mean, then, that it is not true that some commuters do not have pressurized equipment, some do not have advance reservations? I am afraid it is true.

Mr. Chairman, I urge defeat of the amendment.

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

I thank the Chairman for recognizing the gentleman from Georgia, and I take this time to pursue, if I may, with the gentleman from New York the problem that I think is concerning our colleague from Ohio.

The whole thrust of the bill which the committee reported is to provide service to those communities which are today receiving service, but where it is no longer economically feasible to provide the type of service—size of aircraft, nature of aircraft—to move into a less-costly-to-the-taxpayer commuter-type system.

I think what concerns the gentleman from Ohio is that it seems to be implied it has to be really identical service that is presently being received in terms of reservations, in terms of the type of aircraft, and in terms of baggage handling, and the like.

Am I correct in believing that the gentleman from New York does not really intend that to be the case but is simply saying that when the CAB is looking for a commuter or other carrier to come in and take the place of the trunk carrier, that they ought to consider the qualities of the service but would not be required to replace with identical levels of service?

Mr. McHUGH. The gentleman has stated it very well. Yes; that is correct.

Mr. LEVITAS. I thank the gentleman.

● Mr. UDALL. Mr. Chairman, I rise in support of the amendment offered by the gentleman from New York. For over 3 years, as I mentioned earlier, the Arizona Congressional Delegation, the Four Corners Regional Commission, the State of Arizona and many towns and countries in our State have appeared before the Civil Aeronautics Board in an effort to secure adequate air service to our small communities.

This amendment partially addresses some of my concerns about strengthening the small communities provisions of H.R. 12611 in order to fulfill the bill's own policy statement which calls for "the maintenance of a comprehensive and convenient system of continuous scheduled airline service for small communities and for isolated areas, with direct Federal assistance where appropriate."

I urge the adoption of this amendment, but I would like to go even further. I believe the Senate bill contains a far more comprehensive system of small community air service, and I would hope that committee members who are appointed to the conference committee will carefully consider accepting the Senate's provisions for small communities.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. McHUGH).

The question was taken; and the Chairman being in doubt, the committee divided, and there were—ayes 29, noes 15.

So the amendment was agreed to.

The CHAIRMAN. There being no further amendments to section 23, the Clerk will read.

The Clerk read as follows:

PRESIDENTIAL REVIEW OF INTERNATIONAL ROUTE CASES

SEC. 24. Section 801(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1461(a)) is amended to read as follows:

"THE PRESIDENT OF THE UNITED STATES

"(a) The issuance, denial, transfer, amendment, cancellation, suspension, or revocation of, and the terms, conditions, and limitations contained in, any certificate authorizing an air carrier to engage in foreign air transportation, or any permit issuable to any foreign air carrier under section 402 of this Act, shall be presented to the President for review. The President shall have the right to disapprove any such Board action concerning such certificates or permits solely upon the basis of foreign relations or national defense considerations which are within the President's jurisdiction, but not upon the basis of economic or carrier selection considerations. Any such disapproval shall be issued in a public document, setting forth the reasons for the disapproval to the extent national security permits, within sixty days after submission of the Board's action to the President. Any such Board action so disapproved shall be null and void. Any such Board action not disapproved within the foregoing time limits shall take effect as action of the Board, not the President, and as such shall be subject to judicial review as provided in section 1006 of this Act."

ASSESSMENT OF CIVIL PENALTIES

SEC. 25. (a) Paragraph (1) of subsection (a) of section 901 of the Federal Aviation Act of 1958 (49 U.S.C. 1471) is amended by inserting after the fourth sentence thereof the following new sentences: "The amount of any such civil penalty for any violation of any provision of title IV, or any rule, regulation, or order issued thereunder, or under section 1002(i), or any term, condition, or limitation of any permit or certificate issued under title IV shall be assessed by the Board only after notice and an opportunity for a hearing and after written notice upon a finding of violation by the Board. Judicial review of any order of the Board assessing such a penalty may be obtained only pursuant to section 1006 of this Act.".

(b) Paragraph (2) of subsection (a) of such section 901 is amended to read as follows:

"(2) Any civil penalty may be compromised by the Secretary of Transportation in the case of violations of title III, V, VI, or XII, or any rule, regulation or order issued thereunder, or by the National Transportation Safety Board in the case of violations of title VII, or any rule, regulation, or order issued thereunder, or by the Postmaster General in the case of regulations issued by him. The amount of such penalty when finally determined, or fixed by order of the Board, or the amount agreed upon in compromise, may be deducted from any sums which the United States owes to the person charged.".

PROCEDURES FOR CIVIL PENALTIES

SEC. 26. (a) The first sentence of subsection (b)(1) of section 903 of the Federal Aviation Act of 1958 (49 U.S.C. 1473(b)(1)) is amended by inserting "or assessed" immediately after "imposed".

(b) The second sentence of subsection (b)(1) of such section 903 is amended by inserting "with respect to proceedings involving penalties other than those assessed by the Board," immediately after "except that".

RATES

SEC. 27. (a) Subsection (d) of section 1002 of the Federal Aviation Act of 1958 (49 U.S.C. 1482(d)) is amended—

(1) in paragraph (1), by inserting "or (4)" immediately after "paragraph (2)"; and

(2) by adding at the end thereof the following new paragraph:

"(4) The Board shall not have authority to find any rate, fare, or charge for interstate or overseas air transportation of persons to be unjust or unreasonable on the basis that such rate, fare, or charge is too low or too high if—

"(A) with respect to any proposed increase filed with the Board on or after the date of enactment of any law by the Congress which provides a procedure pursuant to which air carriers may obtain authority to provide air transportation without a determination by the Board whether such authority is consistent with, or required by, the public convenience and necessity and which is enacted after the date on which the Board submits a report to the Congress on the study required to be carried out pursuant to section 401(d)(7)(D) of this Act, such proposed rate, fare, or charge would not be more than 5 per centum higher than the rate, fare, or charge in effect one year prior to the proposed effective date of the rate, fare, or charge under consideration for the same class of service of such transportation, except that this provision shall not apply to any proposed increase in any rate, fare, or charge filed by any air carrier if such proposed rate, fare, or charge is for air transportation between any pair of points and such air carrier provides air transportation to 90 per centum or more of the persons traveling in air transportation between such points on aircraft operated by air carriers with certificates issued under section 401 of this Act;

"(B) with respect to any proposed decrease filed within one year after the date of enactment of this paragraph, the proposed rate, fare, or charge would not be more than 25 per centum lower than the lowest rate, fare, or charge in effect on such date of enactment for coach service between the same pair of points; or

"(C) with respect to any proposed decrease filed after the last day of the first year which begins on the date of the enactment of this paragraph, such proposed rate, fare, or charge would not be more than 50 per centum lower than the lower rate, fare, or charge in effect on the date of enactment of this paragraph for coach service between the same pair of points, except that this provision shall not apply to any proposed decrease in any rate, fare, or charge if the Board determines that such proposed rate, fare, or charge would be predatory.

If any air carrier reduces any rate, fare, or charge for interstate or overseas air transportation of persons pursuant to subparagraph (B) or (C) of this paragraph, such air carrier may increase such reduced rate, fare, or charge up to any rate, fare, or charge which is no greater than the rate, fare, or charge in effect prior to the first such reduction, and the Board shall not have authority to find such increased rate, fare, or charge to be unjust or unreasonable on the basis that such increase is too high.".

(b) Subsection (e) of such section 1002 is amended to read as follows:

"RULE OF RATEMAKING

"(e) In exercising and performing its power and duties with respect to determining rates described in paragraph (1) of subsection (d) of this section, the Board shall take into consideration, among other factors—

"(1) the criteria set forth in section 102 of this Act;

"(2) the need for adequate and efficient transportation of persons and property at the lowest cost consistent with the furnishing of such service;

"(3) the effect of prices upon the movement of traffic;

"(4) the desirability of a variety of price and service options such as peak and offpeak pricing or other pricing mechanisms to improve economic efficiency and provide low-cost air service; and

"(5) the desirability of allowing an air carrier to determine prices in response to particular competitive market conditions on the basis of such air carrier's individual cost.".

(c)(1) Whenever the Board pursuant to its authority under section 1002 of the Federal Aviation Act of 1958 (49 U.S.C. 1482) prescribes a uniform method generally applicable to the establishment of joint fares, and the divisions thereof, between air carriers holding certificates issued under section 401 of such Act, it shall make such uniform method applicable to the establishment of joint fares, and the divisions thereof, between such air carriers and commuter air carriers. Any commuter air carrier which has an agreement with any air carrier to provide service for persons and property which includes transportation over its routes and transportation by such air carrier in air transportation shall provide at least ninety days notice to such air carrier and to the Board prior to modifying, suspending, or terminating such service, and if such commuter air carrier fails to provide such notice, any uniform method made applicable to the establishment of joint fares, and the divisions thereof, between air carriers and commuter air carriers in accordance with the preceding sentence shall not apply to such commuter air carrier.

(2) For purposes of this subsection—

(A) the terms "air carrier" and "Board" have the meanings given such terms in the Federal Aviation Act of 1958; and

(B) the term "commuter air carrier" means any air carrier operating pursuant to section 416(b)(3) of the Federal Aviation Act of 1958 (49 U.S.C. 1386) who operates at least five round trips per week between one pair of points, pursuant to flight schedules.

(3) Paragraph (1) of this subsection shall apply to any uniform method described in such paragraph which the Board prescribes on or after December 27, 1974.

TIME REQUIREMENTS

SEC. 28. (a) Title X of the Federal Aviation Act of 1958 (49 U.S.C. 1481 et seq.) is amended by adding at the end thereof the following new section:

"TIME REQUIREMENTS

"SEC. 1010. In the case of any application or other written document submitted to the Board under section 408, 409, 412, or 416 of this Act on or after the one-hundred-eightieth day after the date of enactment of this section, the Board shall—

"(1) if the Board orders an evidentiary hearing, issue a final order or decision with respect to such written document, not later than the last day of the twelfth month which begins after the submission of such document, except in the case of an application submitted under section 408 the Board shall issue its final order or decision not later than the last day of the sixth month after submission; or

"(2) if the Board does not order an evidentiary hearing, issue a final order or decision with respect to such document, not later than the last day of the sixth month which begins after the date of the submission of such document.".

(b) That portion of the table of contents contained in the first section of such Act which appears under the center heading.

"TITLE X—PROCEDURE"

is amended by adding at the end thereof "Sec. 1010. Time requirements.".

WITHHOLDING OF INFORMATION

SEC. 29. Section 1104 of the Federal Aviation Act of 1958 (49 U.S.C. 1504) is amended to read as follows:

"WITHHOLDING OF INFORMATION

"SEC. 1104. Notwithstanding any other provision of law, any person may make written objection to the public disclosure of information contained in any application, report, or document filed pursuant to provisions of this Act or of any information obtained by the Board, the Secretary of State, or the Secretary of Transportation pursuant to the provisions of this Act stating the grounds for such objection. Any information contained in such application, report, or document, or any such other information obtained by the Board, the Secretary of State, or the Secretary of Transportation, shall be withheld from public disclosure by the Board, the Secretary of State, or the Secretary of Transportation, as the case may be, if such information is exempted from disclosure, or if disclosure of such information would prejudice the formulation and presentation of positions of the United States in international negotiations and adversely affect the competitive position of any air carrier in foreign air transportation. The Board, the Secretary of State, or the Secretary of Transportation, as the case may be, shall be responsible for classified information in accordance with appropriate law, except that nothing in this section shall authorize the withholding of information by the Board, the Secretary of State, or the Secretary of Transportation from the duly authorized committees of Congress.".

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that sections 24 through 29 be considered as read and open to amendment at any point. I am informed that there are not any amendments at the desk to these sections.

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

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

GOVERNMENT GUARANTEE OF EQUIPMENT LOANS

SEC. 30. (a)(1) The first sentence of the Act entitled "An Act to provide for Government guarantee of private loans of certain air carriers for purchase of modern aircraft and equipment, to foster the development and use of modern transport aircraft by such carriers, and for other purposes", approved September 7, 1957 (49 U.S.C. 1324 note) (hereinafter in this section referred to as the "Act"), is amended by striking out "and short-haul air transportation" and inserting in lieu thereof "short-haul, and supplemental air transportation".

(2) The second sentence of the first section of the Act is amended by inserting "and commuter air carriers" immediately after "air carriers".

(b) Section 2 of the Act is amended to read as follows:

"SEC. 2. As used in this Act—

"(1) 'aircraft purchase loan' means any loan, or commitment in connection therewith, made for the purchase of commercial transport aircraft, including spare parts normally associated therewith;

"(2) 'air carrier' means any air carrier holding a certificate of public convenience and necessity issued by the Civil Aeronautics Board under section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371);

"(3) 'commuter air carrier' means any air carrier operating pursuant to section 416(b)(3) of the Federal Aviation Act of 1958 (49 U.S.C. 1386(b)(3)) who operates at least five round trip flights per week between one pair of points in accordance with published flight schedules;

"(4) 'supplemental air transportation' has the meaning given such term in section 101(37) of the Federal Aviation Act of 1958; and

"(5) 'Secretary' means the Secretary of Transportation.".

(c) Section 3 of the Act is amended to read as follows:

"SEC. 3. The Secretary is authorized to guarantee any lender against loss of principal or interest on any aircraft purchase loan made by such lender to—

"(1) any commuter air carrier, or

"(2) any air carrier whose certificate (A) authorizes such air carrier to provide local or feeder air service, (B) authorizes such air carrier to provide supplemental air transportation, (C) authorizes operations only within the State of Hawaii, (D) authorizes operations (the major portion of which is conducted either within Alaska or between Alaska and the forty-eight contiguous States), within the State of Alaska (including service between Alaska and the forty-eight contiguous States, and between Alaska and adjacent Canadian territory), or (E) authorizes metropolitan helicopter service.

Such guarantee shall be made in such form, on such terms and conditions, and pursuant to such regulations, as the Secretary deems necessary and which are not inconsistent with the provisions of this Act.".

(d)(1) Section 4(c) of the Act is amended by striking out "10" and inserting in lieu thereof "15".

(2) Section 4(d) of the Act is amended by striking out "the same carrier, or corporate predecessor carrier or carriers, guaranteed and outstanding under the terms of this Act, exceed $30,000,000." and inserting in lieu thereof "the same air carrier or commuter air carrier, or corporate predecessor of such air carrier or commuter air carrier guaranteed and outstanding under the terms of this Act, exceed $75,000,000.".

(3) Section 4(e) of the Act is amended by inserting "or commuter air carrier" immediately after "air carrier".

(4) Section 4(f) of the Act is amended by inserting "or commuter air carrier" immediately after "air carrier".

(5) Section 4(g) of the Act is amended to read as follows:

"(g) Unless the Secretary finds that the prospective earning power—

"(1) of the applicant air carrier, together with the character and value of the security pledged, furnish (A) reasonable assurances of the applicant's ability to repay the loan within the time fixed therefor, and (B) reasonable protection to the United States; and

"(2) of the applicant commuter air carrier, together with the character and value of the security pledged, furnish (A) reasonable assurances of the applicant's ability and intention (i) to repay the loan within the time fixed therefor, (ii) to continue its operations as a commuter air carrier, and (iii) to the extent found necessary by the Secretary, to continue its operations as a commuter air carrier between the same route or routes being operated by such applicant at the time of the loan guarantee, and (B) reasonable protection to the United States.".

(6) Section 4 of the Act is amended by adding at the end thereof the following new paragraph:

"(h) On any loan or combination of loans for the purchase of any new turbojet-powered aircraft which does not comply with the noise standards prescribed for new subsonic aircraft in regulations issued by the Secretary acting through the Administrator of the Federal Aviation Administration (14 C.F.R. part 36), as such regulations were in effect on January 1, 1977.".

(e) Section 8 of the Act is amended to read as follows:

"SEC. 8. The authority of the Secretary under section 3 of this Act shall terminate five years after the date of enactment of this section.".

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 30 be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

AMENDMENT OFFERED BY MR. ANDERSON OF CALIFORNIA

Mr. ANDERSON of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ANDERSON of California: Page 127, strike out line 24, and insert in lieu thereof the following:

Act is amended by inserting ", commuter air carriers, and intrastate air carriers".

Page 128, after line 16, insert the following:

"(4) 'intrastate air carrier' means any citizen of the United States who undertakes, whether directly or indirectly or by a lease or any other arrangement, to engage primarily in intrastate air transportation (as such term is defined in section 101(24) of the Federal Aviation Act of 1958);

Page 128, line 17, strike out "(4)" and insert in lieu thereof "(5)".

Page 128, line 20, strike out "(5)" and insert in lieu thereof "(6)".

Page 129, line 1, strike out "or".

Page 129, line 13, strike out the period and insert in lieu thereof ", or".

Page 129, after line 13, insert the following:

"(3) any intrastate air carrier.

Page 129, line 24, strike out "or commuter air carrier" and insert in lieu thereof ", commuter air carrier, or intrastate air carrier".

Page 130, line 1, strike out "or commuter air carrier" and insert in lieu thereof, "commuter air carrier, or intrastate air carrier".

Page 130, lines 5 and 7, strike out "or commuter air carrier" each place it appears and insert in lieu thereof ", commuter air carrier, or intrastate air carrier" in each such place.

Page 130, line 17, insert "or intrastate air carrier" after "commuter air carrier".

Page 130, line 22, insert "or intrastate air carrier" after "commuter air carrier".

Page 130, line 24, insert "or intrastate air carrier" after "commuter air carrier".

Mr. ANDERSON of California (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. ANDERSON of California. Mr. Chairman, this amendment would add a small group of carriers to the aircraft purchase loan guarantee program of H.R. 12611. This amendment has been known as the Pepper amendment, but Congressman PEPPER could not be here today, so he asked me to handle it for him. The loan guarantee program has been in effect for 20 years and his been highly successful. The program has enabled local service carriers to purchase aircraft needed to serve small communities. There have been no defaults of the guaranteed loans and the loan guarantee fees received by the Government have exceeded the expenses of the program.

H.R. 12611 adds to the program commuter carriers, who are now providing a substantial volume of small communities air service, and supplemental air carriers.

My amendment makes large intrastate air carriers such as PSA, Southwest Airlines, and Air Florida eligible for the program. Intrastate carriers are comparable in size to carriers who are eligible for the loan guarantee program. The intrastate carriers pioneered in low fare air service which only recently has been offered by the interstate carriers. In addition, the intrastate carriers serve a number of small and medium sized communities. Adding these carriers to the loan guarantee program will enable them to provide better service to the traveling public.

I urge adoption of this amendment.

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

Mr. ANDERSON of California. I yield to the gentleman from Ohio.

Mr. HARSHA. Mr. Chairman, as far as the minority is concerned, we accept the amendment.

Mr. ANDERSON of California. Mr. Chairman, we accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. ANDERSON).

The amendment was agreed to.

The CHAIRMAN. There being no further amendments to section 30, the Clerk will read.

The Clerk read as follows:

SUNSET PROVISIONS

SEC. 31. (a) The Federal Aviation Act of 1958 (49 U.S.C. 1301 et seq.) is amended by adding at the end thereof the following new title:

"TITLE XVI—SUNSET PROVISIONS

"TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

"TERMINATION OF AUTHORITY

"SEC. 1601. (a) Any authority of the Board set forth in this Act shall cease to be in effect on December 31, 1982.

"TRANSFER OF CERTAIN AUTHORITY

"(b)(1) The following authority of the Board is transferred to the following Federal departments:

"(A) The authority of the Board under sections 406 and 419 of this Act is transferred to the Department of Transportation.

"(B) The authority of the Board under this Act with respect to foreign air transportation is transferred to the Department of Transportation which shall exercise such authority in consultation with the Department of State.

"(C) The authority of the Board under sections 408 and 412 of this Act is transferred to the Department of Justice.

"(D) The authority of the Board under this Act with respect to the negotiation of the rates for the carriage of mail is transferred to the Postal Service.

"(2) Any authority transferred under paragraph (1) of this subsection shall take effect on December 31, 1982.

"REPORT AND ASSESSMENT BY BOARD

"(c) Not later than December 31, 1981, the Board shall prepare and submit to the Congress a comprehensive review of the Board's implementation of the provisions of this Act during the preceding initial period of this Act's existence, and a comprehensive review of each of the Board's programs under this Act. Each such review shall be made available to the committee or committees of the Senate and House of Representatives having jurisdiction with respect to the annual authorization of funds for the Board and its programs for the fiscal year beginning October 1, 1981.

"ELEMENTS FOR BOARD CONSIDERATION

"(d) The comprehensive review of the Board's implementation of this Act, prepared for submission under subsection (c), shall include—

"(1) a detailed comparison of the degree of competition within the airline industry as of the year preceding enactment of this section and the final year covered by the review;

"(2) a comparison of the degree of pricing competition in the industry during those two one-year periods;

"(3) a comparison of the extent of unused authority held by the industry during those two one-year periods, with details as to the number of nonstop route segments which have been transferred from one carrier to another under section 401(d)(5) of this Act;

"(4) an assessment of the degree to which agreements approved under section 412 of this Act have affirmatively or negatively affected the degree of competition within the industry;

"(5) a comparison of the extent of air transportation service provided to small communities during the two one-year periods specified above, together with details as to the comparative subsidy costs during these two periods;

"(6) an assessment of the degree, if any, to which the administrative process has been expedited under this Act;

"(7) an assessment of the impact of the foregoing changes upon the national air transportation system in terms of benefits or detriments to the traveling and shipping public, the Postal Service and the national defense, and the benefits and detriments to air carriers, certificated and uncertificated; and

"(8) the Board's opinion as to whether the foregoing changes in combination, have improved or harmed this Nation's domestic air transportation system and the United States-flag foreign air transportation system.

This assessment shall be accompanied by a detailed opinion from the Board as to whether the public interest requires continuation of the Board and its functions beyond December 31, 1982, and, if it is the Board's conclusion that it should continue to exist, detailed recommendations as to how the provisions of this Act should be revised to insure continued improvement of the Nation's air transportation system beyond December 31, 1982. The Board's assessment under this subsection shall also be accompanied by a comparative analysis of procedures under section 801 of this Act before and after the date of enactment of the Air Service Improvement Act of 1978, together with the Board's opinion as to the benefits of each set of procedures.

"ELEMENTS FOR EACH COMPREHENSIVE REVIEW

"(e) Each comprehensive review of the Board's programs under this Act, prepared for submission under subsection (c) of this section, shall include—

"(1) an identification of the objectives intended for the program, and the problem or need which the program was intended to address;

"(2) an identification of any other programs having similar or potentially conflicting or duplicative objectives;

"(3) an assessment of alternative methods of achieving the purposes of the program;

"(4) a justification for the authorization of new budget authority, and an explanation of the manner in which it conforms to and integrates with other efforts;

"(5) an assessment of the degree to which the original objectives of the program have been achieved, expressed in terms of the performance, impact, or accomplishments of the program and of the problem or need which it was intended to address, and employing the procedures or methods of analysis appropriate to the type or character of the program;

"(6) a statement of the performance and accomplishments of the program in each of the previous four completed fiscal years and in the year of submission, and of the budgetary costs incurred in the operation of the program;

"(7) a statement of the number and types of beneficiaries or persons or entities served by the program;

"(8) an assessment of the effect of the program on the national economy, including, but not limited to, the effects on competition, economic stability, employment, unemployment productivity, energy consumption and conservation, and price inflation, including costs to consumers and to businesses;

"(9) an assessment of the impact of the program on the Nation's health and safety;

"(10) an assessment of the degree to which the overall administration of the program, as expressed in the rules, regulations, orders, standards, criteria, and decisions of the officers executing the program are believed to meet the objectives of the Congress in enacting this Act;

"(11) a projection of the anticipated needs for accomplishing the objectives of the program, including an estimate if applicable of the date on which, and the conditions under which, the program may fulfill such objectives;

"(12) an analysis of the services which could be provided and performance which could be achieved if the program were contained at a level less than, equal to, or greater than the existing level; and

"(13) recommendations for necessary transitional requirements in the event that funding for such program is discontinued, including proposals for such executive or legislative action as may be necessary to prevent such discontinuation from being unduly disruptive.".

(b) That portion of the table of contents contained in the first section of such Act is amended by inserting at the end thereof

"TITLE XVI—SUNSET PROVISIONS

"Sec. 1601. Termination of Civil Aeronautics Board and transfer of certain functions.

"(a) Termination of authority.
"(b) Transfer of certain authority.
"(c) Report and assessment by Board.
"(d) Elements for Board consideration.
"(e) Elements for each comprehensive review.".

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 31 be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

The CHAIRMAN. There being no amendments to section 31, the Clerk will read.

The Clerk read as follows:

LABOR PROTECTION

SEC. 32. No authority granted by this Act, or by any amendment made by this Act, shall be exercised by any carrier unless prior to each such exercise, the Secretary of Labor has certified to the Civil Aeronautics Board that the interests of the employees who may be affected thereby have been adequately protected by fair and equitable arrangements providing levels of protection no less beneficial to and protective of such interests than those established pursuant to section 5(2)(f) of the Interstate Commerce Act and section 405 of the Rail Passenger Act, as such sections are in existence on the date of enactment of this section or are hereafter amended, except that the carrier-employer of the affected employees shall be responsible for the application of the protective arrangements to such employees and shall be reimbursed by the Secretary of the Treasury for the cost of such application. There is hereby established in the Treasury of the United States a separate account to be known as the "Airlines Employees' Protective Account". Funds in such account shall be available to the Secretary of the Treasury to make reimbursements pursuant to this section. There is authorized to be appropriated to such account annually such funds as may be required to meet the obligations thereunder.

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 32 be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

AMENDMENT OFFERED BY MR. SNYDER

Mr. SNYDER. Mr. Chairman, I offer an amendment that has been made in order under the rule.

The Clerk read as follows:

Amendment offered by Mr. SNYDER: Page 138, after line 18, insert the following new section:

COLLECTION OF FEES, CHARGES, AND PRICES

SEC. 33. Notwithstanding any other provision of law, neither the Secretary of Transportation nor the Administrator of the Federal Aviation Administration shall collect any fee, charge, or price for any approval, test, authorization, certificate, permit, registration, conveyance, or rating relating to any aspect of aviation (1) which is in excess of the fee, charge, or price for such approval, test, authorization, certificate, permit, registration, conveyance, or rating which was in effect on January 1, 1973, or (2) which did not exist on January 1, 1973, until all such fees, charges, and prices are reviewed and approved by Congress.

Renumber the succeeding section of the bill accordingly.

Mr. SNYDER (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 Kentucky?

There was no objection.

Mr. SNYDER. Mr. Chairman, the amendment I offer would prohibit the Secretary of Transportation or the Administrator of the Federal Aviation Administration from imposing so-called "administrative user charges" for certificates and examinations which are issued and administered by the FAA

without congressional approval. Those fees in effect on January 1, 1973, would not be affected by the amendment and would stay at the same level.

The FAA's most current proposed rules on these user fees was published April 20, 1978. The legal basis that the FAA uses for these fees is title V of the Independent Offices Appropriation Act of 1952. In determining the fee for each category, the projected fiscal year 1979 costs of administering the program were divided by the estimated number of registrations and certificates to be issued. Also, the fees would be revised yearly to cover additional administrative costs including salary increases.

I would point out that the result was a series of exorbitant fees ranging from $10 to $354. It should also be noted that legal authority cited by the FAA in imposing these fees requires that the agency "be fair and equitable taking into consideration direct and indirect cost to the Government, value to the recipient, public policy or interest served, and other pertinent facts * * *"

Certainly, the methodology the FAA used in arriving at the proposed fees did not take all of these factors into account.

FAA regulations concerning registration and certification are intended to protect the public more than they are designed to benefit the pilot, mechanic, or whatever; thus, they have a substantial public benefit which FAA fails to recognize in its zeal to impose user charges.

The proposal also states that they will propose fees for other FAA services; for example, fees for airway use. Are we to find a fee every time we use a control tower to land and take off, call for a weather briefing, or check with center for enroute information. Is the FAA briefer or flight inspector going to be equipped with a coin changer, same as a bus driver, or carnival barker so he can be sure the pilot pays his fee. How much is it going to cost to "bond" all the FAA people involved? or, are we going to be billed monthly using the social security number the FAA started putting on pilot certificates a few years back, and be denied landing after a flight because we are in arrears or the computer is messed up.

The Aviation Subcommittee of the Public Works and Transportation Committee has held hearings on the proposed schedule of user charges which FAA proposed to levy earlier this year. These would not be merely token fees—but, rather, FAA contemplates the recovery of all associated costs of administering pilot certification and examination. Many of us believe the FAA estimates of these costs—well over $20 million per year—to be considerably higher than the actual costs which would be incurred.

In any case, Mr. Chairman, I contend that these are nothing more than regressive excise taxes levied on the aviation community by the executive branch—without congressional authority. Not only would they retard the growth of aviation, but they would derogate aviation safety by inviting evasion of FAA regulations and requirements which involve these fees.

Mr. Chairman, the House Appropriations Committee has included a yearly prohibition against the imposition of such user charges in each of the past five or six Department of Transportation appropriations bills. Such a prohibition is included in the DOT appropriation bill for fiscal year 1979, but the Appropriations Committee correctly suggests that the issue should be taken up by the appropriate legislative committee, which is public Works and Transportation.

Mr. Chairman, we must not allow the FAA to impose this kind of monetary constraint on the flying community, possibly denying the financially marginal pilot his right to participate in the greatest adventure known to mankind. I urge my colleagues to support this amendment.

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

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

Mr. ANDERSON of California. Mr. Chairman, I rise in support of the gentleman from Kentucky's amendment. The amendment, as the gentleman explained, would require approval of the Congress prior to FAA increasing existing, or creating new, user fees. Similar provisions have been included in appropriations legislation for a number of years. Those provisions are needed to insure that the FAA does not develop a schedule of user fees which is prohibitively expensive to pilots, owners, and other users of the national airways, airports, and airway facilities. The recent proposal for increasing user fees by the FAA shows a need for continuing congressional control.

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

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

Mr. GOLDWATER. Mr. Chairman, I commend my colleague, the gentleman from Kentucky, for introducing this very important amendment. His amendment is straightforward and attempts to do what we need to be doing more of—asserting the right of Congress to review arbitrary and capricious Federal edicts.

The administrative user fee situation is not a new one. For years we have had some Federal officials telling us that general aviation provides minimum public benefit, and therefore, should bear a greater percentage of costs association with the aviation system. Now, I will not list all the benefits of general aviation, but they are many, including being a major employer and contributor to the plus side of our balance of payments to the tune of over a billion dollars.

General aviation pays its way in the aviation system, and general aviation is not necessarily opposed to some user fees, as long as they are fair and are reviewed by the Congress.

Now, there is ample legislative precedent for the Snyder amendment. In the past, the levying of administrative user fees by the Department of Transportation has been discouraged by a general provision in section 312 of the DOT appropriations bill. That section is intact this year. It subjects any proposal to impose user fees to a review by the Congress.

But we need a more permanent vehicle to achieve this objective. The gentleman from Kentucky is offering such a vehicle. All he is saying is that agencies of Government must be responsible to the people they serve. It is an irresponsible act to hit general aviation with a schedule of user fees without their approval and the approval of the Congress. I urge adoption of the amendment.

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

Let me just close, Mr. Chairman, by saying that the House Committee on Appropriations has included this prohibition in the appropriation bills for the last 5 or 6 years in the Department of Transportation appropriations. They have rightly suggested that the appropriate legislative committee, which is our committee, should look at the matter. We did have hearings on the subject about the time we reported this bill and reached the conclusion that this would probably be the proper way to approach this matter.

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

Mr. SNYDER. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I thank the gentleman for yielding, and I would like to commend the gentleman from Kentucky (Mr. SNYDER) for offering this amendment. I think this is properly the approach that should be taken through the legislative committees and not as amendments as parts of appropriation bills, for it to go to the appropriate committee with authority, rather than leaving these decisions to the unelected bureaucracy.

● Mr. DON H. CLAUSEN. Mr. Chairman, I would like to join my colleagues in supporting the amendment being offered by my colleague from Kentucky (Mr. SNYDER). The purpose of the amendment is to prohibt the FAA from imposing user charges, including those for examinations, certificates and pilot licenses which were not in effect on January 1, 1973, or are in excess of those existing on that date without congressional approval.

This amendment will insure that we have an opportunity to review any and all proposals for increased charges by preventing the FAA from taking any independent action.

Before any fee is established, it must be closely studied to determine its justification and its impact on the industry. If left to escalate these charges could be highly detrimental. For example, they could discourage some individuals from becoming pilots by making the cost of their license prohibitive. It is also possible that excessive charges could present a safety problem as pilots would be inclined to avoid using certain safety checks available to them if charged for each service.

I urge my colleagues to support this amendment as a means of strengthening the congressional oversight function and the aviation industry as a whole.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky (Mr. SNYDER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. YOUNG OF ALASKA

Mr. YOUNG of Alaska. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. YOUNG of Alaska: Page 138, after line 18, insert the following new section:

LABOR DISPUTES

SEC. 34. Within 10 days after the date of enactment of this section, the President, pursuant to section 10 of the Railway Labor Act, shall create a board to investigate and report on the dispute between Wein Air Alaska, Incorporated, and the Air Line Pilots Association. Such board shall report its findings to the President within thirty days from the date of its creation.

Renumber the succeeding sections of the bill accordingly.

Mr. YOUNG of Alaska (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 Alaska?

There was no objection.

Mr. YOUNG of Alaska. Mr. Chairman, for the 16 months since May 1977 residents of Alaska or others wishing to travel or ship goods over a vast expanse of Alaskan territory have been stymied or delayed by a labor dispute.

In an effort to bring about a just end to this dispute between Wien Air Alaska and the Air Line Pilots Association, I have laid this simple amendment before the committee.

The provision would cause the President to appoint a board to investigate and report on the facts of the case. The panel would function under the terms of section 10 of the Railway Labor Act: It would begin its work within 10 days and report to the President within 30 days of its creation. The cost to the Treasury would be minimal.

The reason that it is necessary to enact this provision is that, because Wien has been able to maintain a semblence of its former service, the National Mediation Board has refused to ask the President to establish a factfinding board.

However, the quality of service provided to the outlying communities, which can in fact only be served by air, has deteriorated in some respects. Smaller, single engine planes are being flown. Those planes do not have the capacity to fly needed materials to remote locations; the U.S. mails are being delayed.

Some Members may not be aware of the importance of unhampered air transportation to Alaska. Wien and its subcontractors constitute a virtual transportation monopoly to many communities in Alaska: There are no roads and often no navigable waterways.

This labor dispute affects particularly harshly Alaska's Native population, a group with which the Federal Government has a special relationship and on whose behalf we should intervene. Most of the villages whose service has been disrupted are largely Native.

Mr. Chairman, the fact that this strike is working a severe hardship on the Alaskan people is reflected in the hundreds of letters I have received from my constituents urging me to help end this strike. This week, a petition with over 4,000 signatures has been presented to me, calling for action to end this strike.

Mr. Chairman, I am not taking sides in this dispute. I only want a settlement to be reached, a settlement that both sides can live with. It is my belief that if we pass this provision, which only calls for factfinding, that we will be on the way to such a settlement.

Mr. Chairman, I want to emphasize that it is not the intent of this legislation to interfere in this dispute—but only to move the parties involved toward a settlement. We do not want to interfere with the prerogatives of the airline or the union in any way. It should be clear that the last sentence of section 10 of the Railway Labor Act, to the extent that it would apply in this case, would only apply—here, as in other cases—to new changes by the parties in the conditions out of which the dispute arose.

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

Mr. YOUNG of Alaska. I yield to the gentleman from California.

Mr. ANDERSON of California. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I support this amendment.

Mr. Chairman, the Wien Air Alaska strike has been prolonged and it appears to be having a detrimental effect on local air service in Alaska. Appointment of a board to investigate and report on the dispute may help resolve this unfortunate situation.

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

Mr. YOUNG of Alaska. I yield to the gentleman from Kentucky.

Mr. SNYDER. May I ask the gentleman, Mr. Chairman, is this the second version which the gentleman is offering?

Mr. YOUNG of Alaska. It is the second version.

Mr. SNYDER. Mr. Chairman, we will accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alaska (Mr. YOUNG).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. AKAKA

Mr. AKAKA. Mr. Chairman, I ask unanimous consent to offer an amendment to page 129, line 5.

The CHAIRMAN. The Clerk will report the amendment, and then the Chair will put the question on the unanimous-consent request.

The Clerk read as follows:

Amendment offered by Mr. AKAKA: Page 129, line 5, strike all after the word "(C)" through the comma on line 6 and insert in lieu thereof: "Authorizes scheduled passenger operations the major portion of which are conducted within the State of Hawaii".

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

Mr. HARSHA. Reserving the right to object, Mr. Chairman, and I think I shall not object if I can get the attention of the author of the amendment, may I ask the gentleman whether this is the amendment which deals with Hawaiian equipment loan guarantees?

Mr. AKAKA. Yes.

Mr. HARSHA. Mr. Chairman, I withdraw my reservation of objection, and I have no objection to the amendment.

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

Mr. SNYDER. Reserving the right to object, Mr. Chairman, I am sorry, but I missed the request. What is the request?

The CHAIRMAN. The Chair will state that the request of the gentleman from Hawaii (Mr. AKAKA) was to be permitted to offer an amendment to a section of the bill we have already passed.

Mr. SNYDER. Mr. Chairman, if the amendment applies only to the one particular section the gentleman intends to amend, I have no objection to it.

I withdraw my reservation of objection.

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

There was no objection.

Mr. AKAKA. Mr. Chairman, first, I would like to commend the subcommittee chairman, Mr. ANDERSON, the members of the subcommittee, and the committee, for the thorough and excellent work done on this bill, the Air Services Improvement Act.

The amendment I am offering today is technical. It is necessary to clarify a legal ambiguity which creates an uncertainty for financial institutions to which local passenger Hawaiian Airlines have applied for equipment loans.

The amendment is essential, because existing law appears to eliminate eligibility of local Hawaiian passenger carriers for loan guarantees—if these carriers obtain section 418 all-cargo certificates—a result unintended by the recently approved all-cargo deregulation legislation. The amendment would preserve the historical eligibility of local Hawaiian passenger air carriers.

It is identical to the Senate version of the airline regulatory reform legislation.

Equipment loan guarantees are uniquely important in Hawaii where local air service is the only form of transportation between the islands. The equipment loan guarantees are the only realistic means by which small local passenger air carriers in Hawaii may obtain the necessary financing to acquire aircraft and equipment.

It would not expand any existing programs nor impinge upon any existing carriers. Rather, it would assure that the purposes of the equipment loan guarantee program are fulfilled.

Mr. SNYDER. If the gentleman will yield, Mr. Chairman, we will accept the amendment on this side.

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

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

Mr. ANDERSON of California. Mr. Chairman, I support the amendment.

The amendment is needed to insure that airlines operating within Hawaii continue to be eligible for the aircraft purchase loan guarantee program. In H.R. 12611 Hawaii carriers must operate only within the State of Hawaii to be eligible for the program. Recently, one of

the intrastate Hawaiian airlines obtained a cargo certificate which authorizes operations between Hawaii and the continental United States. The amendment would continue this carrier's eligibility for the loan guarantee program so long as the major portion of its operations are within the State of Hawaii. If the Hawaiian carriers continue to operate primarily within the State of Hawaii, I see no reason for termination of their eligibility for the loan guarantee program.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Hawaii (Mr. AKAKA).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

AVAILABILITY OF FUNDS

SEC. 33. Any funds authorized to be appropriated pursuant to this Act or pursuant to any amendment to any other law made by this Act shall be for fiscal years beginning after September 30, 1978.

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that section 33 be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

The CHAIRMAN. Are there any amendments to section 33?

Mr. LEVITAS. Mr. Chairman, I move to strike the last word, believing that there are no further amendments pending.

Mr. Chairman, I take this time, first of all, to commend the chairman of the subcommittee, the gentleman from California (Mr. ANDERSON), and the ranking minority member, the gentleman from Kentucky (Mr. SNYDER), for the outstanding work and performance they have demonstrated in bringing this bill to the House.

This bill is the result of almost 3½ years of hearings. The committee has taken a great amount of testimony dealing with some of the most difficult and complex economic problems which face any regulated industry.

The bill which has been brought to the floor and the bill which this House will soon vote on, I think, will stand as a landmark in creating a less regulated, openly competitive industry. The bill which this House will soon adopt contains, in addition to a transition of greater and more competition, ultimately the complete abolition of the CAB in a totally unregulated, free, competitive industry, and I think that it is really notable that this Congress and this House by adopting good legislation can get less regulation, better service to consumers, lower fares, and accomplish the purposes that many of us in Congress have been seeking for so many years. I wanted to take this time to express my commendation to the chairman of the subcommittee and the ranking member for their outstanding work.

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

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

Mr. GOLDWATER. Mr. Chairman, I, too, would rise in support of this legislation, and in so doing, I do not think the moment should pass without recognizing the catalyst part that the gentleman from Georgia (Mr. LEVITAS) played in bringing together the many controversial issues and points of views of members of the committee, as well as outside the committee, and certainly for the part he played I think he is to be commended, as well as the ranking minority member of the committee.

Mr. Chairman, I rise in support of the Air Service Improvement Act of 1978. On the balance this is a good bill. It represents a compromise between giving the airlines and the consumer some protection by the CAB while at the same time letting the free marketplace work its will.

We must understand that the airlines have been regulated for 40 years. To indiscriminately cut them loose without some minimum CAB oversight and safeguards is not fair, and it could result in economic disruption of the worse sort.

Ideally, we should take the CAB out of the decisionmaking process totally, and this has been prominently suggested. But, let us not throw the baby out with the bathwater. The key is orderly transition and that is what the bill before us today is all about.

Our committee, under the able leadership of Chairman JOHNSON, GLEN ANDERSON, BILL HARSHA, GENE SNYDER, and ELLIOTT LEVITAS, has done a remarkable job of giving the Congress and the American people a bill that is reasonable and well thought-out. Two years ago, most of the airlines were opposed to a regulatory reform bill and I must admit that there was much in the original committee bill that I myself found objectionable. In all, during the last two Congresses, the aviation subcommittee on which I sit held 36 days of hearings and heard testimony from over 200 witnesses on this issue. We had some tough times—some very strained moments—during a series of committee markup sessions, but the law or reason and the art of compromise prevailed. In my judgment, we can all live with and be proud of this bill.

For the airlines, it guarantees an orderly retreat from strict CAB regulation. This will give them time to readjust. In addition, section 6 simplifies and streamlines route application procedures. Overall, new air carriers and the smaller existing carriers will be encouraged by this bill's provisions.

More importantly, the consumer—the traveling public—will be given a break. Under section 27, upward pricing of airfares will generally be limited to no more than 5 percent per year while prices could be lowered a full 25 percent the first year after passage and a healthy 50 percent per year thereafter. At the same time, safety is given the highest priority and growing urban traffic congestion is addressed by encouraging the use of secondary airports near major urban centers.

In summary, all interests are afforded something by this bill, with the maximum benefit being reaped by the average American air traveler. It will not disrupt our Nation's airline system. It will guarantee a continuation of America's leadership in world aviation.

Mr. LEVITAS. I thank the gentleman from California. I am grateful for his remarks, and I urge the Members of the House to overwhelmingly adopt this important legislation. I think it is truly landmark legislation.

● Mr. CRANE. Mr. Chairman, I have long been a proponent of airline regulatory reform and have spoken in favor of the concept both in debate in this Chamber and in hearings of the Public Works and Transportation Committee. In this regard, I commend Representative ALLEN ERTEL for the leadership he has offered to those Members who realize the need to inject pro-competitive forces into the airline industry. I support his numerous efforts to this end and I cosponsored his amendment reversing the burden of proof in application proceedings. Without the inclusion of language to expedite this time-consuming procedure, the competitive, free market thrust of this legislation is seriously undermined.

The need for this amendment pervades the entire domestic air transportation system, but I will cite examples limited to my home turf, the State of Illinois.

The Civil Aeronautics Board is notorious for being less than eager to grant new or improved air authority, and the batting average in Illinois is no exception. Of the 251 route applications received for Illinois from 1972 through February 1978, the Board has approved 79. As of February 1978, 95 of the applications were still pending or had received no action. In August and September 1974, North Central and Ozark requested nonstop authority between Minneapolis/St. Paul and Chicago, Cincinnati, and Indianapolis. These 2 applications and 37 others were dismissed as "stale" in June 1978. I am sure that anyone who has tried to secure a flight between these cities would hardly call the experience stale.

Actions like this result not from a vendetta against the Midwest; the CAB simply has its hand full. Under existing law, the Board sets fares, approves routes, second-guesses management practices, and oversees the whole system from its home base in Washington. No wonder the whole system exists in a torpid state.

The enactment of such pro-competitive language would eliminate a generous share of CAB busywork and allow airlines to more readily respond to the demands of the market. By removing the Board from the day-to-day running of the air transportation systems, we could break it from its superfluous "Big brother" role of protecting airline managements from their competitors, their customers, and themselves. If it is considered ruthless to place the airlines out on their own, at the mercy of the demands of the market, and thus necessitate an efficient and responsively run system, let me be known as ruthless. If it is irresponsible to slowly extricate Uncle Sam as overseer of this industry and allow free market forces to regulate, let me be so irresponsible. If it is antiquated to believe that Thomas Jefferson and Adam Smith understood the nature of businesses when they espoused belief that the free market allocation of resources provides for the most efficient use of available assets, I am, indeed, antiquated.

Yet, this doctrine is alive and well and thriving in America; the desire to reduce Government intervention in our businesses is strong and growing stronger. I enjoin you, enlightened colleagues, in this spirit, to approve Mr. ERTEL's amendments and the entire bill.

If this Congress is to be remembered as ruthless, irresponsible, and antiquated because it decreased Government regulation of a major mode of transportation and took vigorous steps toward an efficiently run industry, I challenge you to join me in earning such a title.●

● Mr. RONCALIO. Mr. Chairman, I rise in support of the amendment offered by my colleague, DON YOUNG.

Mr. YOUNG's amendment is a well-founded attempt to bring about a just end to a 16-month dispute between Wein Air Alaska and the Air Line Pilots Association. This labor dispute has affected virtually every aspect of Alaskan society, and this amendment is a logical approach to helping solve the conflicts involved.

Under this amendment, the President is directed to appoint a board to investigate and report on the facts involved in the case. The panel would be authorized pursuant to section 10 of the Railway Labor Act, would be created within 10 days after enactment of the act, and would report to the President within 30 days after its creation.

This board is considered very necessary because, since Wein Airlines has been able to maintain a degree of its former service, the National Mediation Board has refused to ask the President to establish a factfinding board. The level of service now offered, however, is not nearly as adequate as before the strike, and is the cause of a great deal of concern to hundreds of Alaskans.

Due to a lack of pilots, Wein has subcontracted service for about 60 communities to various air taxi companies. Because these air taxi companies use smaller, single engine planes, the nature of the service is inherently different. These planes do not have the capacity to carry bulky materials to remote locations, thereby greatly disrupting mail service to these areas. Especially upsetting is the fact that, on the routes subcontracted because of the strike, a total of 16 people have been killed, and several others have been seriously injured.

For many of these communities either without service, or being served by the air taxi companies, air service is the only mode of transportation, since roads and navigable waters are often lacking. Without air service, these communties are virtually isolated.

I sincerely hope that this amendment will be adopted, affording an opportunity for both sides to arrive at a settlement through a factfinding study.

REIMBURSEMENT BY THE AIRLINES OF SUBSTANTIAL COSTS INCURRED BY BUSINESS CONCERNS WHICH PERFORM RESERVATIONS AND TICKETING ON BEHALF OF THE AIRLINES

Mr. Chairman, I have previously indicated in the remarks inserted in the CONGRESSIONAL RECORD (Wednesday, June 8, 1978, CONGRESSIONAL RECORD 16914) that I intended to offer an amendment to H.R. 12611, section 15, which would expressly authorize reimbursement by the airlines of business concerns performing reservations and ticketing services on behalf of the airlines, as an exception to the antirebate provisions of section 403 of the Federal Aviation Act of 1958, 49 U.S.C. 1373(b)(1).

Since making these remarks, it has come to my attention that the U.S. Court of Appeals for the District of Columbia Circuit rendered a decision on June 21 in which the court observed that 5 years have passed since the CAB approved existing carrier practices with respect to this matter and suggested that the CAB might appropriately reconsider cost reimbursement for business concerns. The Board in that case did not take the position that reimbursement to business users would necessarily be a rebate forbidden by section 403. Nor did it take the position that it lacked adequate legal authority to deal with this issue. Rather it defended as discretionary an earlier determination by a prior Board.

I am also aware that sister transportation agencies, the ICC and FMC, have for years recognized as lawful payment of cost-related reimbursements to shippers without considering those payments to violate antirebate provisions identical to provisions in existing section 403 of the Aviation Act. Examples can be found in *United States* v. *B. & O. R. Co.*, 231 U.S. 274, 293–294 (1913); *American Trucking Associations* v. *United States*, 17 F. Supp. 655, 659 (1936); *Allowances for Privately Owned Tank Cars*, 258 I.C.C. 371, 378 (1944); *Pacific Far East Lines-Alleged Rebates*, 11 F.M.C. 357, 364 (1968); *Phillipine Merchants Steamship Co., Inc.*, 9 F.M.C. 155, 165 (1965).

In addition, I note the Board has broad general powers under the existing statute, sections 204, 404, and 412, which would not be reduced but in fact, in the case of section 412, are expanded by H.R. 12611.

Finally, under the leadership of its new Chairman, Mr. Kahn, the CAB is already aggressively promoting more competition in the airline transportation system and it is taking new and bold steps to promote innovative, pro-competitive regulation.

In view of the above considerations, and upon further reflection, I have come to the conclusion that the amendment, which I said I would sponsor, is not necessary. Accordingly, I will not sponsor the amendment but instead urge the Board to promptly and favorably consider regulations which authorize, subject to appropriate safeguards, cost reimbursement for persons who furnish directly or indirectly substantial services by way of reservations and ticketing functions which save considerable costs for the airlines.●

● Mr. PRESSLER. Mr. Chairman, I am opposed to the Air Service Improvement Act. This measure will not improve air service in South Dakota. In fact, it is my fear that the South Dakota towns and cities currently enjoying air service will lose certificated service within the next 10 years, and unfortunately, this bill does not guarantee replacement for certificated service.

The bill does provide a subsidy for commuter airlines serving small communities. Even with a subsidy, we have no assurance that a commuter line will serve our towns. The bill also provides that commuter lines will not have to go through the CAB for fare approval. Therefore, we have no assurance that air service will be provided at a reasonable cost.

The Department of Transportation issued a report entitled "Air Service to Small Communities" which indicates that if a deregulation bill similar to H.R. 12611 were to become law, Huron, Mitchell, and Brookings, S. Dak., would either lose service completely or certificated service would be replaced by commuter service.

There is no question that the airline industry is overregulated. However, the CAB currently has the authority to remove many of the regulations now in force. I believe South Dakotans would rather take their chances with administrative changes than having to face the uncertainties H.R. 12611 provides for continued air service in the North Central States.●

● Mr. ANNUNZIO. Mr. Chairman, today we are presented with the opportunity of aiding millions of consumers by promoting more free enterprise and less Government regulation. For years, the option of traveling by air was limited to a privileged minority because of constantly rising air fares, which were set by the Government for an industry seeking the protection of Washington. O'Hare Airport in Chicago, my hometown, is the busiest airport in the Nation. Despite this, thousands of people in my district have never had the opportunity to go to that airport because they could not afford the price of an airline ticket.

Under the admirable chairmanship of Alfred Kahn, the Civil Aeronautics Board has recently taken steps to free the airline industry to set its own fares. The result has been a great benefit both to the airlines and to millions of American consumers who previously could not afford the luxury of riding on an airplane. Reduced air fares have led to a new passenger pool and record profits for the industry. The Air Service Improvement Act, H.R. 12611, is Congress sign of support for the recent actions of the CAB in promoting greater competition in the airline industry. This legislation creates fare flexibility, and will allow airlines to reduce their fares up to 50 percent of current ticket prices. Consumers are protected by a limitation on fare increases of 5 percent per year.

In the past, competition between the various airlines was limited to unimportant frills. Airlines advertised the nicest piano, the prettiest airplanes, or the most delicious meals to entice customers. Under this bill, consumers will be provided with a real option—that of price. Of course, Congress must monitor the effects of this legislation to make sure that the trend towards lower air fares does not reverse itself once the airlines become free from the reins of Government regulation.

Finally, I have noted that some people object to this bill because they believe it is wrong to tamper with the world's best air transportation system. I say let us make the greatest even better by in-

creasing Americans' access to this speedy, comfortable, and efficient form of transportation.●

● Mr. CORRADA. Mr. Chairman, I rise in support of H.R. 12611.

As the House begins consideration of this bill, the Air Service Improvement Act of 1978, I would like to emphasize my strong support for the bill in its present form. At my urging and as a result of the long and careful efforts of the Public Works Subcommittee on Aviation, several changes have been made to extend the full coverage of the bill to air service between Puerto Rico and the U.S. mainland. By taking a major step in regulatory reform and providing equal treatment for Puerto Rico, H.R. 12611 should result in significant benefits to all Americans.

Unlike many districts in the continental United States, Puerto Rico is uniquely dependent on air transportation. It is our only means of travel to and from U.S. mainland. Because many of the 1½ million Puerto Ricans living on the mainland have strong family and emotional ties to Puerto Rico, there is a heavy demand for air travel to visit friends and relatives. Puerto Rico's industry and economy are highly dependent on air freight. For example, most food items have to be imported to Puerto Rico. Finally, tourism, a growth industry that accounts for, directly or indirectly, over 10 percent of the jobs in Puerto Rico, is wholly dependent on air transportation.

Unfortunately, Puerto Rico has never enjoyed the strong, competitive air service from the U.S. mainland that it needs and its markets can support. Eight out of nine daily nonstop markets from the U.S. mainland to Puerto Rico are presently monopolies. It is this lack of competition that has, in large part, been responsible for the fare and service problems in the U.S. mainland/Puerto Rico market.

I am hopeful that two ongoing investigations at the CAB, the Northeast Points-Puerto Rico/Virgin Islands investigation (D.32293) and the Caribbean Area Service investigation (D.30697), will solve our immediate needs, but we are convinced that basic air transportation regulatory reform legislation is needed to assure over the long run the healthy competition and low fare service that Puerto Rico's dependence on air transportation requires.

By streamlining the regulatory process, facilitating new entry, providing new fare flexibility, and preserving safeguards for small community service, H.R. 12611 should significantly improve air service throughout the United States and between the United States and Puerto Rico. Both Gov. Carlos Romero-Barcelo and I are committed to competition in air travel. We believe that the competitive pressures of the marketplace can best provide for expanded and reasonably priced air service to and from Puerto Rico.

I strongly urge passage of this legislation.●

The CHAIRMAN. Are there any other amendments? If there are no other amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WRIGHT) having assumed the Chair, Mr. ROSENTHAL, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 12611) to amend the Federal Aviation Act of 1958 to improve air service and provide flexibility in air fares pursuant to House Resolution 1324, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

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

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

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

Mr. HARSHA. 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 363, nays 8, not voting 61, as follows:

[Roll No. 814]

YEAS—363

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

NAYS—8

Abdnor	Marlenee	Pressler
Baucus	Milford	Stump
Dingell	Poage	

NOT VOTING—61

Addabbo	Gibbons	Rhodes
Ammerman	Gonzalez	Rodino
Anderson, Ill.	Gradison	Rudd
Armstrong	Hansen	Ruppe
Brown, Ohio	Hightower	Sarasin
Burke, Calif.	Kemp	Shipley
Caputo	Krueger	Sikes
Cochran	McKinney	Stokes
Cohen	Mathis	Teague
Conable	Meeds	Thone
Cornwell	Miller, Calif.	Tsongas
Crane	Mitchell, N.Y.	Tucker
de la Garza	Nichols	Vanik
Dent	Nix	Weaver
Derrick	Oakar	Wiggins
Dickinson	Patterson	Wilson, C. H.
Eckhardt	Pepper	Wilson, Tex.
Eilberg	Quayle	Young, Tex.
Fascell	Quie	Zeferetti
Flowers	Quillen	
Forsythe	Railsback	

The Clerk announced the following pairs:

Mr. Eilberg with Mr. Anderson of Illinois.
Mr. Addabbo with Mr. Conable.
Mr. Zeferetti with Mr. Dickinson.
Mr. Sikes with Mr. Forsythe.
Mr. Ammerman with Mr. Brown of Ohio.
Mr. Cornwell with Mr. Rudd.
Mr. Shipley with Mr. Wiggins.
Mrs. Burke of California with Mr. McKinney.
Mr. Teague with Mr. Caputo.
Mr. Krueger with Mr. Hansen.
Mr. Miller of California with Mr. Thone.
Mr. Stokes with Mr. Gradison.
Mr. Rodino with Mr. Railsback.
Mr. Dent with Mr. Cochran of Mississippi.
Mr. Mathis with Mr. Quillen.
Mr. Nichols with Mr. Kemp.
Mr. Nix with Mr. Sarasin.
Ms. Oakar with Mr. Cohen.
Mr. Pepper with Mr. Quie.
Mr. Derrick with Mr. Quayle.
Mr. de la Garza with Mr. Crane.
Mr. Fascell with Mr. Eckhardt.
Mr. Gonzalez with Mr. Flowers.
Mr. Vanik with Mr. Tucker.
Mr. Meeds with Mr. Ruppe.
Mr. Hightower with Mr. Mitchell of New York.
Mr. Weaver with Mr. Gibbons.
Mr. Charles H. Wilson of California with Mr. Charles Wilson of Texas.
Mr. Patterson of California with Mr. Tsongas.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. WRIGHT). Pursuant to the provisions of House Resolution 1324, the Committee on Public Works and Transportation is discharged from the further consideration of the Senate bill (S. 2493) to amend the Federal Aviation Act of 1958, as amended, to encourage, develop, and attain an air transportation system which relies on competitive market forces to determine the quality, variety, and price of air services, and for other purposes.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. ANDERSON OF CALIFORNIA

Mr. ANDERSON of California. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ANDERSON of California moves to strike out all after the enacting clause of S. 2493 and to insert in lieu thereof the provisions of the bill H.R. 12611, as passed, as follows:

SHORT TITLE

SECTION 1. This Act may be cited as the "Air Service Improvement Act of 1978".

DEFINITIONS

SEC. 2. (a) Section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301) is amended—

(1) by inserting after paragraph (18) the following new paragraph:

"(19) 'Essential air transportation' means, with respect to the air transportation provided by any air carrier to any point (A) two round trips per day at least five days per week, or (B) the level of service provided by such air carrier to such point based on the schedule of such air carrier in effect for calendar year 1977, whichever is the lesser."; and

(2) by inserting after paragraph (32) the following new paragraph:

"(33) 'Predatory' means any practice which would constitute a violation of the antitrust laws as set forth in the first section of the Clayton Act (15 U.S.C. 12).".

(b) Section 101 of such Act is amended by renumbering the paragraphs of such section, including all references thereto, as paragraphs (1) through (41), respectively.

DECLARATION OF POLICY

SEC. 3. (a) Section 102(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1302(a)) is amended to read as follows:

"FACTORS FOR INTERSTATE AND OVERSEAS AIR TRANSPORTATION

"(a) In the exercise and performance of its powers and duties under this Act with respect to interstate and overseas air transportation, the Board shall consider the following, among other things, as being in the public interest, and in accordance with the public convenience and necessity:

"(1) The assignment and maintenance of safety as the highest priority in air commerce, and prior to the authorization of new air transportation services, full evaluation of the recommendations of the Secretary of Transportation on the safety implications of such new services and full evaluation of any report or recommendation submitted under Section 107 of this Act.

"(2) The prevention of any deterioration in established safety procedures, recognizing the clear intent, encouragement, and dedication of the Congress to the furtherance of the highest degree of safety in air transportation and air commerce, and the maintenance of the safety vigilance that has evolved within air transportation and air commerce and has come to be expected by the traveling and shipping public.

"(3) The encouragement and development of an air transportation system which is responsive to the needs of the public and is adapted to the present and future needs of (A) the foreign and domestic commerce of the United States, (B) the Postal Service, and (C) the national defense, and which includes, where feasible, the authority for air carriers to serve unused routes authorized to be served by other air carriers.

"(4) The availability of a variety of adequate, economic, efficient, and low-cost services by air carriers without unjust discriminations, undue preferences or advantages, or unfair or deceptive practices, the need to improve relations among, and coordinate transportation by, air carriers, and the need to encourage fair wages and equitable working conditions.

"(5) The placement of maximum reliance on competitive market forces and on actual and potential competition (A) to provide the needed air transportation system, and (B) to encourage efficient and well-managed carriers to earn adequate profits and to attract capital.

"(6) The development and maintenance of a sound regulatory environment under which decisions are reached promptly in order to facilitate adaptation of the air transportation system to the present and future needs of the domestic and foreign commerce of the United States, the Postal Service, and the national defense.

"(7) The encouragement of new air carriers and the continued strengthening of small air carriers so as to assure a more effective, competitive airline industry.

"(8) The encouragement of air service at major urban areas through secondary or satellite airports, were consistent with regional airport plans of regional and local authorities, and when such encouragement is endorsed by appropriate State agencies, encouraging such service by air carriers whose sole responsibility in any specific market is to provide service exclusively at the secondary or satellite airport, and fostering an environment which reasonably enables such carriers to establish themselves and to develop their secondary or satellite airport services.

"(9) The prevention of unfair, deceptive, predatory, or anticompetitive practices in air transportation, and the avoidance of (A) industry concentration, excessive market domination, and monopoly power, and (B) other conditions, that would tend to allow one or more air carriers unreasonably to increase prices, reduce services, or exclude competition in air transportation.

"(10) The maintenance of a comprehensive and convenient system of continuous scheduled airline service for small communities and for isolated areas, with direct Federal assistance where appropriate.".

(b) Section 102 of such Act is amended by adding at the end thereof the following new subsection:

"FACTORS FOR FOREIGN AIR TRANSPORTATION

"(c) In the exercise and performance of its powers and duties under this Act with respect to foreign air transportation, the Board shall consider the following, among other things, as being in the public interest, and in accordance with the public convenience and necessity:

"(1) The encouragement and development of an air transportation system properly adapted to the present and future needs of the foreign and domestic commerce of the United States, of the Postal Service, and of the national defense.

"(2) The regulation of air transportation in such manner as to recognize and preserve the inherent advantages of, assure the highest degree of safety in, and foster sound economic conditions in such transportation, and to improve the relations between and coordinate transportation by air carriers.

"(3) The promotion of adequate, economical, and efficient service by air carriers at reasonable charges, without unjust discriminations, undue preferences or advantages, or unfair or destructive competitive practices.

"(4) Competition to the extent necessary to assure the sound development of an air transportation system properly adapted to the needs of the foreign and domestic commerce of the United States, of the Postal Service, and of the national defense.

"(5) The promotion of safety in air commerce.

"(6) The promotion, encouragement, and development of civil aeronautics.".

(c) That portion of the table of contents contained in the first section of such Act which appears under the side heading

"Sec. 102. Declaration of Policy: The Board."

is amended by striking out

"(a) General factors for consideration.
"(b) Factors for all-cargo air service."

and inserting in lieu thereof

"(a) Factors for interstate and oversea air transportation.
"(b) Factors for all-cargo air service.
"(c) Factors for foreign air transportation.'

FEDERAL PREEMPTION

SEC. 4. (a) Title I of the Federal Aviation Act of 1958 (49 U.S.C. 1301 et seq.) is amended by adding at the end thereof the following new section:

"FEDERAL PREEMPTION

"PREEMPTION

"SEC. 105. (a) No State or political subdivision thereof and no interstate agency or other political agency of two or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to rates, routes, or services of any air carrier granted the authority under this title to provide interstate air transportation.

"PROPRIETARY POWERS AND RIGHTS

"(b)(1) Nothing in subsection (a) of this section shall be construed to limit the authority of any State or political subdivision thereof or any interstate agency or other

political agency of two or more States as the owner or operator of an airport served by any air carrier certificated by the Board to exercise its proprietary powers and rights.

"(2) Any aircraft operated between points in the same State (other than the State of Hawaii) which in the course of such operation crosses a boundary between two States, or between the United States and any other country, or between a State and the beginning of the territorial waters of the United States, shall not, by reason of crossing such boundary, be considered to be operating in interstate or overseas air transportation.

"EXISTING STATE AUTHORITY

"(c) When any intrastate air carrier which on August 1, 1977, was operating primarily in intrastate air transportation regulated by a State receives the authority to provide interstate air transportation, any authority received from such State shall be considered to be part of its authority to provide air transportation received from the Board under this title, until modified, suspended, amended, or terminated as provided under this title.

"DEFINITION

"(d) For purposes of this section, the term 'State' means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, and any territory or possession of the United States.".

(b) That portion of the table of contents contained in the first section of such Act which appears under the center heading

"TITLE I—GENERAL PROVISIONS"

is amended by adding at the end thereof

"Sec. 105. Federal premption.
"(a) Preemption.
"(b) Proprietary powers and rights.
"(c) Existing State authority.
"(d) Definition.".

STUDY OF FEDERAL, STATE, AND LOCAL GOVERNMENTAL SUBSIDY OF SCHEDULED AIR TRANSPORTATION AND OF THE EFFECTS OF IMPLEMENTING THE AIR SERVICE IMPROVEMENT ACT OF 1978 ON THE LEVEL OF AIR SAFETY

SEC. 5. (a) Title I of the Federal Aviation Act of 1958 (49 U.S.C. 1301 et seq.) is further amended by adding at the end thereof the following new sections:

"STUDY OF FEDERAL, STATE, AND LOCAL GOVERNMENTAL SUBSIDY OF SCHEDULED AIR TRANSPORTATION

"REPORT

"SEC. 106. (a) Not later than January 1, 1980, the Board and the Secretary of Transportation shall jointly prepare and submit to the Congress a comprehensive report on the extent of direct and indirect subsidization of the United States scheduled air transportation system presently being incurred or anticipated to be incurred by the United States and by States and their political subdivisions, particularly with respect to communities directly benefitting from section 406 (rates for transportation of mail) and section 419 (commuter air carrier compensation) of this Act.

"RECOMMENDATION

"(b) Not later than January 1, 1980, the Board and the Secretary of Transportation shall, separately or jointly, submit recommendations to the Congress with respect to the feasibility and appropriateness of devising cost-sharing formulas by which States and their political subdivisions could share part of the costs being incurred by the United States under sections 406 and 419 of this Act.".

"STUDY OF THE EFFECTS OF IMPLEMENTING THE AIR SERVICE IMPROVEMENT ACT OF 1978 ON THE LEVEL OF AIR SAFETY

"REPORT

"SEC. 107. (a) Not later than January 31, 1980, and each January 31 thereafter, the Secretary of Transportation shall prepare and submit to the Congress and the Board a comprehensive annual report on the extent to which the implementation of the Air Service Improvement Act of 1978 has, during the preceding calendar year, affected the level of air safety. Each such report shall, at a minimum, contain an analysis of each of the following:

"(1) All relevant data on accidents and incidents occurring during the calendar year covered by such report in air transportation and on violations of safety regulations issued by the Secretary of Transportation occurring during such calendar year.

"(2) Current and anticipated personnel requirements of the Administrator with respect to enforcement of air safety regulations.

"(3) Effects on current levels of air safety of changes or proposals for changes in air carrier operating practices and procedures which occurred during the calendar year covered by such report.

"(4) The adequacy of air safety regulations taking into consideration changes in air carrier operating practices and procedures which occurred during the calendar year covered by such report.

"RECOMMENDATIONS

"(b) Not later than January 31, 1980, and each January 31 thereafter, the Secretary of Transportation shall submit to the Congress and the Board recommendations with respect to the level of surveillance necessary to enforce air safety regulations and the level of staffing necessary to carry out such surveillance. The Secretary of Transportation's recommendations shall include proposals for any legislation needed to implement such recommendations.".

(b) That portion of the table of contents contained in the first section of such Act which appears under the center heading

"TITLE I—GENERAL PROVISIONS"

is amended by adding at the end thereof

"Sec. 106. Study of Federal, State, and local governmental subsidy of scheduled air transportation.
"(a) Report.
"(b) Recommendations.".
"Sec. 107. Study of the effects of implementation of the Air Service Improvement Act of 1978 on the level of air safety.
"(a) Report.
"(b) Recommendations.".

ROUTE APPLICATIONS

SEC. 6. (a) Section 401(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(c)) is amended to read as follows:

"ROUTE APPLICATIONS

"(c)(1) Upon the filing of any application pursuant to subsection (b) of this section, the Board shall give due notice thereof to the public by posting a notice of such application in the office of the secretary of the Board and to such other persons as the Board may by regulation determine. Any interested person may file with the Board a protest or memorandum of opposition to or in support of the issuance of the certificate to or in support of the issuance of the certificate requested by such application. Such application shall—

"(A) be set for a public hearing;

"(B) be scheduled for a determination under the simplified procedures established by the Board in regulations pursuant to subsection (p); or

"(C) be dismissed on the merits,

not later than ninety days after the date the application is filed with the Board. Any order of dismissal of an application issued by the Board without setting such application for a hearing or scheduling such application for a determination under such simplified procedures shall be deemed a final order subject to judicial review in accordance with the provisions of section 1006 of this Act.

"(2) If the Board determines that any application should be set for a public hearing under clause (A) of the third sentence of paragraph (1) of this subsection, an initial or recommended decision shall be issued not later than one hundred and eighty days after the date of such determination by the Board. Not later than ninety days after the initial or recommended decision is issued, the Board shall make its final order with respect to such application. If the Board does not act within such ninety-day period—

"(A) in the case of an application for a certificate to engage in interstate or overseas air transportation, the initial or recommended decision shall become the final decision of the Board and shall be subject to judicial review in accordance with the provisions of section 1006 of this Act; and

"(B) in the case of an application for a certificate to engage in foreign air transportation, the initial or recommended decision shall be transmitted to the President pursuant to section 801 of this Act.

"(3) Not later than the one-hundred-eightieth day after the Board schedules an application for a determination under the simplified procedures established by the Board in regulations pursuant to subsection (p) of this section, the Board shall issue its final order with respect to such application.

"(4) If an applicant fails to meet the procedural schedule adopted by the Board in a particular proceeding, the applicable period prescribed in paragraph (2) or (3) of this subsection may be extended by the Board for a period equal to the period of delay caused by the applicant. In addition to any extension authorized by the preceding sentence, in extraordinary circumstances, the Board may, by order, delay an initial or recommended decision or a final decision, or both, for not to exceed ninety days beyond the final date on which the decision is required to be made.".

(b) The amendments made by subsection (a) of this section shall apply to any application filed under section 401(b) of the Federal Aviation Act of 1958 on or after the three-hundred-sixty-fifth day after the date of enactment of this Act.

(c) That portion of the table of contents contained in the first section of such Act which appears under the side heading

"Sec. 401. Certificate of public convenience and necessity."

is amended by striking out

"(c) Notice of application."

and inserting in lieu thereof

"(c) Route applications.".

ISSUANCE OF CERTIFICATE

SEC. 7. Paragraphs (1), (2), and (3) of section 401(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)(1)–(3)) are amended to read as follows:

"(d)(1) The Board shall issue a certificate authorizing the whole or any part of the transportation covered by the application, if it finds that the application is fit, willing, and able to perform such transportation properly, and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder, and that such transportation—

"(A) in the case of interstate or overseas air transportation, is consistent with the public convenience and necessity; and

"(B) in the case of foreign air transportation, is required by the public convenience and necessity,

otherwise such application shall be denied.

"(2) In the case of an application for a certificate to engage in temporary air transportation, the Board may issue a certificate

authorizing the whole or any part thereof for such limited periods—

"(A) in the case of an application for interstate or overseas air transportation, as is consistent with the public convenience and necessity; and

"(B) in the case of an application for foreign air transportation, as may be required by the public convenience and necessity,

if it finds that the applicant is fit, willing, and able properly to perform such transportation and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder.

"(3) In the case of an application for a certificate to engage in supplemental air transportation, the Board may issue a certificate to any applicant, not holding a certificate under paragraph (1) or (2) of this subsection authorizing interstate air transportation of persons, which authorizes the whole or any part thereof—

"(A) in the case of an application for interstate or overseas air transportation, for such periods, as is consistent with the public convenience and necessity; and

"(B) in the case of an application for foreign air transportation, for such periods, as may be required by the public convenience and necessity,

if it finds that the applicant is fit, willing, and able properly to perform the transportation covered by the application and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder. Any certificate issued pursuant to this paragraph shall contain such limitations as the Board shall find necessary to assure that the service rendered pursuant thereto will be limited to supplemental air transportation as defined in this Act.".

UNUSED AUTHORITY

SEC. 8. (a) Section 401(d) of the Federal Aviation Act of 1958 (59 U.S.C. 1371(d)) is amended by adding at the end thereof the following new paragraph:

"(5)(A) Except as provided in subparagraph (B) of this paragraph, if an air carrier is authorized by its certificate to provide round trip service nonstop each way between any two points in the forty-eight contiguous States or between any two points in overseas air transportation and if such air carrier fails to provide such service pursuant to published flight schedules at a minimum of five round trips per week for at least thirteen weeks during any twenty-six-week period (other than such a period during which service was interrupted by a labor dispute which lasted more than six weeks) the last day of which ends on or after the date of enactment of this paragraph and if such service, at a minimum or five round trips per week, has been provided between such points for at least thirteen weeks during such twenty-six-week period, pursuant to published flight schedules, by no more than one other air carrier, then the Board shall issue a certificate to the first applicant who, within thirty days after the last day of such twenty-six-week period submits an application which certifies that its aircraft meet all requirements established by the Secretary of Transportation for the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft in commerce and that it is able to conform to the rules, regulations, and requirements of the Board promulgated pursuant to this Act.

"(B) If an air carrier is authorized to provide seasonal round trip service nonstop each way between any two points in the forty-eight contiguous States in interstate air transportation or between any two points in overseas air transportation and if such air carrier fails to provide such service pursuant to published flight schedules at a minimum of five round trips per week during half of the weeks during such season (other than such a season during which service was interrupted by a labor dispute which lasted more than 25 per centum of such season) the last day of which ends on or after the date of enactment of this paragraph and if such service, at a minimum of five round trips per week, has been provided between such points for at least half of the weeks during such season, pursuant to published flight schedules, by no more than one other air carrier, then the Board shall issue a certificate to the first applicant who, within thirty days after the last day of such season, submits an application which certifies that its aircraft meet all requirements established by the Secretary of Transportation for the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft in commerce and that it is able to conform to the rules, regulations, and requirements of the Board promulgated pursuant to this Act.

"(C) With respect to any application which is submitted pursuant to subparagraph (A) or (B), the Board shall issue a final order granting such certificate within fifteen days of the date of such application.

"(D) Except as provided in subparagraph (E) of this paragraph, if an air carrier is authorized by its certificate to provide round trip service nonstop each way between any two points in the forty-eight contiguous States or between any two points in overseas air transportation and if such air carrier fails to provide such service pursuant to published flight schedules at a minimum of five round trips per week for at least thirteen weeks during any twenty-six-week period (other than such a period during which service was interrupted by a labor dispute which lasted more than six weeks) the last day of which ends on or after the date of enactment of this paragraph and if such service, at a minimum of five round trips per week, has been provided between such points for at least thirteen weeks during such twenty-six-week period, pursuant to published flight schedules, by two or more other air carriers, then the Board, subject to subparagraph (F) of this paragraph, shall issue a certificate to the first applicant who, within thirty days after the last day of such twenty-six-week period submits an application which certifies that its aircraft meet all requirements established by the Secretary of Transportation for the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft in commerce and that it is able to conform to the rules, regulations, and requirements of the Board promulgated pursuant to this Act.

"(E) If an air carrier is authorized to provide seasonal round trip service nonstop each way between any two points in the forty-eight contiguous States in interstate air transportation or between any two points in overseas air transportation and if such air carrier fails to provide such service pursuant to published flight schedules at a minimum of five round trips per week during half of the weeks during such season (other than such a season during which service was interrupted by a labor dispute which lasted more than 25 per centum of such season) the last day of which ends on or after the date of enactment of this paragraph and if such service, at a minimum of five round trips per week, has been provided between such points for at least half of the weeks during such season, pursuant to published flight schedules, by two or more other air carriers, then the Board, subject to subparagraph (F) of this paragraph, shall issue a certificate to the first applicant who, within thirty days after the last day of such season, submits an application which certifies that its aircraft meet all requirements established by the Secretary of Transportation for the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft in commerce and that it is able to conform to the rules, regulations, and requirements of the Board promulgated pursuant to this Act.

"(F)(i) With respect to any application which is submitted pursuant to subparagraph (D) or (E) of this paragraph, the Board shall issue a final order granting such certificate within sixty days of the date of such application, unless the Board finds that the issuance of such certificate is inconsistent with the public convenience and necessity. Prior to issuing such final order, the Board shall afford adequate notice and opportunity for interested persons to file appropriate written evidence and argument, but the Board need not hold oral evidentiary hearings.

"(ii) For purposes of clause (i) of this subparagraph there shall be a rebuttable presumption that any transportation covered by an application for a certificate submitted pursuant to subparagraph (D) or (E) of this paragraph is consistent with the public convenience and necessity.

"(G)(i) Whenever the Board issues a certificate pursuant to subparagraph (A) or (D) of this paragraph, the air carrier receiving such certificate shall commence service pursuant to such certificate within forty-five days of such issuance. If such air carrier fails to commence service within such period, the Board shall revoke such certificate.

"(ii) Whenever the Board issues a certificate pursuant to subparagraph (B) or (E) of this paragraph to provide seasonal service the air carrier receiving such certificate shall commence service pursuant to such certificate within fifteen days after the beginning of the first such season which begins on or after the date of such issuance. If such air carrier fails to commence service within such period, the Board shall revoke such certificate.

"(H) Not more than one certificate shall be issued under this paragraph for round trip nonstop service between two points in interstate air transportation based upon the failure of the same air carrier to provide such service between such points.

"(I) Whenever the Board issues a certificate pursuant to subparagraph (A) or (D) of this paragraph based upon the failure of any air carrier to provide the round trip service described in such subparagraph, the Board shall suspend the authority of such air carrier to provide such service, and suspend the authority of any other air carrier which failed to provide such service during the same twenty-six-week period, until such time as the air carrier to which a certificate is issued under such subparagraph fails to provide such service at a minimum of five round trips per week for at least thirteen weeks during any consecutive twenty-six-week period the last day of which ends on or after the date of enactment of this paragraph.".

(b) Section 401(f) of such Act is amended by striking out "hereinafter provided" and inserting in lieu thereof "provided in this section".

FILL-UP RIGHTS

SEC. 9. Section 401(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)) is further amended by adding at the end thereof the following new paragraph:

"(6) Any air carrier holding a valid certificate to engage in foreign air transportation is authorized, on any scheduled flight in foreign air transportation, to transport persons, property, and mail between points in the United States between which it is authorized to operate during such flight. The authority described in the preceding sentence shall be limited to one round-trip flight per day between any such pair of points unless the Board authorizes more than one round-trip flight per day between any such pair of points.".

EXPERIMENTAL ENTRY PROGRAM

SEC. 10. Section 401(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)) is further amended by adding at the end thereof the following new paragraph:

"(7)(A) Not later than the thirtieth day of the first calendar year which begins after the date of enactment of this subparagraph—

"(i) any air carrier which (I) has operated during the entire preceding calendar year in accordance with a certificate issued by the Board under this section which has been in force during such period of operation, and (II) has provided air transportation of persons during such calendar year; and

"(ii) any intrastate air carrier which has a valid certificate or license issued by a State regulatory authority to engage in intrastate air transportation and which has operated more than one hundred million available seat-miles in intrastate air transportation in the preceding calendar year,

may apply to the Board for a certificate under this subparagraph to engage in nonstop service between any one pair of points in interstate or overseas air transportation in addition to any pair of points authorized by an existing certificate or license held by such air carrier or intrastate air carrier, except that no air carrier may apply to engage in nonstop service between such pair of points if any air carrier has filed written notice to the Board pursuant to subparagraph (C) of this paragraph with respect to such pair of points. Not later than the sixtieth day after the date on which the Board receives an application from an applicant under this subparagraph, the Board shall issue a certificate to such applicant for the nonstop service specified in such application, unless within such sixty-day period the Board determines that the issuance of such certificate is likely to result in a substantial impairment of the national air transportation system or a substantial reduction in air service to small- and medium-sized communities in any region of the United States.

"(B) Not later than the one-hundred-twentieth day of the first calendar year which begins after the date of enactment of this subparagraph, any air carrier which submitted an application to the Board in accordance with subparagraph (A) of this paragraph in such calendar year and—

"(i) which did not receive a certificate to provide service between the pair of points set forth in the application because of a determination by the Board under such subparagraph (A); or

"(ii) which received a certificate to provide service between such pair of points, but was not the only air carrier to receive a certificate under such subparagraph (A) during such calendar year to provide nonstop service between such pair of points,

may reapply to the Board for a certificate to engage in nonstop service between any one pair of points in interstate or overseas air transportation (other than the pair of points specified in the first application submitted to the Board by such air carrier in such calendar year) in addition to any pair of points authorized by any existing certificate or license held by such air carrier or intrastate air carrier, except that no air carrier may apply to engage in nonstop service between such pair of points if any air carrier has filed written notice to the Board pursuant to subparagraph (C) of this paragraph with respect to such pair of points. Not later than the sixtieth day after the date on which the Board receives an application under this subparagraph, the Board shall issue a certificate to the applicant for such nonstop service, unless within such sixty-day period the Board makes a determination with respect to the issuance of such certificate in accordance with the second sentence of subparagraph (A) of this paragraph. If the Board issues a certificate to an applicant under this subparagraph, it shall revoke any authority in any certificate which it granted to such applicant in the same calendar year under subparagraph (A) of this paragraph.

"(C)(i) Subject to clause (ii) of this subparagraph, any air carrier which is authorized pursuant to paragraph (1) or (2) of this subsection to engage in nonstop service between any pair of points in interstate or overseas air transportation on the first business day of the first calendar year which begins after the date of enactment of this section and which wants to preclude any other air carrier from obtaining authority under subparagraph (A) or (B) of this paragraph to engage in nonstop service between such pair of points may, on such day, file written notice to the Board which sets forth such pair of points. Upon receipt of any written notice under the preceding sentence, the Board shall make such notice available to the public.

"(ii) No air carrier may file a written notice under clause (i) of this subparagraph with respect to more than one pair of points in interstate or overseas air transportation.

"(D) The Board shall conduct a study of the procedure for certification of air carriers and intrastate air carriers set forth in subparagraphs (A) and (B) of this paragraph to evaluate—

"(i) whether such procedure is consistent with the criteria set forth in section 102 of this Act; and

"(ii) the relative effectiveness of such procedure as compared with other procedures for certification set forth in the Act, including but not limited to, the procedures set forth in paragraphs (5) and (6) of this subsection, and in subsection (p) of this section.

Not later than June 30, 1980, the Board shall complete such study and report the results of such study to the Congress.".

EXPERIMENTAL CERTIFICATES

SEC. 11. Section 401(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d) is further amended by adding at the end thereof the following new paragraph:

"(8) The Board may grant an application under subsection (d) (1), (2), or (3) of this section (whether the application be for permanent or temporary authority) for only a temporary period of time whenever the Board determines that a test period is desirable in order to determine if projected services, efficiencies, methods, rates, fares, charges, or other projected results will in fact materialize and remain for a sustained period of time, or to assess the impact of the new services on the national air route structure, or otherwise to evaluate the proposed new services. In any case where the Board has issued a certificate under any one of those subsections on the basis that the air carrier holding such certificate will provide innovative or low-priced air transportation under such certificate, the Board, upon petition, or its own motion, may review the performance of such air carrier, and may alter, amend, modify, suspend, or revoke such certificate or authority in accordance with the procedures prescribed in section 401(g) of this title, on the grounds that such air carrier has not provided, or is not providing, such air transportation.".

REMOVAL OF RESTRICTIONS

SEC. 12. Section 401(e) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(e)) is amended by adding at the end thereof the following new paragraph:

"(7) Upon application of any air carrier seeking removal or modification of a term, condition, or limitation attached to a certificate issued under this section to engage in interstate, overseas, or foreign air transportation, the Board shall, within sixty days after the filing of such application, set such application for oral evidentiary hearings on the record or, begin to consider such application under the simplified procedures established by the Board in regulations pursuant to subsection (p) of this section for purposes of eliminating or modifying any such term, condition, or limitation which it finds is inconsistent with the criteria set forth in section 102 of this Act. Applications under this paragraph shall not be subject to dismissal pursuant to section 401(c)(1) of this Act.".

PROCEDURES FOR PROCESSING APPLICATIONS

SEC. 13. (a)(1) Section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371) is amended by adding at the end thereof the following new subsection:

"PROCEDURES FOR PROCESSING APPLICATIONS FOR CERTIFICATES

"(p)(1) The Board shall promulgate rules establishing simplified procedures for—

"(A) the disposition of applications for a certificate to engage in air transportation pursuant to subsection (d)(1), (2), or (3) of this section; and

"(B) the alteration, amendment, modification, suspension, or transfer of all or any part of any certificate pursuant to subsection (f), (g), or (h) of this section.

Such rules shall provide for adequate notice and an opportunity for all interested persons to file appropriate written evidence and argument, but need not provide for oral evidentiary hearings.

"(2) In determining whether to employ such simplified procedures in a particular case, the Board shall give consideration to the magnitude of the potential impact of its decision in the case on the air transportation system. The rules adopted by the Board pursuant to this subsection shall, to the extent the Board finds it practicable, set forth the standards it intends to apply in determining whether to employ such expedited procedures and in deciding cases in which such procedures are employed.".

(2) That portion of the table of contents contained in the first section of such Act which appears under the side heading

"Sec. 401. Certificate of public convenience and necessity."

is amended by inserting at the end thereof

"(p) Procedures for processing applications for certificates.".

(b)(1) Section 402 of the Federal Aviation Act of 1958 (49 U.S.C. 1372) is amended by adding at the end thereof the following new subsection:

"PROCEDURES FOR PROCESSING APPLICATIONS FOR PERMITS

"(h) The Board shall promulgate rules establishing simplified procedures for—

"(1) the disposition of applications for a permit to engage in foreign air transportation pursuant to this section; and

"(2) the alteration, amendment, modification, suspension, or transfer of all or any part of any permit pursuant to subsection (f) of this section.

Such rules shall provide for adequate notice and an opportunity for all interested persons to file appropriate written evidence and argument, but need not provide for oral evidentiary hearings.".

(2) That portion of the table of contents contained in the first section of such Act which appears under the side heading

"Sec. 402. Permits to foreign air carriers."

is amended by inserting at the end thereof

"(h) Procedures for processing applications for permits.".

THROUGH SERVICE AND JOINT FARES

SEC. 14. Paragraph (4) of section 431(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)(4)) is amended to read as follows:

"(4)(A) Notwithstanding any other provision of this Act, any citizen of the United States who undertakes, within any State, 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 within such State granted by the appropriate State agency is authorized—

"(i) to establish services for persons and property which includes transportation by such citizen over its routes in such State and transportation by an air carrier or a 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 or services for such through services.

"(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 the State approved by the appropriate State agency, 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.".

TERMINATION OR SUSPENSION OF CERTAIN SERVICE

SEC. 15. (a) Section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371) is further amended by adding at the end thereof the following new subsection:

"TERMINATION OR SUSPENSION OF CERTAIN SERVICE

"(q) If an air carrier holding a certificate issued pursuant to section 401 of this Act proposes to terminate or suspend nonstop or single-plane air transportation between two points being provided by it under such certificate, and such air carrier is the only air carrier certificated pursuant to such section 401 providing nonstop or single-plane air transportation between such points, at least ninety days before such proposed termination or suspension such air carrier shall file with the Board and serve upon each community to be directly affected notice of such termination or suspension.".

(b) That portion of the table of contents contained in the first section of such Act which appears under the side heading

"Sec. 401. Certificate of public convenience and necessity."

is amended by adding at the end thereof

"(q) Termination or suspension of certain service.".

DETERMINATION OF CONSISTENCY WITH PUBLIC CONVENIENCE AND NECESSITY

SEC. 16. Section 401(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)) is further amended by adding at the end thereof the following new paragraph:

"(9) Transportation covered by an application for a certificate described in paragraph (1)(A), (2)(A), or (3)(A) of this subsection shall, for the purposes of such paragraphs, be deemed to be consistent with the public convenience and necessity, unless the Board finds based upon clear and convincing evidence that such transportation is inconsistent with the public convenience and necessity.".

RATES OF CARRIAGE FOR PERSONS AND PROPERTY

SEC. 17. Section 404(a)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1374(a)(1)) is amended by inserting "authorized to engage in scheduled air transportation by certificate or by exemption under section 416(b)(3) of this title" immediately before the first semicolon.

RATES FOR TERMINATION OF MAIL

SEC. 18. (a) Clause (3) of the second sentence of section 406(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1376(b)) is amended to read as follows: "(3) the need of each such air carrier (other than a supplemental air carrier) for compensation for the transportation of mail sufficient to insure the performance of such service, and—

"(A) during the period beginning on the date of enactment of this clause and ending on January 1, 1983, both dates inclusive, together with all other revenue of the air carrier from the service for which the compensation is being paid; and

"(B) after January 1, 1983, together with all other revenue of the air carrier,

to enable such air carrier under honest, economical, and efficient management, to provide (except for modifications with respect to an individual city determined after January 1, 1983, to be required by the public interest, after giving interested parties an opportunity for an evidentiary hearing with respect to air transportation for such individual city) air transportation of at least the same extent, character, and quality as that provided during the year ending December 31, 1977, to maintain and continue the development of air transportation to the extent and of the character and quality required for the commerce of the United States, the Postal Service, and the national defense: *Provided*, That rules of compensation paid to any carrier hereunder for service performed between the date of enactment of this proviso, and January 1, 1983, shall be based on the subsidy need of such carrier with respect to service performed to points for which such carrier was entitled to receive compensation for serving during calendar 1977, such subsidy need in the case of any local service carrier to be based on the adjusted eligible need of such carrier determined in a manner consistent with the provisions of Local Service Class Subsidy Rate VIII, with technical adjustments, and in the case of any other carrier receiving compensation during the twelve months ended June 30, 1978, to be determined pursuant to the method in effect during the twelve months ended June 30, 1978.".

(b) Section 406 of the Federal Aviation Act of 1958 shall cease to be in effect after the last day of the ten-year period which begins on the date of enactment of this Act.

LOCAL SERVICE AIR CARRIER COMPENSATION

SEC. 19. (a) The last sentence of section 406(b) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1376(b)), is amended as follows:

(1) By striking out "the year 1966" and inserting in lieu thereof "the years 1964, 1965, and 1966".

(2) By striking out "Rate III–A" and inserting in lieu thereof "Rates III and III–A".

(3) By striking out "order E–23850 (44 CAB 637 et seq.)" and inserting in lieu thereof "orders E–21311 and E–23850 (41 CAB 138 et seq. and 44 CAB 637 et seq.)".

(b) Section 12(b) of Public Law 95–163, Ninety-fifth Congress, approved November 9, 1977, is amended by striking out "the year 1966" and inserting in lieu thereof "the year 1964, 1965, or 1966".

CONSOLIDATION, MERGER, AND ACQUISITION

SEC. 20. (a) Section 408(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1378) is amended—

(1) by striking out "It shall be unlawful unless approved by order of the Board as provided in this section—" and inserting in lieu thereof "Except as provided in subsection (b) of this section, it shall be unlawful—"; and

(2) in paragraph (5) thereof, by striking out "or any other person to acquire control of any air carrier in any manner whatsoever: *Provided*, That the Board may by order exempt any such acquisition of a noncertificated air carrier from this requirement to the extent and for such periods as may be in the public interest," and inserting in lieu thereof "to acquire control of any air carrier in any manner;".

(b) Section 408(b) of such Act is amended—

(1) by amending the first sentence thereof to read as follows: "(1) In any case in which one or more of the parties to a consolidation, merger, purchase, lease, operating contract, or acquisition of control, specified in subsection (a) of this section is an air carrier holding a valid certificate issued by the Board under section 401(d) of this section to engage in interstate or overseas air transportation, a foreign air carrier, or a person controlling, controlled by, or under common control with, such an air carrier or a foreign air carrier, the person seeking approval of such transaction shall present an application to the Board, and thereupon the Board shall order a public hearing on the application and shall notify the persons involved in the consolidation, merger, purchase, lease, operating contract, or acquisition of control, and other persons known to have a substantial interest in the proceeding, of the time and place of a public hearing.";

(2) in the second sentence thereof, by striking out: ": *Provided*, That the Board" and all that follows down through the period at the end of such subsection and inserting in lieu thereof a comma and the following: "except that the Board shall not approve such consolidation, merger, purchase, lease, operating contract, or acquisition of control—

"(A) if such consolidation, merger, purchase, lease, operating contract, or acquisition of control would result in a monopoly or would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize air transportation in any region of the United States; or

"(B) if the effect of such consolidation, merger, purchase, lease, operating contract, or acquisition of control in any region of the United States may be substantially to lessen competition, or to tend to create a monopoly, or which in any manner would be in restraint of trade,

unless the Board finds that the anticompetitive effects of the proposed consolidation, merger, purchase, lease, operating contract, or acquisition of control are outweighed in the public interest by the probable effect of the consolidation, merger, purchase, lease, operating contract, or acquisition of control in meeting significant transportation needs of the community to be served, and unless it finds that such significant transportation needs may not be satisfied by any reasonably available less anticompetitive alternative. In any case in which the Board determines that the transaction which is the subject of the application does not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, does not result in creating a monopoly, and does not tend to restrain competition and determines that no person disclosing a substantial interest then currently is requesting a hearing, the Board, after publication in the Federal Register of notice of the Board's intention to dispose of such application without a hearing (a copy of which notice shall be furnished by the Board to the Attorney General no later than the day following the date of such publication), may determine that the public interest does not require a hearing and by order approve or disapprove such transaction."; and

(3) by adding at the end thereof the following new paragraph:

"(2)(A) In any case in which none of the parties to a consolidation, merger, purchase, lease, operating contract, or acquisition of

control, specified in subsection (a) of this section, is an air carrier holding a valid certificate issued by the Board under section 401(d) of this title to engage in interstate or overseas air transportation, a foreign air carrier, or a person controlling, controlled by, or under common control with, such an air carrier or a foreign air carrier, any person seeking approval of such transaction shall file with the Board not later than the forty-fifth day before the effective date of such transaction, a statement of its intent to enter into any of the prohibited acts set forth in subsection (a) of this section. The Board may, within forty-five days after the date of such filing, require such person to file an application for approval pursuant to the requirements of paragraph (1) of this subsection if it finds either that the proposed transaction may monopolize, tend to monopolize, or otherwise restrain competition in air transportation in any section of the country or that the person may not be fit, willing, and able to properly perform the transportation authorized by any license which is a part of such transaction and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board issued pursuant to this Act. Subject to subparagraph (B) of this paragraph, if the Board fails to require such person to file an application pursuant to such paragraph (1) within such forty-five days, the proposed transaction shall not be subject to subsection (a) of this section.

"(B) If the Board determines that any transaction is not subject to subsection (a) of this section as a result of the last sentence of subparagraph (A) of this paragraph and such transaction received such statutory exemption due to any fraud, misrepresentation, or omission of relevant and material facts, the Board may, pursuant to rules which it is authorized to prescribe, make such transaction subject to subsection (a) of this section.".

(c) Section 408(c) of such Act is amended by inserting "any person controlling such air carrier," after "air carrier," the first place it appears in such subsection.

(d)(1) Section 408(f) of the Federal Aviation Act of 1958 is repealed.

(2) That portion of the table of contents contained in the first section of such Act which appears under the side heading.

"Sec. 408. Consolidation, merger, and acquisition of control."

is amended by striking out

"(f) Presumption of control.".

AGREEMENTS AND CARRIER DISCUSSIONS

SEC. 21. (a)(1) The center heading of subsection (a) of section 412 of the Federal Aviation Act of 1958 (49 U.S.C. 1382(a)) is amended by striking out "REQUIRED" and inserting in lieu thereof "AND REQUESTS TO DISCUSS COOPERATIVE WORKING ARRANGEMENTS".

(2) Subsection (a) of such section 412 is further amended by inserting "(1)" immediately after "(a)" and by inserting at the end thereof the following new paragraph:

'(2) Any air carrier may request authority from the Board to discuss possible cooperative working arrangements between such air carrier and any other air carrier, foreign air carrier, or other carrier.".

(b) Section 412(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1382(b)) is amended to read as follows:

"PROCEEDINGS UPON FILING

"(b) Upon filing of any contract or agreement, or any modification or cancellation thereof, pursuant to subsection (a)(1) of this section, or upon the filing of a request by an air carrier for authority to discuss possible cooperative working arrangements, pursuant to subsection (a)(2) of this section, the Board, in accordance with regulations which it prescribes, shall provide to the Attorney General and the Secretary of Transportation written notice of, and an opportunity to submit written comments on, the filed document. The Board may, upon its own initiative or if requested by the Attorney General or such Secretary, hold a hearing, in accordance with regulations prescribed by the Board, to determine if a contract or agreement, or request for discussion authority, whether or not previously approved, is consistent with the provisions of this Act.

"CONDITIONS FOR APPROVAL

"(c)(1) The Board shall by order disapprove any contract or agreement filed pursuant to subsection (a)(1) of this section, whether or not previously approved by it, which it finds to be adverse to the public interest, or in violation of this Act, or which substantially reduces or eliminates competition, unless the contract or agreement is necessary to meet a serious transportation need or to secure important public benefits. The Board shall by orders approve any such contract or agreement, or any modification or cancellation thereof, which it does not find to be inconsistent with the standards set forth in this section, except that the Board may not approve any contract or agreement between an air carrier not directly engaged in the operation of aircraft in air transportation and a common carrier subject to the Interstate Commerce Act, as amended, governing the compensation to be received by such common carrier for transportation services performed by it.

"(2) The Board shall by order disapprove any request for authority to discuss possible cooperative working arrangements which the Board finds may be adverse to the public interest or which it finds may substantially reduce or eliminate competition, unless the discussions are necessary to meet a serious transportation need or to secure important public benefits. The Board shall by order approve any such request which it does not find to be inconsistent with the standards set forth in this section.

"(d) Any contract between air carriers relating to pooling or to the apportionment of revenues for the purpose of providing financial assistance to any air carrier when employees of such air carrier are engaged in a lawful work stoppage is hereby declared to be unlawful."

(c) That portion of the table of contents which appears under the side heading

"Sec. 412. Pooling and other agreements."

is amended by striking out

"(a) Filing of agreements required.

"(b) Approval of Board."

and inserting in lieu thereof

"(a) Filing of agreements and requests to discuss cooperative working agreements.

"(b) Proceedings upon filing.

"(c) Conditions for approval.".

ANTITRUST EXEMPTION

SEC. 22. (a) Section 414 of the Federal Aviation Act of 1958 (49 U.S.C. 1384) is amended to read as follows:

"ANTITRUST IMMUNITY

"SEC. 414. In any order made under section 408, 409, or 412 of this Act, the Board may, as part of such order exempt any person affected by such order from the operations of the 'antitrust laws' set forth in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12) to the extent necessary to enable such person to proceed with the transaction specifically approved by the Board in such order and those transactions necessarily contemplated by such order, except that the Board may not exempt such person unless it determines that such exemption is required in the public interest.".

(b) 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 striking out

"Section 414. Legal restraints."

and inserting in lieu thereof

"Sec. 414. Antitrust exemption.".

CLASSIFICATIONS AND EXEMPTIONS

SEC. 23. (a) The center heading of section 416 of the Federal Aviation Act (49 U.S.C. 1386) is amended by striking out "OF CARRIERS".

(b) Subsection (a) of such section is amended by—

(1) striking out "air carriers" the first place it appears and inserting in lieu thereof "air carriers and foreign air carriers"; and

(2) striking out "air carriers" the second place it appears and inserting in lieu thereof "air carriers or foreign air carriers".

(c) Paragraph (1) of subsection (b) of such section is amended to read as follows:

"(1) Except as provided in paragraph (2) of this subsection, the Board, from time to time and to the extent necessary, may exempt from any requirement of this title, or from any rule, regulation, term, condition, or limitation prescribed under authority of this title, any person or class of persons if the Board finds (A) that such exemption is or will be justified by unusual circumstances, or by reason of the limited extent of the activity to be exempt, and (B) that the exemption is not inconsistent with the public interest.".

(d) 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 striking out

"Sec. 416. Classification and exemption of carriers."

and inserting in lieu thereof

"Sec. 416. Classifications and exemptions.".

COMMUTER EXEMPTION

SEC. 24. Section 416(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1386(b)) is amended by adding at the end thereof the following new paragraph:

"(3) Any air carrier in air transportation which provides (A) passenger service solely with aircraft having a maximum passenger capacity of less than fifty-six passengers, or (B) cargo service in air transportation solely with aircraft having a maximum payload capacity of less than eighteen thousand pounds, shall be exempt from the requirements of subsection (a) of section 401 of this title, and of such other sections of the Act as may be prescribed in regulations promulgated by the Board, if such air carrier conforms to such liability insurance requirements and such other reasonable regulations as the Board shall from time to time adopt in the public interest. The Board may by regulation increase the passenger or property capacities specified in this paragraph when the public interest so requires, except that with respect to air transportation between points both of which are within the State of Alaska, or one of which is in Alaska and the other in Canada, the Board may decrease the passenger or property capacities specified in this paragraph or require air carriers engaged in Alaskan intrastate air transportation to obtain operating authority from the State of Alaska, as the public interest may require.".

COMMUTER AIR CARRIER COMPENSATION

SEC. 25. (a) Title IV of the Federal Aviation Act of 1958 is amended by inserting immediately after section 418 the following new section:

"COMMUTER AIR CARRIER COMPENSATION

"ESTABLISHMENT OF COMPENSATION

"SEC. 419. (a)(1) If, on the date of enactment of this section, any air carrier is (A) providing service to any point in the United States pursuant to a certificate issued to such carrier under section 401 of this title, or (B) authorized pursuant to such certificate to provide such service, but such service is suspected on such date of enactment and such suspension is conditioned as a commuter air carrier providing such service, and is thereafter terminated or reduced below the essential level of air transportation for such point, the Board, upon a determination that essential air transportation will not be provided by any other air carrier or commuter air carrier for such point without Federal financial assistance, shall establish a rate of compensation to be paid for providing such essential air transportation, and any additional air transportation to such point which the Board determines is required in the public interest, to that commuter air carrier which by order of the Board provides such air transportation. If after establishing such rate of compensation for such commuter air carrier the Board determines that a commuter air carrier or an air carrier will provide essential air transportation to such point without Federal financial assistance, the Board shall terminate the payment of such compensation to any commuter air carrier. Federal financial assistance shall not be paid under this paragraph after the last day of the tenth year which begins after the date of enactment of this section.

"(2) No later than January 1, 1980, the Board shall commence a review of each point (A) which has been deleted from a certificate issued under section 401 of this Act or (B) set forth in such a certificate but to which service has been suspended without a condition that substitute service be provided, between July 1, 1968, and the date of enactment of this section, both dates inclusive, to determine whether the Board should provide Federal financial assistance under this paragraph to a commuter air carrier to provide essential air transportation to such point. The Board shall complete each such review no later than January 1, 1982. Whenever, after completing a review of any point pursuant to the preceding sentence, the Board determines that the public interest requires interstate or overseas air transportation for persons, property, or mail to such point and that no adequate service will be provided by any air carrier or commuter air carrier to such point without Federal financial assistance, the Board may establish a rate of compensation to be paid for providing such service to that commuter air carrier which by order of the Board provides such service. Federal financial assistance shall not be paid under this section for the same period of time to more than one commuter air carrier for providing such service to such point.

"(3) Notwithstanding section 416(b) of this Act, the Board shall not provide any Federal financial assistance under this section to any commuter air carrier to provide service to any point, and the Board shall prohibit any commuter from providing service to any point described in clause (A) or (B) of paragraph (1) of this subsection, unless the Board determines that such commuter air carrier—

"(A) is fit, willing, and able to perform such service; and

"(B) that all aircraft which will be used to perform such service and all operations relating to such service will conform to the safety standards established by the Administrator under paragraph (4) of this subsection.

"(4) Not later than the one-hundred-eightieth day after the date of enactment of this paragraph, the Administrator, by regulation, shall establish safety standards (A) for aircraft being used by commuter air carriers to provide any service described in paragraph (3) of this subsection, and (B) for all operations relating to such service. Such safety standards shall become effective not later than the last day of the eighteenth month which begins after such date of enactment and shall impose requirements upon such commuter air carriers to assure that the level of safety provided to persons traveling on such commuter air carriers is, to the maximum feasible extent, equivalent to the level of safety provided to persons traveling on air carriers which provide service pursuant to certificates issued under section 401 of this title.

"PROCEDURES"

"(b)(1) The Board may make any determination or establish any rate of compensation under subsection (a) of this section, with or without evidentiary hearings as the Board deems necessary, and the Board may impose such terms and conditions as it deems necessary on any commuter air carrier paid compensation under such subsection.

"(2) The Board in establishing any rate of compensation under this section may—

"(A) base such rate upon aircraft mile, load factor, pound mile, weight, space, or any combination thereof; and

"(B) establish such rate for such period of time as it deems appropriate.

"(3) In making any determination under this section to provide compensation to any commuter air carrier, the Board shall consider, among other things, the cost of such compensation, the number of persons to be benefited by the service, the availability of air transportation at nearby communities, and the methods of surface transportation which are available to the point to be served by such commuter air carrier.

"CONSULTATION

"(c) Prior to making any determination under this section, the Board shall consult with appropriate State and local governmental officials.

"DEFINITIONS

"(d) For purposes of this section, the term 'commuter air carrier' means an air carrier exempt from any requirement of this Act under section 416(b)(3) of this title.".

"ESSENTIAL AIR TRANSPORTATION

"(e)(1) For the purposes of this section, 'essential air transportation' means scheduled air transportation of persons of the extent, character, and quality which the Board finds necessary to satisfy the needs of the community concerned for air transportation to one or more communities of interest and to insure the community's access to the Nation's air transportation at rates, fares, and charges which are not unjust, unreasonable, unjustly discriminatory, unduly preferential, or unduly prejudicial."

"(2) In determining the criteria for the character and quality of essential air transportation, the Board shall consider the community's needs for among other services, the frequency of service, the advance reservation of passenger seats, baggage handling and insurance, pressurized or other specialized equipment, timely departures and arrivals, joint fares, and the establishment of single plane or connecting plane service to points beyond the primary community or communities of interest.

"(3) As soon as practicable after enactment of this section, but no later than January 1, 1980, the Board shall, by rule, and after the consultation required by subsection (c), establish the criteria for essential air transportation for all points specified in subsection (a)(1).

"CONTINUITY OF GUARANTEED ESSENTIAL AIR TRANSPORTATION

"(f)(1) No air carrier shall terminate, suspend, or reduce air transportation to any point specified in subsection (a)(1) below the standards of essential air transportation established by the Board unless such air carrier has given the Board, the appropriate State agency or agencies, and the communities affected at least 90 days notice of its intent to do so.

"(2) Upon receipt of a notice required by subsection (f)(1) for a point specified in subsection (a)(1), the Board shall assist the communities affected to secure essential air transportation from another air carrier, whether or not such alternate air transportation is to be compensated under this section. The Board shall require the air carrier serving a notice required under subsection (f)(1) to postpone such termination, suspension, or reduction in service until another air carrier has begun to provide essential air transportation. If the Board requires an air carrier to postpone an intended service change for more than 90 days, then the Board shall, in accordance with the procedures of subsection (b), compensate such air carrier for any losses that the air carrier demonstrates that it incurred in complying with this requirement, unless such an air carrier is already provided compensation under this section or section 406.

"(3) With respect to any point specified in subsection (a)(1), unless the Board has completed the consultation required by subsection (c) and determined the essential air transportation for such point, either individually or by rules adopted under (e)(3), the Board shall, upon petition of any appropriate representative of such point, prohibit any termination, suspension, or reduction of air transportation which reasonably appears to deprive such point of essential air transportation, until the Board has completed such determination.

"(4) The Board's authority under this subsection shall cease to be in effect on the last day of the tenth year which begins after the date of enactment of this section.".

(b) 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 419. Commuter air carrier compensation.
"(a) Establishment of compensation.
"(b) Procedures.
"(c) Consultation.
"(d) Definitions.".
"(e) Fssential Air Transportation.
"(f) Continuity of Guaranteed Essential Air Transportation.".

PRESIDENTIAL REVIEW OF INTERNATIONAL ROUTE CASES

SEC. 24. Section 801(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1461(a)) is amended to read as follows:

"THE PRESIDENT OF THE UNITED STATES

"(a) The issuance, denial, transfer, amendment, cancellation, suspension, or revocation of, and the terms, conditions, and limitations contained in, any certificate authorizing an air carrier to engage in foreign air transportation, or any pemit issuable to any foreign air carrier under section 402 of this Act, shall be presented to the President for review. The President shall have the right to disapprove any such Board action concerning such certificates or permits solely upon the basis of foreign relations or national defense considerations which are within the President's jurisdiction, but not upon the basis of economic or carrier selection considerations. Any such

disapproval shall be issued in a public document, setting forth the reasons for the disapproval to the extent national security permits, within sixty days after submission of the Board's action to the President. Any such Board action so disapproved shall be null and void. Any such Board action not disapproved within the foregoing time limits shall take effect as action of the Board, not the President, and as such shall be subject to judicial review as provided in section 1006 of this Act.".

ASSESSMENT OF CIVIL PENALTIES

SEC. 27. (a) Paragraph (1) of subsection (a) of section 901 of the Federal Aviation Act of 1958 (49 U.S.C. 1471) is amended by inserting after the fourth sentence thereof the following new sentences: "The amount of any such civil penalty for any violation of any provision of title IV, or any rule, regulation, or order issued thereunder, or under section 1002(1), or any term, condition, or limitation of any permit or certificate issued under title IV shall be assessed by the Board only after notice and an opportunity for a hearing and after written notice upon a finding of violation by the Board. Judicial review of any order of the Board assessing such a penalty may be obtained only pursuant to section 1006 of this Act.".

(b) Paragraph (2) of subsection (a) of such section 901 is amended to read as follows:

"(2) Any civil penalty may be compromised by the Secretary of Transportation in the case of violations of title III, V, VI, or XII, or any rule, regulation or order issued thereunder, or by the National Transportation Safety Board in the case of violations of title VII, or any rule, regulation, or order issued thereunder, or by the Postmaster General in the case of regulations issued by him. The amount of such penalty when finally determined, or fixed by order of the Board, or the amount agreed upon in compromise, may be deducted from any sums which the United States owes to the person charged.".

PROCEDURES FOR CIVIL PENALTIES

SEC. 28. (a) The first sentence of subsection (b)(1) of section 903 of the Federal Aviation Act of 1958 (49 U.S.C. 1473(b)(1)) is amended by inserting "or assessed" immediately after "imposed".

(b) The second sentence of subsection (b)(1) of such section 903 is amended by inserting "with respect to proceedings involving penalties other than those assessed by the Board," immediately after "except that".

RATES

SEC. 29. (a) Subsection (d) of section 1002 of the Federal Aviation Act of 1958 (49 U.S.C. 1482(d)) is amended—

(1) in paragraph (1), by inserting "or (4)" immediately after "paragraph (2)"; and

(2) by adding at the end thereof the following new paragraph:

"(4) The Board shall not have authority to find any rate, fare, or charge for interstate or overseas air transportation of persons to be unjust or unreasonable on the basis that such rate, fare, or charge is too low or too high if—

"(A) with respect to any proposed increase filed with the Board on or after the date of enactment of any law by the Congress which provides a procedure pursuant to which air carriers may obtain authority to provide air transportation without a determination by the Board whether such authority is consistent with, or required by, the public convenience and necessity and which is enacted after the date on which the Board submits a report to the Congress on the study required to be carried out pursuant to section 401(d)(7)(D) of this Act, such proposed rate, fare, or charge would not be more than 5 per centum higher than the rate, fare, or charge in effect one year prior to the proposed effective date of the rate, fare, or charge under consideration for the same class of service of such transportation, except that this provision shall not apply to any proposed increase in any rate, fare, or charge filed by any air carrier if such proposed rate, fare, or charge is for air transportation between any pair of points and such air carrier provides air transportation to 90 per centum or more of the persons traveling in air transportation between such points on aircraft operated by air carriers with certificates issued under section 401 of this Act;

"(B) with respect to any proposed decrease filed within one year after the date of enactment of this paragraph, the proposed rate, fare, or charge would not be more than 25 per centum lower than the lowest rate, fare, or charge in effect on such date of enactment for coach service between the same pair of points; or

"(C) with respect to any proposed decrease filed after the last day of the first year which begins on the date of the enactment of this paragraph, such proposed rate, fare, or charge would not be more than 50 per centum lower than the lowest rate, fare, or charge in effect on the date of enactment of this paragraph for coach service between the same pair of points, except that this provision shall not apply to any proposed decrease in any rate, fare, or charge if the Board determines that such proposed rate, fare, or charge would be predatory.

If any air carrier reduces any rate, fare, or charge for interstate or overseas air transportation of persons pursuant to subparagraph (B) or (C) of this paragraph, such air carrier may increase such reduced rate, fare, or charge up to any rate, fare, or charge which is no greater than the rate, fare, or charge in effect prior to the first such reduction, and the Board shall not have authority to find such increased rate, fare, or charge to be unjust or unreasonable on the basis that such increase is too high.".

(b) Subsection (e) of such section 1002 is amended to read as follows:

"RULE OF RATEMAKING

"(e) In exercising and performing its power and duties with respect to determining rates described in paragraph (1) of subsection (d) of this section, the Board shall take into consideration, among other factors—

"(1) the criteria set forth in section 102 of this Act;

"(2) the need for adequate and efficient transportation of persons and property at the lowest cost consistent with the furnishing of such service;

"(3) the effect of prices upon the movement of traffic;

"(4) the desirability of a variety of price and service options such as peak and offpeak pricing or other pricing mechanisms to improve economic efficiency and provide low-cost air service; and

"(5) the desirability of allowing an air carrier to determine prices in response to particular competitive market conditions on the basis of such air carrier's individual cost.".

(c)(1) Whenever the Board pursuant to its authority under section 1002 of the Federal Aviation Act of 1958 (49 U.S.C. 1482) prescribes a uniform method generally applicable to the establishment of joint fares, and the divisions thereof, between air carriers holding certificates issued under section 401 of such Act, it shall make such uniform method applicable to the establishment of joint fares, and the divisions thereof, between such air carriers and commuter air carriers. Any commuter air carrier which has an agreement with any air carrier to provide service for persons and property which includes transportation over its routes and transportation by such air carrier in air transportation shall provide at least ninety days notice to such air carrier and to the Board prior to modifying, suspending, or terminating such service, and if such commuter air carrier fails to provide such notice, any uniform method made applicable to the establishment of joint fares, and the divisions thereof, between air carriers and commuter air carriers in accordance with the preceding sentence shall not apply to such commuter air carrier.

(2) For purposes of this subsection—

(A) the terms "air carrier" and "Board" have the meanings given such terms in the Federal Aviation Act of 1958; and

(B) the term "commuter air carrier" means any air carrier operating pursuant to section 416(b)(3) of the Federal Aviation Act of 1958 (49 U.S.C. 1386) who operates at least five round trips per week between one pair of points, pursuant to flight schedules.

(3) Paragraph (1) of this subsection shall apply to any uniform method described in such paragraph which the Board prescribes on or after December 27, 1974.

TIME REQUIREMENTS

SEC. 28. (a) Title X of the Federal Aviation Act of 1958 (49 U.S.C. 1481 et seq.) is amended by adding at the end thereof the following new section:

"TIME REQUIREMENTS

"SEC. 1010. In the case of any application or other written document submitted to the Board under section 408, 409, 412, or 416 of this Act on or after the one-hundred-eightieth day after the date of enactment of this section, the Board shall—

"(1) if the Board orders an evidentiary hearing, issue a final order or decision with respect to such written document, not later than the last day of the twelfth month which begins after the submission of such document, except in the case of an application submitted under section 408 the Board shall issue its final order or decision not later than the last day of the sixth month after submission; or

"(2) if the Board does not order an evidentiary hearing, issue a final order or decision with respect to such document, not later than the last day of the sixth month which begins after the date of the submission of such document.".

(b) That portion of the table of contents contained in the first section of such Act which appears under the center heading

"TITLE X—PROCEDURE

is amended by adding at the end thereof

"Sec. 1010. Time requirements.".

WITHHOLDING OF INFORMATION

SEC. 31. Section 1104 of the Federal Aviation Act of 1958 (49 U.S.C. 1504) is amended to read as follows:

"WITHHOLDING OF INFORMATION

"SEC. 1104. Notwithstanding any other provision of law, any person may make written objection to the public disclosure of information contained in any application, report, or document filed pursuant to provisions of this Act or of any information obtained by the Board, the Secretary of State, or the Secretary of Transportation pursuant to the provisions of this Act stating the grounds of such objection. Any information contained in such application, report, or document, or any such other information obtained by the Board, the Secretary of State, or the Secretary of Transportation, shall be withheld from public disclosure by the Board, the Secretary of State, or the Secretary of Transportation, as the case may be, if such information is exempted from disclosure, or if disclosure of such information would prejudice the formulation and presentation of positions of the United States

in international negotiations and adversely affect the competitive position of any air carrier in foreign air transportation. The Board, the Secretary of State, or the Secretary of Transportation, as the case may be, shall be responsible for classified information in accordance with appropriate law, except that nothing in this section shall authorize the withholding of information by the Board, the Secretary of State, or the Secretary of Transportation from the duly authorized committees of Congress.".

GOVERNMENT GUARANTEE OF EQUIPMENT LOANS

SEC. 30. (a)(1) The first sentence of the Act entitled "An Act to provide for Government guarantee of private loans of certain air carriers for purchase of modern aircraft and equipment, to foster the development and use of modern transport aircraft by such carriers, and for other purposes", approved September 7, 1957 (49 U.S.C. 1324 note) (hereinafter in this section referred to as the "Act"), is amended by striking out "and short-haul air transportation" and inserting in lieu thereof "short-haul, and supplemental air transportation".

(2) The second sentence of the first section of the Act is amended by inserting ", commuter air carriers, and intrastate air carriers" immediately after "air carriers".

(b) Section 2 of the Act is amended to read as follows:

"SEC. 2. As used in this Act—

"(1) 'aircraft purchase loan' means any loan, or commitment in connection therewith, made for the purchase of commercial transport aircraft, including spare parts normally associated therewith;

"(2) 'air carrier' means any air carrier holding a certificate of public convenience and necessity issued by the Civil Aeronautics Board under section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371);

"(3) 'commuter air carrier' means any air carrier operating pursuant to section 416 (b)(3) of the Federal Aviation Act of 1958 (49 U.S.C. 1386(b)(3)) who operates at least five round trip flights per week between one pair of points in accordance with published flight schedules;

"(4) 'intrastate air carrier' means any citizen of the United States who undertakes, whether directly or indirectly or by a lease or any other arrangement, to engage primarily in intrastate air transportation (as such term is defined in section 101(24) of the Federal Aviation Act of 1958);

"(4) 'supplemental air transportation' has the meaning given such term in section 101(37) of the Federal Aviation Act of 1958; and

"(5) 'Secretary' means the Secretary of Transportation.".

(c) Section 3 of the Act is amended to read as follows:

"SEC. 3. The Secretary is authorized to guarantee any lender against loss of principal or interest on any aircraft purchase loan made by such lender to—

"(1) any commuter air carrier,

"(2) any air carrier whose certificate (A) authorizes such air carrier to provide local or feeder air service, (B) authorizes such air carrier to provide supplemental air transportation, (C) "authorizes scheduled passenger operations the major portion of which are conducted within the State or Hawaii", (D) authorizes operations (the major portion of which is conducted either within Alaska or between Alaska and the forty-eight contiguous States), within the State of Alaska (including service between Alaska and the forty-eight contiguous States, and between Alaska and adjacent Canadian territory), or (E) authorizes metropolitan helicopter service or "(3) any intrastate air carrier. Such guarantee shall be made in such form, on such terms and conditions, and pursuant to such regulations, as the Secretary deems necessary and which are not inconsistent with the provisons of this Act.".

(d)(1) Section 4(c) of the Act is amended by striking out "10" and inserting in lieu thereof "15".

(2) Section 4(d) of the Act is amended by striking out "the same carrier, or corporate predecessor carrier or carriers, guaranteed and outstanding under the terms of this Act, exceed $30,000,000." and inserting in lieu thereof "the same air carrier, commuter air carrier, or intrastate air carrier or corporate predecessor of such air carrier, commuter air carrier, or intrastate air carrier guaranteed and outstanding under the terms of this Act, exceed $75,000,000.".

(3) Section 4(e) of the Act is amended by inserting ", commuter air carrier, or intrastate air carrier" immediately after "air carrier".

(4) Section 4(f) of the Act is amended by inserting ", commuter air carrier, or intrastate air carrier" immediately after "air carrier".

(5) Section 4(g) of the Act is amended to read as follows:

"(g) Unless the Secretary finds that the prospective earning power—

"(1) of the applicant air carrier, together with the character and value of the security pledged, furnish (A) reasonable assurances of the applicant's ability to repay the loan within the time fixed therefor, and (E) reasonable protection to the United States; and

"(2) of the applicant commuter air carrier or intrastate air carrier, together with the character and value of the security pledged, furnish (A) reasonable assurances of the applicant's ability and intention (i) to repay the loan within the time fixed therefor, (ii) to continue its operations as a commuter air carrier or intrastate air carrier, and (iii) to the extent found necessary by the Secretary, to continue its operations as a commuter air carrier or intrastate air carrier between the same route or routes being operated by such applicant at the time of the loan guarantee, and (B) reasonable protection to the United States.".

(6) Section 4 of the Act is amended by adding at the end thereof the following new paragraph:

"(h) On any loan or combination of loans for the purchase of any new turbojet-powered aircraft which does not comply with the noise standards prescribed for new subsonic aircraft in regulations issued by the Secretary acting through the Administrator of the Federal Aviation Administration (14 C.F.R. part 36), as such regulations were in effect on January 1, 1977.".

(e) Section 8 of the Act is amended to read as follows:

"SEC. 8. The authority of the Secretary under section 3 of this Act shall terminate five years after the date of enactment of this section.".

SUNSET PROVISIONS

SEC. 31. (a) The Federal Aviation Act of 1958 (49 U.S.C. 1301 et seq.) is amended by adding at the end thereof the following new title:

"TITLE XVI—SUNSET PROVISIONS

"TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

"TERMINATION OF AUTHORITY

"SEC. 1601. (a) Any authority of the Board set forth in this Act shall cease to be in effect on December 31, 1982.

"TRANSFER OF CERTAIN AUTHORITY

"(b)(1) The following authority of the Board is transferred to the following Federal departments:

"(A) The authority of the Board under sections 406 and 419 of this Act is transferred to the Department of Transportation.

"(B) The authority of the Board under this Act with respect to foreign air transportation is transferred to the Department of Transportation which shall exercise such authority in consultation with the Department of State.

"(C) The authority of the Board under sections 408 and 412 of this Act is transferred to the Department of Justice.

"(D) The authority of the Board under this Act with respect to the negotiation of the rates for the carriage of mail is transferred to the Postal Service.

"(2) Any authority transferred under paragraph (1) of this subsection shall take effect on December 31, 1982.

"REPORT AND ASSESSMENT BY BOARD

"(c) Not later than December 31, 1981, the Board shall prepare and submit to the Congress a comprehensive review of the Board's implementation of the provisions of this Act during the preceding initial period of this Act's existence, and a comprehensive review of each of the Board's programs under this Act. Each such review shall be made available to the committee or committees of the Senate and House of Representatives having jurisdiction with respect to the annual authorization of funds for the Board and its programs for the fiscal year beginning October 1, 1981.

"ELEMENTS FOR BOARD CONSIDERATION

"(d) The comprehensive review of the Board's implementation of this Act, prepared for submission under subsection (c), shall include—

"(1) a detailed comparison of the degree of competition within the airline industry as of the year preceding enactment of this section and the final year covered by the review;

"(2) a comparison of the degree of pricing competition in the industry during those two one-year periods;

"(3) a comparison of the extent of unused authority held by the industry during those two one-year periods, with details as to the number of nonstop route segments which have been transferred from one carrier to another under section 401(d)(5) of this Act;

"(4) an assessment of the degree to which agreements approved under section 412 of this Act have affirmatively or negatively affected the degree of competition within the industry;

"(5) a comparison of the extent of air transportation service provided to small communities during the two one-year periods specified above, together with details as to the comparative subsidy costs during these two periods;

"(6) an assessment of the degree, if any, to which the administrative process has been expedited under this Act;

"(7) an assessment of the impact of the foregoing changes upon the national air transportation system in terms of benefits or detriments to the traveling and shipping public, the Postal Service and the national defense, and the benefits and detriments to air carriers, certificated and uncertificated; and

"(8) the Board's opinion as to whether the foregoing changes in combination, have improved or harmed this Nation's domestic air transportation system and the United States-flag foreign air transportation system.

This assessment shall be accompanied by a detailed opinion from the Board as to whether the public interest requires continuation of the Board and its functions beyond December 31, 1982, and, if it is the Board's conclusion that it should continue to exist, detailed recommendations as to how the provisions of this Act should be revised to insure continued improvement of the Nation's air transportation system beyond December 31, 1982. The Board's assessment under this subsection shall also be accompanied by a com-

parative analysis of procedures under section 801 of this Act before and after the date of enactment of the Air Service Improvement Act of 1978, together with the Board's opinion as to the benefits of each set of procedures.

"ELEMENTS FOR EACH COMPREHENSIVE REVIEW

"(e) Each comprehensive review of the Board's programs under this Act, prepared for submission under subsection (c) of this section, shall include—

"(1) an identification of the objectives intended for the program, and the problem or need which the program was intended to address;

"(2) an identification of any other programs having similar or potentially conflicting or duplicative objectives;

"(3) an assessment of alternative methods of achieving the purposes of the program;

"(4) a justification for the authorization of new budget authority, and an explanation of the manner in which it conforms to and integrates with other efforts;

"(5) an assessment of the degree to which the original objectives of the program have been achieved, expressed in terms of the performance, impact, or accomplishments of the program and of the problem or need which it was intended to address, and employing the procedures or methods of analysis appropriate to the type of character of the program.

"(6) a statement of the performance and accomplishments of the program in each of the previous four completed fiscal years and in the year of submission, and of the budgetary costs incurred in the operation of the program;

"(7) a statement of the number and types of beneficiaries or persons or entities served by the program;

"(8) an assessment of the effect of the program on the national economy, including, but not limited to, the effects on competition, economic stability, employment, unemployment, productivity, energy consumption and conservation, and price inflation, including costs to consumers and to businesses;

"(9) an assessment of the impact of the program on the Nation's health and safety;

"(10) an assessment of the degree to which the overall administration of the program, as expressed in the rules, regulations, orders, standards, criteria, and decisions of the officers executing the program, are believed to meet the objectives of the Congress in enacting this Act;

"(11) a projection of the anticipated needs for accomplishing the objectives of the program, including an estimate if applicable of the date on which, and the conditions under which, the program may fulfill such objectives;

"(12) an analysis of the services which could be provided and performance which could be achieved if the program were contained at a level less than, equal to, or greater than the existing level; and

"(13) recommendations for necessary transitional requirements in the event that funding for such program is discontinued, including proposals for such executive or legislative action as may be necessary to prevent such discontinuation from being unduly disruptive.".

(b) That portion of the table of contents contained in the first section of such Act is amended by inserting at the end thereof

"TITLE XVI—SUNSET PROVISIONS

"Sec. 1601. Termination of Civil Aeronautics Board and transier of certain functions.

"(a) Termination of authority.

"(b) Transfer of certain authority.

"(c) Report and assessment by Board.

"(d) Elements for Board consideration.

"(e) Elements for each comprehensive review.".

LABOR PROTECTION

SEC. 34. No authority granted by this Act, or by any amendment made by this Act, shall be exercised by any carrier unless prior to each such exercise, the Secretary of Labor has certified to the Civil Aeronautics Board that the interests of the employees who may be affected thereby have been adequately protected by fair and equitable arrangements providing levels of protection no less beneficial to and protective of such interests than those established pursuant to section 5(2)(f) of the Interstate Commerce Act and section 405 of the Rail Passenger Service Act, as such sections are in existence on the date of enactment of this section or are hereafter amended, except that the carrier-employer of the affected employees shall be responsible for the application of the protective arrangements to such employees and shall be reimbursed by the Secretary of the Treasury for the cost of such application. There is hereby established in the Treasury of the United States a separate account to be known as the "Airlines Employees' Protective Account". Funds in such account shall be available to the Secretary of the Treasury to make reimbursements pursuant to this section. There is authorized to be appropriated to such account annually such funds as may be required to meet the obligations thereunder.

COLLECTION OF FEES, CHARGES, AND PRICES

SEC. 35. Notwithstanding any other provision of law, neither the Secretary of Transportation nor the Administrator of the Federal Aviation Administration shall collect any fee, charge, or price for any approval, test, authorization, certificate, permit, registration, conveyance, or rating relating to any aspect of aviation (1) which is in excess of the fee, charge, or price for such approval, test, authorization, certificate, permit, registration, conveyance, or rating which was in effect on January 1, 1973, or (2) which did not exist on January 1, 1973, until all such fees, charges, and prices are reviewed and approved by Congress.

LABOR DISPUTES

SEC. 36. Within 10 days after the date of enactment of this section, the President, pursuant to section 10 of the Railway Labor Act, shall create a board to investigate and report on the dispute between Wein Air Alaska, Incorporated, and the Air Line Pilots Association. Such board shall report its findings to the President within thirty days from the date of its creation.

AVAILABILITY OF FUNDS

SEC. 37. Any funds authorized to be appropriated pursuant to this Act or pursuant to any amendment to any other law made by this Act shall be for fiscal years beginning after September 30, 1978.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ANDERSON).

The motion was agreed to.

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

The title of the Senate bill was amended so as to read: "To amend the Federal Aviation Act of 1958 to improve air service and provide flexibility in air fares."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 12611) was laid on the table.

GENERAL LEAVE

Mr. ANDERSON of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks in the RECORD on the bill just passed, H.R. 12611.

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

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announnce to the Members the program for the remainder of the day.

It is the intention of the Chair at this time to take unanimous-consent requests, following which it will be the intention of the Chair to recognize the gentleman from New Jersey (Mr. HOWARD), who will move that the House resolve itself into the Committee of the Whole House for the further consideration of the surface transportation bill.

Whether or not the consideration of that bill should be completed, the definite plan is that we shall adjourn at 7:30 this evening. The Committee will rise prior to that time.

Tomorrow, after convening, the first main order of business will be the further consideration of the Comprehensive Employment Training Act.

FIRE PREVENTION AND CONTROL ACT OF 1974

Mr. FUQUA. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 11291) to authorize appropriations for the Federal Fire Prevention and Control Act of 1974, and to change the name of the National Fire Prevention and Contorl Administration to the U.S. Fire Administration, with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

That (a) section 17 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216) is amended—

(1) by striking out "except section 11 of this Act," and insert in lieu thereof "except as otherwise specifically provided, with respect to the payment of claims, under section 11 of this Act,"

(2) by striking out "and" after "September 30, 1977,"; and

(3) by inserting immediately after "1978" the following: ", and not to exceed $25,252,000 (of which not more than $6,043,000 may be used for the establishment of the Academy, including the renovation and alteration of a suitable site therefor) for the fiscal year ending September 30, 1979".

(b) Section 16(b) of the Act of March 31, 1901 (15 U.S.C. 278f(b)), is amended—

(1) by striking out "and" after "September 30, 1977,", and

(2) by inserting immediately after "1978"

the following: ", and not to exceed $5,600,000 for the fiscal year ending September 30, 1979".

SEC. 2. (a)(1) Sections 3, 4, and 5 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2202-2204) are amended by striking out "National Fire Prevention and Control Administration" each place it appears and inserting in lieu thereof "United State Fire Administration".

(2) The heading of section 5 of such Act is amended by striking out "NATIONAL FIRE PREVENTION AND CONTROL ADMINISTRATION" and inserting in lieu thereof "UNITED STATES FIRE ADMINISTRATION".

(b) Section 16(a) of the Act of March 3, 1901 (15 U.S.C. 278f(a)), is amended by striking out "National Fire Prevention and Control Administration" in the matter preceding paragraph (1) and inserting in lieu thereof "United States Fire Administration."

(c) Section 12(g) of the Act of February 14, 1903 (15 U.S.C. 1511), is amended by striking out "National Fire Prevention and Control Administration" and inserting in lieu thereof "United States Fire Administration".

SEC. 3. The Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.) is further amended by adding at the end thereof the following new section:

"FIRE INVESTIGATION

"SEC. 24. (a) In accordance with the provisions of this subsection, the Administrator, upon the request of any State or local government, may provide for the investigation of the facts, conditions, circumstances, and probable cause of any fire which occurs within the jurisdiction of such State or local government if, in the discretion of the Administrator, (1) the fire is of a serious nature and contains aspects which are of a recurring character, or (2) such investigation would further the purposes of this Act.

"(b) The Administrator is authorized to make available to interested persons at a reasonable cost the results of any investigation performed pursuant to this subsection. However, no part of any investigation performed pursuant to this subsection shall be admissible as evidence in any court or used in any suit or action for damages growing out of any matter mentioned in such investigation.".

Mr. FUQUA (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the Senate amendment 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 Florida?

There was no objection.

The Clerk read the House amendment to the Senate amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

That (a) section 17 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216) is amended—

(1) by striking out "except section 11 of this Act," and insert in lieu thereof "except as otherwise specifically provided, with respect to the payment of claims, under section 11 of this Act,";

(2) by striking out "and" after "September 30, 1977,"; and

(3) by inserting immediately after "1978" the following: ", and not to exceed $24,352,000 for the fiscal year ending September 30, 1979".

(b) Section 16(b) of the Act of March 3, 1901 (15 U.S.C. 278f(b)), is amended—

(1) by striking out "and" after "September 30, 1977,", and

(2) by inserting immediately after "1978" the following: ", and not to exceed $5,600,000 for the fiscal year ending September 30, 1979".

SEC. 2. (a)(1) Sections 3, 4, and 5 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2202-2204) are amended by striking out "National Fire Prevention and Control Administration" each place it appears and inserting in lieu thereof "United States Fire Administration".

(2) The heading of section 5 of such Act is amended by striking out "NATIONAL FIRE PREVENTION AND CONTROL ADMINISTRATION" and inserting in lieu thereof "UNITED STATES FIRE ADMINISTRATION".

(b) Section 16(a) of the Act of March 3, 1901 (15 U.S.C. 278f(a)), is amended by striking out "National Fire Prevention and Control Administration" in the matter preceding paragraph (1) and inserting in lieu thereof "United States Fire Administration".

(c) Section 12(g) of the Act of February 14, 1903 (15 U.S.C. 1511), is amended by striking out "National Fire Prevention and Control Administration" and inserting in lieu thereof "United States Fire Administration".

SEC. 3. (a) The Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.) is amended by adding at the end thereof the following new section:

"FEDERAL PROGRAMS TO COMBAT ARSON

"SEC. 24. (a) The Administrator shall—

"(1) develop arson detection techniques to assist Federal agencies and States and local jurisdictions in improving arson prevention, detection, and control;

"(2) provide training and instructional materials in the skills and knowledge necessary to assist Federal, State, and local fire service and law enforcement personnel in arson prevention, detection, and control;

"(3) formulate methods for collection of arson data which would be compatible with methods of collection used for the uniform crime statistics of the Federal Bureau of Investigation;

"(4) develop and implement programs for improved collection of nationwide arson statistics within the National Fire Incident Reporting System at the National Fire Data Center;

"(5) develop programs for public education on the extent, causes, and prevention of arson; and

"(6) develop handbooks to assist Federal, State, and local fire service and law enforcement personnel in arson prevention and detection.

"(b)(1) The Administrator shall prepare and submit to Congress, not later than March 15, 1979, a report on ways in which the Federal Government may better assist the States and local jurisdictions in providing for more effective arson prevention, detection, and control. Such report shall include, but need not be limited to—

"(A)(i) an assessment of State and local capabilities in regard to arson investigation and detection; and

"(ii) an evaluation of the necessity for and the desirability of Federal supplementation of such State and local capabilities or other Federal assistance in arson detection;

"(B) a summary of Federal programs which seek to reduce arson;

"(C) an identification and analysis of existing Federal and State laws which may contribute to the incidence of arson;

"(D) recommendations for additional legislation or other programs, including research programs, or policies which may be required to assist in reducing arson in the United States: and

"(E) an assessment, where practical, of the costs and benefits of these programs and activities cited in paragraphs (1) through (4) of subsection (a) or recommended by the Administration.

"(2) Of the funds authorized to be appropriated in section 17 of this Act, $100,000 shall be available in fiscal year 1979 for carrying out the purposes of paragraph (1) of this subsection.".

(b) Section 16(a)(1) of the Act of March 3, 1901 (15 U.S.C. 278f(a)(1)), as amended, is further amended by—

(1) striking out "and" at the end of clause (G) thereof;

(2) adding "and" at the end of clause (H) thereof; and

(3) adding at the end thereof the following:

"(I) methods, procedures, and equipment for arson prevention, detection, and investigation;".

SEC. 4. The Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.) as amended by section 3 of this Act, is further amended by adding at the end thereof the following new section:

"ACADEMY SITE

"SEC. 25. (a) The Administrator is authorized to sell the former Marjorie Webster Junior College facility, located in Washington, D.C., which was previously purchased as the site for the Academy. In the event of the sale of such facility, the Administrator shall establish within the Administration an Academy Acquisition and Construction Account (hereinafter referred to as the 'Account') and shall deposit into such Account only the proceeds from the sale of such facility Following such deposit, the Administrator shall calculate the sum of both the funds deposited into the Account, and the total moneys which have been or may be appropriated for the acquisition, construction, and/or rehabilitation of a site for the Academy. If the Administrator finds that the total amount so calculated would exceed $9,000,000, the Administrator shall deduct from the Account the difference between this comined total and $9,000,000, and shall deposit such difference into the Treasury as miscellaneous receipts.

"(b) The Administrator is thereafter authorized and directed to retain and apply funds in the Account for the acquisition, construction, and/or rehabilitation of any site which may be selected, together with such other moneys as have been or may be appropriated for such purposes, except that the total authorized expenditure for such moneys shall not exceed $9,000,000. Such sums shall remain available until expended.".

Mr. FUQUA (during the reading). Mr. Speaker, I ask unanimous consent that the House amendment to the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. HOLLENBECK. Mr. Speaker, reserving the right to object, I yield to the gentleman from Florida (Mr. FUQUA) for the purpose of explaining this action.

Mr. FUQUA. Mr. Speaker, when the Senate acted on H.R. 11291 it struck all after the enacting clause and inserted new language. As a result, there were major differences between the House and Senate versions of this bill. A compromise which I propose here as an amendment has been reached with the

Senate. It contains three major provisions.

First. While both bills provide authorization for fiscal year 1979 for the National Fire Prevention and Control Administration and for the Center for Fire Research, the Senate authorizations were higher than the amounts contained in the House-passed bill. The original House version authorized a total of $25,567,000 for these two programs, and the Senate bill authorized a total of $25,252,000 for the NFPCA and $5,600,000 for the CFR giving a total authorization of $30,852,000.

The compromise, while somewhat nearer the Senate figure than to the House authorization; emphasizes the growing importance of arson losses; particularly arson for profit, which has been astutely recognized by the Senate. Thus, I concur with the Senate's judgment in recommending these higher authorizations.

Second. The Senate also proposed an amendment to become section 24 of the act which would have authorized the Administrator of the NFPCA, upon request of State or local governments, to undertake fire investigations. The amendment further provided that the information so obtained could not be used in any criminal investigation since the intent was primarily for factfinding purposes.

While arson is indeed an extremely serious problem I do not concur with the Senate's judgment that it is appropriate or desirable for the Federal Government itself to undertake investigations of fires which may be examples of arson, and there are certainly other more appropriate tasks for the Fire Administration to undertake in this area; for example, the assembling of arson statistics gathered by State and local investigators, or the development of more advanced arson detection techniques and the provision of training for State and local investigators, are instances of needed Federal initiatives to assist in a nationwide attack on arson. Regardless of the final policies this problem does deserve further examination by specialists intimately involved in the field of arson.

Therefore, the amendment I offer would delete the Senate's proposed section 24. In its place the amendment would direct the Administrator to prepare and submit to Congress a report on ways in which the Federal Government might better assist State and local jurisdictions in providing for more effective arson prevention, detection and control. Among other things this report would evaluate the necessity for and desirability of Federal supplementation of State and local arson capabilities including possible arson investigation by Federal authorities.

In addition, the Administrator is specifically instructed to develop more advanced arson detection techniques, to provide training, to formulate better methods for collecting arson data and arson statistics, to develop programs for public education on arson, and to develop handbooks to assist fire service and law enforcement personnel in arson prevention and detection. Furthermore, the Center for Fire Research would be explicitly authorized to develop methods of and equipment for arson prevention, detection and investigation.

Third. The amendment I offer would authorize the Administrator to sell the Marjorie Webster Junior College facility located in Washington, D.C., which was purchased in 1977 as the site for the National Academy for Fire Prevention and Control. The limit of $9 million on the purchase and construction of the National Academy would be retained. If the total of appropriated funds and the proceeds from a sale exceed $9 million, any excess is returned to the Treasury.

This provision is necessitated by the conference reports of the Appropriations Committees with regard to second supplemental appropriations for fiscal year 1978. That report appropriated for the construction of Academy facilities but at the same time directed that these funds not be spent for the renovation of the Marjorie Webster College site. Several reasons were given by members of our Appropriations Committee for their action, notably increased costs estimated for the renovation, the inflexibility of District zoning laws which might not permit growth of the Academy in future years, and the desire to see Federal facilities located outside Washington. In support of this position the House-Senate conferees to H.R. 13467 urged that a new site for the Academy be found and purchased as soon as possible. At that time they also urged the authorizing committees of the House and Senate to propose legislation which would permit the Administrator to sell the Marjorie Webster site and apply the proceeds against the purchase of a new site.

The proposed amendment to H.R. 11291 would do just that, and I urge its adoption by the House so that completion of a National Fire Academy can proceed as expeditiously as possible. In picking a new site the general criteria laid down by the Site Selection Board in its previous selection are sound, although I believe it important that the Academy be located some place with easy access. For if there is one important purpose of a central Academy it is that it should bring fire service personnel as well as architects, engineers, and building officials concerned with fire problems together from all over the country and from other nations as well.

Mr. Speaker, this amendment, I believe, addresses substantial concerns raised concerning the Senate amendments to our bill while at the same time pinpointing the importance of arson as a rapidly increasing major loss of property. At the same time the amendment also addresses the concerns expressed by those who felt that the Marjorie Webster College site had real problems and was not completely suitable for the National Fire Academy. This, I might add, includes myself. With this new directive, I hope, however, that the Administrator of the NFPCA will move as rapidly as possible so that we may complete the mandate of Congress in 1974 for a national fire academy without further delay.

Mr. Speaker, I understand that the Senate would agree to these amendments if adopted by the House, and therefore I strongly urge their adoption.

Mr. HOLLENBECK. Mr. Speaker, further reserving the right to object, I yield to the gentleman from New York (Mr. WYDLER).

Mr. WYDLER. Mr. Speaker, I rise in support of this compromise on the fiscal year 1979 authorization for the National Fire Prevention and Control Administration and the Center for Fire Research. The Compromise has resolved a number of difficult issues and has the support of the members of the Subcommittee on Science, Research, and Technology, which considered the bill in detail.

The amendment reflects the importance of greater Federal effort on the problem of arson, particularly the growing arson for profit problem which has been recently dramaticized on national television.

On the other hand, the compromise reflects the feeling of the members of the subcommittee that the establishment of a Federal fire investigation unit or an arson squad, which was proposed by the amendments offered by Senator GLENN in the Senate, may not be desirable. However, since there is some question on this matter, the Administrator is directed to study the situation and report back to Congress next March.

The amendment recognizes the need to get on with the establishment of the National Fire Academy and authorizes the Administrator to sell the presently purchased Majorie Webster College site. There was concern by the Appropriations Committee that substantial cost overruns would be experienced. Furthermore, that site apparently has little room for expansion should future needs arise. I urge the Administrator to act expeditiously in choosing a new site. Furthermore, a principal justification for a central fire academy is to bring in fire service personnel, as well as other professionals concerned with fire prevention and control, together from all over the country and from other nations. Therefore, I hope that whatever site is chosen will be the highly accessible second choice in the State of New York.

In conclusion Mr. Speaker, I urge my colleagues to support this compromise amendment to H.R. 11291. It is my understanding, also, that the Senate will concur in this amendment if passed by the House.

Mr. HOLLENBECK. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, like my colleague, the gentleman from New Jersey, I know of no controversy over this bill, but can my friend the gentleman from New Jersey (Mr. HOLLENBECK) as-

sure me that no amendments were adopted that were not germane?

Mr. HOLLENBECK. Yes, I can assure the gentleman of that.

Mr. ASHBROOK. I thank the gentleman.

Mr. HOLLENBECK. Mr. Speaker, further reserving the right to object, I concur in the judgment of my colleague that the amendment he offers represents a constructive compromise with the Senate, It will also permit the National Academy to be completed at the earliest possible moment.

I urge the House to adopt the amendment offered by my colleague, Mr. FUQUA.

Further, Mr. Speaker, I join my colleague in urging the House to adopt this amendment to the Senate amendment to H.R. 11291 authorizing appropriations for fiscal year 1979 for the National Fire Prevention and Control Administration and for the Center for Fire Research.

Arson is an extremely important problem, and I fully concur that greater efforts should be applied toward its prevention. I was, however, concerned that the establishment of a de facto arson squad by the NFPCA was inappropriate, and more important, in an era of limited funds I believe that there are other areas where the Federal Government can better spend its money in assisting States and local governments to reduce arson. Specifically, as my colleague mentioned, assembling better arson statistics, developing better training for arson investigators, developing more advanced arson detection and prediction techniques as well as the support of public education are necessary. I believe the amendment supports those general needs. While the report called for by the amendment would specifically examine some of the issues raised in determining whether a Federal fire investigation capability is desirable, the report would also seek to pinpoint important areas for research on the prediction and detection of arson.

Finally, the amendment will enable us at last, 5 years after the enactment of the Federal Fire Prevention and Control Act, to establish the National Fire Academy. The Appropriations Committee has appropriated money for the construction of Academy facilities. Those funds together with the proceeds of the sale of the Majorie Webster site will permit completion of a National Academy. After all the delays, we should get on with that job. On this point I, however, join my colleague, in urging those responsible for selecting a new site to bear in mind that a major reason for a central National Fire Academy is to permit fire service personnel and other professionals concerned with fire prevention and control from all over the country and from other countries as well to assemble, to exchange ideas and to learn from each other the newest and the most advanced techniques. Therefore, I hope that a new site would be highly accessible.

Mr. Speaker, to conclude, I urge my colleagues to adopt the amendment which I understand the Senate will accept.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

A motion to reconsider was laid on the table.

SURFACE TRANSPORTATION ASSISTANCE ACT OF 1978

Mr. HOWARD. 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. 11733) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. HOWARD).

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 further consideration of the bill H.R. 11733, with Miss JORDAN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Friday, September 15, 1978, all time for general debate had expired. Pursuant to the rule, the Clerk will now read by titles the amendment in the nature of a substitute recommended by the Committee on Public Works and Transportation now printed in the reported bill as an original bill for the purpose of amendment, and said substitute shall be read for amendment by titles instead of by sections. No amendment to title V of said substitute, and no amendmbent to said substitute changing or modifying said title, shall be in order except amendments recommended by the Committee on Ways and Means.

The Clerk will read.

The Clerk read as follows:

H.R. 11733

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Surface Transportation Assistance Act of 1978".

TITLE I

SHORT TITLE

SEC. 101. This title may be cited as the "Federal-Aid Highway Act of 1978".

REVISION OF AUTHORIZATION FOR APPROPRIATIONS FOR THE INTERSTATE SYSTEM

SEC. 102. (a) Subsection (b) of section 108 of the Federal-Aid Highway Act of 1956, as amended, is amended by striking out "the additional sum of $3,625,000,000 for the fiscal year ending September 30, 1980," and all that follows down through the period at the end of the sentence and by inserting in lieu thereof the following: "the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1980, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1981, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1982, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1983, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1984, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1985, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1986, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1987, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1988, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1989, and the additional sum of $2,333,000,000 for the fiscal year ending September 30, 1990.".

(b) $3,500,000,000 of the sum authorized for each of the fiscal years ending September 30, 1980, September 30, 1981, September 30, 1982, and September 30, 1983, by the amendment made by subsection (a) of this section shall be apportioned in accordance with the applicable provisions of chapter 1 of title 23 of the United States Code. $500,000,000 of each such authorized sum shall be available for obligation on the date of each such apportionment in the same manner and to the same extent as the sum apportioned on such date except that (1) the obligation of such $500,000,000 shall be at the discretion of the Secretary of Transportation, (2) half of such $500,000,000 shall be obligated only for projects on those routes in rural areas which are on the National System of Interstate and Defense Highways on the date of enactment of this subsection which are essential for the completion of continuous sections of such System, (3) half of such $500,000,000 shall be obligated only for projects on those routes in urban areas which are on such System on the date of enactment of this subsection which are of unusually high cost or which would otherwise require long periods of time for their construction, and (4) any part of such $500,000,000 not obligated before October 1 of the fiscal year for which such sum is authorized shall be immediately apportioned in the same manner as was the $3,500,000,000 authorized for such fiscal year, and such part of such $500,000,000 shall be available for obligation for the same period as is the apportionment of such $3,500,000,000. A project which has received Federal financial assistance from any such $500,000,000 shall not be eligible for withdrawal of approval by such Secretary under section 103(e) (2) or (4) of title 23, United States Code.

AUTHORIZATION OF USE OF COST ESTIMATES FOR APPORTIONMENT OF INTERSTATE FUNDS

SEC. 103. The Secretary of Transportation shall apportion for the fiscal year ending September 30, 1980, the sums authorized to be appropriated for such periods by section 108(d) of the Federal-Aid Highway Act of 1956, as amended, for expenditures on the National System of Interstate and Defense Highways, using the apportionment factors contained in revised table 5 of Committee Print 95–49 of the Committee on Public Works and Transportation of the House of Representatives.

HIGHWAY AUTHORIZATION

SEC. 104. (a) For the purpose of carrying out the provisions of title 23, United States Code, the following sums are hereby authorized to be appropriated:

(1) For the Federal-aid primary system in rural areas, including the extensions of the Federal-aid primary system in urban areas, and the priority primary routes, out of the

Highway Trust Fund, $2,100,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982. For the Federal-aid secondary system in rural areas, out of the Highway Trust Fund, $650,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(2) For the Federal-aid urban system, out of the Highway Trust Fund, $800,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(3) For forest highways, out of the Highway Trust Fund, $33,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(4) For public lands highways, out of the Highway Trust Fund, $16,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(5) For forest development roads and trails, $140,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(6) For public lands development roads and trails, $10,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(7) For park roads and trails, $30,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(8) For parkways, $45,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982. The entire cost of any parkway project on any Federal-aid system paid under the authorization contained in this paragraph shall be paid from the Highway Trust Fund.

(9) For Indian reservation roads and bridges, $83,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(10) For economic growth center development highways under section 143 of title 23, United States Code, out of the Highway Trust Fund, $50,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(11) For necessary administrative expenses in carrying out section 131 and section 136 of title 23, United States Code, $1,500,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(12) For carrying out section 21b(a) of title 23, United States Code—

(A) for the Virgin Islands, not to exceed $5,000,000, per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(B) for Guam, not to exceed $5,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(C) for American Samoa, not to exceed $1,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

Sums authorized by this paragraph shall be available for obligation at the beginning of the period for which authorized in the same manner and to the same extent as if such sums were apportioned under chapter 1 of title 23, United States Code.

(13) For the Commonwealth of the Northern Mariana Islands, not to exceed $1,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982. Sums authorized by this paragraph shall be expended in the same manner as sums authorized to carry out section 215 of title 23, United States Code. Sums authorized by this paragraph shall be available for obligation at the beginning of the period for which authorized in the same manner and to the same extent as if such sums were apportioned under chapter 1 of title 23, United States Code.

(14) For authorized landscaping, including, but not limited to, the planting of flowers and shrubs indigenous to the area, and for litter removal, an additional $25,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(15) For the Great River Road, $10,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, for construction or reconstruction of roads not on a Federal-aid highway system; and out of the Highway Trust Fund, $25,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, for construction or reconstruction of roads on a Federal-aid highway system.

(16) For control of outdoor advertising under section 131 of title 23, United States Code, $25,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(17) For control of junkyards under section 136 of title 23, United States Code, $15,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(18) For safer off-system roads under section 219 of title 23, United States Code, $300,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, except that 50 per centum or more of such funds expended in any State in each such fiscal year shall be expended in each such State only for projects for safety improvement.

(19) For access highways under section 155 of title 23, United States Code, $15,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(20) For traffic control signalization under section 146 of title 23, United States Code, out of the Highway Trust Fund, $75,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(21) Nothing in the first ten paragraphs or in paragraph (12), (13), (15), (18), (19), or (20) of this section shall be construed to authorize the appropriation of any sums to carry out sections 131, 136, or chapter 4 of title 23, United States Code.

(b)(1) For each of the fiscal years 1980, 1981, 1982, and 1983, no State, including the State of Alaska, shall receive less than one-half of 1 per centum of the total apportionment for the Interstate System under section 104(b)(5) of title 23, United States Code. Whenever amounts made available under this subsection for the Interstate System in any State exceed the estimated cost of completing that State's portion of the Interstate System, and exceed the estimated cost of necessary resurfacing, restoration, and rehabilitation of the Interstate System within such State, the excess amount shall be transferred to and added to the amounts last apportioned to such State under paragraphs (1), (2), and (6) of such section 104(b) in the ratio which these respective amounts bear to each other in that State, and shall thereafter be available for expenditure in the same manner and to the same extent as the amounts to which they are added. In order to carry out this subsection, and section 158 of the Federal-Aid Highway Act of 1973, there are authorized to be appropriated out of the Highway Trust Fund, not to exceed $125,000,000 per fiscal year for each of the fiscal years ending September 30, 1980, September 30, 1981, September 30, 1982, and September 30, 1983.

(2) In addition to funds otherwise authorized, $85,000,000, out of the Highway Trust Fund, is hereby authorized for the purpose of completing routes designated under the urban high density traffic program prior to May 5, 1976. Such sums shall be in addition to sums previously authorized.

(c) In the case of priority primary routes, $125,000,000 per fiscal year of the sums authorized for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, by subsection (a)(1) of this section for such routes, shall not be apportioned. Such $125,000,000 for each such authorized sum shall be available for obligation on the date of apportionment of funds for each such fiscal year, in the same manner and to the same extent as the sums apportioned on such date, except that such $125,000,000 shall be available for obligation at the discretion of the Secretary of Transportation only for projects of unusually high cost or which require long periods of time for their construction. Any part of such $125,000,000 not obligated by such Secretary on or before the last day of the fiscal year for which authorized shall be immediately apportioned in the same manner as funds apportioned for the next succeeding fiscal year for such routes, and available for obligation for the same period as such apportionment.

(d)(1) Thirty-six per centum or more of the apportionment for each fiscal year to each State of the sum authorized in paragraph (1) of subsection (a) of this section for the Federal-aid primary system (including extensions in urban areas and priority primary routes) for such fiscal year shall be obligated in such State for projects for the resurfacing, restoration, and rehabilitation of highways on such system.

(2) Thirty-six per centum or more of the apportionment for each fiscal year to each State of the sum authorized in paragraph (1) of subsection (a) of this section for the Federal-aid secondary system for such fiscal year shall be obligated in such State for projects for the resurfacing, restoration, and rehabilitation of highways on such system.

INTERSTATE SYSTEM RESURFACING

SEC. 105. In addition to any other funds authorized to be appropriated, there is authorized to be appropriated, out of the Highway Trust Fund, not to exceed $175,000,000 per fiscal year for each of the fiscal years ending September 30, 1980 and September 30, 1981, and not to exceed $275,000,000 per fiscal year for each of the fiscal years ending September 30, 1982 and September 30, 1983. Such sums shall be obligated only for projects for resurfacing, restoring, and rehabilitating those lanes on the Interstate System which have been in use for more than five years including such lanes on any toll road which has been designated as a part of the Interstate System if an agreement satisfactory to the Secretary of Transportation has been reached with the State highway department and any public authority with jurisdiction over such toll road prior to the approval of such project that the toll road will become

free to the public upon the collection of tolls sufficient to liquidate the cost of the toll road or any bonds outstanding at the time of such agreement constituting a valid lien against it, and the cost of maintenance and operation and debt service during the period of toll collections.

DEMONSTRATION PROJECTS—RAILROAD HIGHWAY CROSSINGS

SEC. 106. (a) (1) Section 163 of the Federal-Aid Highway Act of 1973 (Public Law 93-87) is amended by adding immediately after subsection (l) the following new subsection:

"(m) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out a demonstration project in Hammond, Indiana, for the relocation of railroad lines for the purpose of eliminating highway railroad grade crossings.".

(2) Existing subsections (m), (n), (o), and (p) of such section 163 are relettered as (n), (o), (p), and (q), respectively, including any references thereto.

(b) Subsection (n) (as relettered by this section) of section 163 of the Federal-Aid Highway Act of 1973 (Public Law 93-87) is amended to read as follows:

"(n) The Federal share payable on account of such projects shall be 95 per centum of the cost.".

(c) Subsection (p) (relettered by this section) of such section 163 is amended by striking out "and $51,400,000 for the fiscal year ending September 30, 1978, except that" and inserting in lieu thereof the following: "$51,400,000 for the fiscal year ending September 30, 1978, $90,000,000 for the fiscal year ending September 30, 1979, and $110,000,000 per fiscal year for each of the fiscal years ending September 30, 1980, September 30, 1981, and September 30, 1982, except that".

(d) Title III of the National Mass Transportation Systems Act of 1974 (Public Law 93-503) is hereby repealed.

DEFINITIONS

SEC. 107. The definition of "construction" in section 101(a) of title 23 of the United States Code is amended by adding at the end thereof the following new sentence: "The term also includes capital improvements which directly facilitate an effective vehicle weight enforcement program, such as scales (fixed and portable), scale pits, scale installation, and scale houses.".

COMPLETION OF INTERSTATE SYSTEM

SEC. 108. (a) The fourth and fifth sentences of paragraph (2) of subsection (e) of section 103, of title 23, United States Code, are amended to read as follows: "The provisions of this title applicable to the Interstate System shall apply to all mileage designated under the third sentence of this paragraph. The Secretary shall not designate any interstate route or portion thereof under authority of this paragraph after January 1, 1978. Every route on the Interstate System which is in a rural area, and identified in the 1977 estimate of the cost of completing the Interstate System transmitted to Congress by the Secretary of Transportation and which has not been withdrawn from such System prior to the date of enactment of the Federal-Aid Highway Act of 1978, is essential and shall be constructed, and paragraph (4) of this subsection shall not apply to such a route. Every other route on the Interstate System which is identified in the 1977 estimate of the cost of completing the Interstate System transmitted to Congress by the Secretary of Transportation and which has not been withdrawn from such System prior to the date of enactment of the Federal-Aid Highway Act of 1978, shall be constructed, and paragraph (4) of this subsection shall not apply to such a route unless the Secretary withdraws approval for such a route in accordance with such paragraph (4) before September 30, 1982, except that this sentence shall not apply to any such route which on the date of enactment of the Federal-Aid Highway Act of 1978 is under judicial injunction prohibiting its construction. Every route approved by the Secretary as part of the Interstate System on or after January 1, 1976, shall be constructed and paragraph (4) of this subsection shall not apply to such a route.".

(b) Paragraph (4) of subsection (e) of section 103, title 23, United States Code, is amended by inserting immediately after the second sentence the following: "Substitute projects under this paragraph may not be approved by the Secretary under this paragraph after September 30, 1982.", and by adding at the end of such paragraph the following new sentences: "The provisions of section 3(e)(4) of the Urban Mass Transportation Act of 1964, as amended, shall apply in carrying out this paragraph. After the date of enactment of this sentence, the Secretary may not designate any mileage as part of the Intertsate System pursuant to this paragraph or under any other provision of law.".

(c) The amendment made by subsection (a) of this section shall apply to each route or portion thereof designated under section 103(e) (2) of title 23, United States Code, before January 1, 1978, the construction of which was not complete on such date, and the Secretary of Transportation shall make such revisions in existing contracts and agreements as may be necessary to carry out this section and the amendment made by subsection (a) of this section.

(d) Notwithstanding any other provision of law, including but not limited to section 103 of title 23, United States Code and this section, no route or portion thereof shall be constructed on the National System of Interstate and Defense Highways with respect to which an environmental impact statement has not been submitted to the Secretary of Transportation in accordance with the National Environmental Policy Act of 1969 by September 30, 1984. Any such route or portion thereof shall thereupon be removed from designation as part of such Interstate System.

(e) Notwithstanding any other provision of law, including but not limited to section 103 of title 23, United States Code and this section, no route or portion thereof shall be constructed on the National System of Interstate and Defense Highways with respect to which the right-of-way has not been acquired, or construction of which has not been commenced, by September 30, 1986, and such route or portion thereof shall thereupon be removed from designation as part of such Interstate System.

TRANSFERABILITY

SEC. 109. (a) Paragraph (1) of subsection (d) of section 104 of title 23, United States Code, is amended by striking out "40" each place it appears and inserting in lieu thereof at each such place "50".

(b) Paragraph (2) of subsection (d) of section 104 of title 23, United States Code, is amended by striking out "20" each place it appears and inserting in lieu thereof at each such place "25".

REPORT OF OBLIGATIONS

SEC. 110. Section 104 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) The Secretary shall submit to Congress not later than the 20th day of each calendar month which begins after the date of enactment of this subsection a report on (1) the amount of obligation, by State, for Federal-aid-highways and the highway safety construction programs during the preceding calendar month, (2) the cumulative amount of obligation, by State, for that fiscal year, (3) the balance as of the last day of such preceding month of the unobligated apportionment of each State by fiscal year, and (4) the balance of unobligated sums available for expenditure at the discretion of the Secretary for such highways and programs for that fiscal year.".

PROGRAMS

SEC. 111. Subsection (g) of section 105 of title 23, United States Code, is amended by striking out "public airports and public ports for water transportation," and inserting in lieu thereof "public airports, public ports for water transportation, new town communities, and new town-intown communities,".

ACCESS TO RIGHTS-OF-WAY

SEC. 112. Section 111 of title 23, United States Code, is amended by adding at the end thereof the following new sentence: "Nothing in this section, or in any agreement entered into under this section, shall require the discontinuance, obstruction, or removal of any establishment for serving motor vehicle users on any highway which has been, or is hereafter, designated as a highway or route on the Interstate System (1) if such establishment (A) was in existence before January 1, 1960, (B) is owned by a State, and (C) is operated through concessionaries or otherwise, and (2) if all access to, and exists from, such establishment conform to the standards established for such a highway under this title.".

INTERSTATE RESURFACING

SEC. 113. (a) Chapter 1 of title 23 of the United States Code is amended by inserting immediately after section 118 the following new section:

"§ 119. Interstate System resurfacing.

"Beginning with funds apportioned for fiscal year 1980, the Secretary may approve projects for resurfacing, restoring, and rehabilitating those lanes in use for more than five years on the Interstate System (other than those on toll roads not subject to a Secretarial agreement provided for in section 105 of the Federal-Aid Highway Act of 1978). Sums authorized to be appropriated for this section shall be out of the Highway Trust Fund and shall be apportioned in accordance with section 104(b)(5)(B) of this title and the Federal share shall be that set forth in section 120(c) of this title.".

(b) Section 104(b)(5)(B) of title 23, United States Code, is amended to read as follows: "One-half in the ratio that lane miles in use for more than five years on the Interstate System (other than those on toll roads not subject to a Secretarial agreement provided for in section 105 of the Federal-Aid Highway Act of 1978) in each State bears to the total of all such lane miles in all States; and one-half in the ratio that vehicle miles traveled on lanes in use for more than five years on the Interstate System (other than those on toll roads not subject to a Secretarial agreement provided for in section 105 of the Federal-Aid Highway Act of 1978) in each State bears to the total of all such vehicle miles in all States.".

(c) The analysis of chapter 1 of title 23, United States Code, is amended by deleting:

"119. Repealed."

and inserting in lieu thereof:

"119. Interstate System resurfacing.".

BUSES FOR THE ELDERLY AND HANDICAPPED

SEC. 114. Section 127 of title 23, United States Code, is amended by adding at the end thereof the following new sentence. "Notwithstanding any other provision of law, no bus which meets standards established by the Secretary for access for elderly and han-

dicapped persons shall be denied access to any route on the Interstate System if such vehicle does not exceed 25,000 pounds per single axle-weight and the width thereof does not exceed 102 inches.".

FEDERAL SHARE

SEC. 115. (a) The first sentence of subsection (a) of section 120 of title 23, United States Code, is amended by striking out "70 per centum" each place it appears and inserting in lieu at each such place "80 per centum".

(b) Subsection (d) of section 120 of title 23, United States Code, is amended by striking out "70 per centum" and inserting in lieu thereof "80 per centum".

(c) The first sentence of subsection (f) of section 120 of title 23, United States Code, is amended by striking out "70 per centum" and inserting in lieu thereof "80 per centum".

(d) Subsection (g) of section 131 of title 23, United States Code, is amended by striking out "75 per centum" and inserting in lieu thereof "80 per centum".

(e) Subsections (i) and (j) of section 136 of title 23, United States Code, are each amended by striking out "75 per centum" and inserting in lieu thereof "80 per centum".

(f) Subsection (e) of section 148 of title 23, United States Code, is amended by striking out "70 per centum" and inserting in lieu thereof "80 per centum".

(g) Subsection (b) of section 155 of title 23, United States Code, is amended by striking out "70 per centum" and inserting in lieu thereof "80 per centum".

(h) Subsection (a) of section 215 of title 23, United States Code, is amended by striking out "70 per centum" and inserting in lieu thereof "80 per centum".

(i) Subsection (a) of section 118 of the Federal-Aid Highway Amendments of 1974 (Public Law 93–643) is amended by striking out "70 per centum" and inserting in lieu thereof "80 per centum".

(j) (1) The first sentence of subsection (d) of section 402 of title 23, United States Code, is amended by inserting "provisions relating to the Federal share," immediately after "other than".

(2) Subsection (d) of such section 402 is amended by inserting immediately after the first sentence thereof the following new sentence: "The Federal share payable to implement highway safety programs under this section shall be 90 per centum of the cost thereof.".

(k) The last sentence of subsection (c) of section 406 of title 23, United States Code, is amended by striking out "title shall not exceed 70 per centum" and inserting in lieu thereto "section shall not exceed 90 per centum"

(l) The amendments made by subsections (a) through (k) of this section shall take effect with respect to obligations incurred after the date of enactment of this section.

(m) Section 120 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(i) Notwithstanding any other provision of this section or of this title, the Federal share payable on account of any project under this title in the Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands shall be 100 per centum of the total cost of the project.".

CONTROL OF OUTDOOR ADVERTISING

SEC. 116. (a) Subsection (g) of section 131, title 23, United States Code, is amended by striking the period at the end of the first sentence and adding the following "and not permitted under subsection (c) of this section, whether or not removed pursuant to or because of this section.".

(b) Subsection (k) of section 131, title 23, United States Code, is amended by striking the first word and inserting in lieu thereof the following: "Subject to compliance with subsection (g) of this section for the payment of just compensation, nothing".

(c) Subsection (o) of section 131, title 23, United States Code, is amended to read as follows:

"(o) The Secretary shall approve the request of a State to permit retention of directional signs, displays, and devices lawfully erected under State law in force at the time of their erection which do not conform to the requirements of subsection (c), where such signs, displays, and devices were in existence on May 5, 1976, and where the State demonstrates that such signs, displays, and devices (1) provide directional information about goods and services in the interest of the traveling public, and (2) are such that removal would work a substantial economic hardship in any specific area defined by such State.".

ELECTRONIC SIGNS

SEC. 117. (a) Clause (3) of subsection (c) of section 131 of title 23, United States Code, is amended by inserting immediately after "devices" the following "including those which may be changed by electronic process or by remote control,".

(b) Subsection (d) of section 131 of title 23, United States Code, is amended by adding at the end thereof the following new sentence: "Nothing in this section shall authorize the Secretary to prohibit the use of any sign, display, or device which may be changed by electronic processes or by remote control in any commercial or industrial area (whether zoned or unzoned) subject to this subsection.".

(c) The Secretary of Transportation shall make such revisions in agreements entered into with State highway departments under section 131 of title 23, United States Code, as in effect on June 30, 1965, to make bonus payments for the control of outdoor advertising signs, displays, and devices in order to carry out the amendments made by subsection (a) of this section.

(d) The Secretary of Transportation shall make such revisions in agreements entered into with States under section 131 of title 23, United States Code, relating to the control of outdoor advertising in any commercial or industrial area (whether zoned or unzoned) as may be necessary to carry out the amendments made by subsection (b) of this section.

HIGHWAY BRIDGE REPLACEMENT PROGRAM

SEC. 118. (a) Section 144 of title 23 of the United States Code is amended to read as follows:

"§ 144. Highway bridge replacement program.

"(a) Congress hereby finds and declares it to be in the vital interest of the Nation that a highway bridge replacement program be established to enable the several States to replace highway bridges, in whole or in part, over waterways, other topographical barriers, other highways, or railroads when the States and the Secretary find that a bridge is significantly important and is unsafe because of structural deficiencies, physical deterioration, or functional obsolescence.

"(b) The Secretary, in consultation with the States, shall (1) inventory all those highway bridges on any Federal-aid system which are bridges over waterways, other topographical barriers, other highways, and railroads; (2) classify them according to serviceability, safety, and essentiality for public use; (3) based on that classification, assign each a priority for replacement; and (4) determine the cost of replacing each such bridge, in whole or in part, with a comparable facility.

"(c) The Secretary, in consultation with the States, shall (1) inventory all those highway bridges on public roads, other than those on any Federal-aid system, which are bridges over waterways, other topographical barriers, other highways, and railroads, (2) classify them according to serviceability, safety, and essentiality for public use; (3) based on that classification, assign each a priority for replacement, and (4) determine the cost of replacing each such bridge, in whole or in part, with a comparable facility.

"(d) Whenever any State or States make application to the Secretary for assistance in replacing a highway bridge, in whole or in part, which the priority system established under subsections (b) and (c) of this section shows to be eligible, the Secretary may approve Federal participtaion in replacing such bridge, in whole or in part, with a comparable facility. The Secretary shall determine the eligibility of highway bridges for replacement for each State based upon the unsafe highway bridges in such State. In approving projects under this section, the Secretary shall give consideration to those projects which will remove from service those highway bridges most in danger of failure.

"(e) Funds authorized to carry out this section shall be apportioned on October 1 of the fiscal year for which authorized. Funds authorized to carry out this section for the fiscal year ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, shall be apportioned to the States in accordance with table 1 of Committee Print 95–49 of the Committee on Public Works and Transportation of the House of Representatives. Funds authorized to carry out this section which are apportioned under this section shall be available for expenditure for the same period as funds apportioned for projects on the Federal-aid primary system under this title. Any funds not obligated at the expiration of such period shall be reapportioned by the Secretary to other States in accordance with table 1 of Committee Print 95–49 of the Committee on Public Works and Transportation of the House of Representatives.

"(f) The Federal share payable on account of any highway bridge replaced, in whole or in part, under this section shall be 90 per centum of the cost thereof.

"(g) To carry out this section, there is authorized to be appropriated out of the Highway Trust Fund, $100,000,000 for the fiscal year ending June 30, 1972, $150,000,000 for the fiscal year ending June 30, 1973, $25,000,000 for the fiscal year ending June 30, 1974, $75,000,000 for the fiscal year ending June 30, 1975, and $125,000,000 for the fiscal year ending June 30, 1976, to be available until expended. Of the $2,000,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, authorized by paragraph (6) of section 202 of the Highway Safety Act of 1978, $1,800,000,000 shall be apportioned as provided in subsection (e) of this section. $200,000,000 per fiscal year of the amount authorized for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, shall be available for obligation on the date of each such apportionment in the same manner and to the same extent as the sums apportioned on such date except that the

obligation of such $200,000,000 shall be at the discretion of the Secretary and shall be only for projects for those highway bridges the replacement cost of each of which is more than $10,000,000. Not less than 25 per centum nor more than 35 per centum of the amount apportioned to each State in each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, shall be expended for projects to replace, in whole or in part, highway bridges located on public roads, other than those on a Federal aid system.

"(h) Notwithstanding any other provision of law, the General Bridge Act of 1946 (33 U.S.C. 525–533) shall apply to bridges authorized to be replaced, in whole or in part, by this section.

"(i) The Secretary shall report annually on projects approved under this section, shall annually revise and report the current inventories authorized by subsections (b) and (c) of this section, and shall report such recommendations as he may have for improvement of the program authorized by this section.

"(j) Sums apportioned to a State under this section shall be made available for obligation throughout such State on a fair and equitable basis.

"(k) Not later than six months after the date of enactment of this subsection, and periodically thereafter, the Secretary shall review the procedure used in approving or disapproving applications submitted under this section to determine what changes, if any, may be made to expedite such procedure. Any such changes shall be implemented by the Secretary as soon as possible. Not later than nine months after the date of enactment of this subsection, the Secretary shall submit a report to Congress which describes such review and such changes, including any recommendations for legislative changes.

"(l) Notwithstanding any other provision of law, any bridge which is owned and operated by an agency (1) which does not have taxing powers, (2) whose functions include operating a federally assisted public transit system subsidized by toll revenues, and (3) whose sole sources of revenues (other than subventions and transit operating revenues) is vehicle tolls, shall be eligible for assistance under this section.".

(b) The analysis of chapter 1 of title 23, United States Code, is amended by deleting:

"144. Special bridge replacement program."

and inserting in lieu thereof:

"144. Highway bridge replacement program.".

(c) The Secretary of Transportation shall complete the requirements of subsection (c) of section 144 of title 23, United States Code, as amended by subsection (a) of this section not later than the last day of the second full calendar year which begins after the date of the enactment of this section.

(d) Subsection (d) of section 116 of title 23, United States Code, is amended (1) by striking out "on any of the Federal-aid highway system" at the end of the first sentence, and (2) by striking out "on the Federal-aid system" at the end of the last sentence.

TRAFFIC CONTROL SIGNALIZATION

SEC. 119. (a) Chapter 1 of title 23, United States Code, is amended by inserting immediately after section 145 the following new section:

"§ 146. Traffic control signalization program.

"(a) The Secretary is authorized to make grants to States for traffic control signalization projects that are designed to conserve motor vehicle fuel, decrease traffic congestion, increase the capacity of existing highways, improve air and noise quality, and improve highway safety on any toll-free highway which is under the jurisdiction of and maintained by a public authority and open to public travel. Projects shall be selected by each State highway department in consultation with appropriate local officials. Priority shall be given to projects which provide coordinated signalization of two or more intersections.

"(b) The Federal share payable on account of any project under this section shall be the same as that provided in section 120(c) of this title.

"(c) On October 1 of each fiscal year the Secretary shall apportion the sums authorized to be appropriated to carry out this section for that fiscal year among the several States in the ratio which the population in urban areas, or parts thereof, in each State bears to the total population in such urban areas, or parts thereof, in all of the States as shown by the latest available Federal census, except that no State shall receive less than one-half of 1 per centum of each year's apportionment. Sums apportioned under this section shall be available for obligation and expenditure in the same manner and for the same period as if such sums were apportioned for the Federal-aid primary system under this chapter.

"(d) In any State where the State highway department does not have legal authority to construct or maintain a project under this section, such State highway department shall enter into a formal agreement for such construction or maintenance with the appropriate local officials of the county or municipality in which such project is located. The requirements of section 116 of this title that the State highway department maintain, or cause to be maintained, any project constructed under this section shall include the duty to operate such project, and the State's duty to maintain, or cause to be maintained (including the operation of) any such project shall exist whether or not the project is part of the Federal-aid system.".

(b) The analysis of chapter 1 of title 23, United States Code, is amended by striking out

"146. Repealed."

and by inserting in lieu thereof:

"146. Traffic control signalization.".

(c) Section 120(d) of title 23, United States Code, is amended by inserting after "section 130 of this title," the following: "and for any project for traffic control signalization, other than a project for which a grant is made under section 146.".

SPUR HIGHWAYS—GREAT RIVER ROAD

SEC. 120. Section 148 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) The Secretary is authorized to provide for the construction of such spur highways as he determines necessary to connect the Great River Road, by the most direct feasible routes, with existing bridges across the Mississippi for the purpose of providing persons traveling such road with access to significant scenic, historical, recreational, or archeological features on the opposite side of the Mississippi River from the Great River Road.".

PAVEMENT MARKING

SEC. 121. Section 151(e) of title 23, United States Code, is amended by striking the period at the end thereof and adding the following: "for the Federal-aid primary system. On October 1 of each fiscal year the Secretary shall allocate the sums authorized to carry out this section for that fiscal year among the several States in such manner as he deems most appropriate to expedite the completion of pavement marking of all highways. Any amounts allocated to the States remaining unobligated at the end of the fiscal year following the fiscal year for which such amounts are authorized shall immediately be reallocated by the Secretary among the other States.".

ENERGY IMPACTED PUBLIC ROADS

SEC. 122. (a) Chapter 1 of title 23 of the United States Code is amended by adding at the end thereof the following new section:

"§ 157. Energy impacted public roads.

"(a) The Secretary is authorized to apportion funds made available for the purpose of this section for the repair of public roads which have incurred a substantial increase in use as a result of transportation activities to meet national energy requirements and will continue to incur such use for such purpose. Such apportionment shall be without regard to allocation of apportion formulas otherwise established under this title.

"(b) The Federal share on account of any public road repairs under this section shall be 80 per centum of the cost thereof.

"(c) There is authorized to be appropriated, out of the Highway Trust Fund, for the purpose of this section not to exceed $50,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.".

(b) The analysis of chapter 1 of title 23 of the United States Code is amended by adding at the end thereof the following:

"157. Energy impacted public roads.".

ENERGY IMPACTED RAIL HIGHWAY CROSSINGS

SEC. 123. (a) Chapter 1 of title 23, United States Code, is amended by inserting at the end thereof the following new section:

"§ 158. Energy impacted rail highway crossings.

"(a) The Secretary is authorized to make grants under this section for projects to separate rail highway crossings where there is a substantial increase in use of those rail facilities in transporting coal to meet national energy requirements and where the continued use of these facilities for such purpose will result in substantial delays in highway travel. Such grants shall be without regard to any allocation otherwise made under this title.

"(b) The Federal share on account of any project under this section shall be 80 per centum of the cost thereof.

"(c) There is authorized to be appropriated, out of the Highway Trust Fund, for the purposes of this section, not to exceed $50,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.".

(b) The analysis of chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following:

"158. Energy impacted rail highway crossings.".

BRIDGES ON DAMS

SEC. 124. (a) Subsection (d) of section 320 of title 23, United States Code, is amended by striking out "$50,000,000" and inserting in lieu thereof "$65,000,000".

(b) Sums appropriated or expended under authority of the increased authorization es-

tablished by the amendment made by subsection (a) of this section shall be appropriated out of the Highway Trust Fund for the fiscal year ending September 30, 1978, and for subsequent fiscal years.

APPALACHIAN DEVELOPMENT HIGHWAYS

SEC. 125. (a) Subsection (f) of section 201 of the Appalachian Regional Development Act of 1965 is amended to read as follows:

"(f) Federal assistance to any construction project under this section shall not exceed 70 per centum of the costs of such project except that if a State uses funds appropriated under this section for not less than 45 per centum and not more than 60 per centum of the costs of a development highway project that State may use funds appropriated under section 104 of title 23, United States Code (other than subsections (b)(5) and (b)(6) of such section), and available for construction on the Federal-aid primary system and its extension within urban areas, to increase such Federal assistance to not more than 90 per centum of such costs.".

(b) The third sentence of section 201(a) of the Appalachian Regional Development Act of 1965 is amended by striking out "two thousand nine hundred miles." and inserting in lieu thereof "three thousand and fifty miles.".

OVERSEAS HIGHWAYS

SEC. 126. Subsection (b) of section 118 of the Federal-Aid Highway Amendments of 1974 (Public Law 93-643) is amended to read as follows:

"(b) There is authorized to be appropriated, out of the Highway Trust Fund, not to exceed $143,000,000 to carry out such projects.".

OBLIGATION LIMITATION

SEC. 127. (a) Notwithstanding any other provision of law, the total of all obligations for Federal-aid highways and highway safety construction programs for fiscal year 1979 shall not exceed $10,900,000,000. This limitation shall not apply to obligations for emergency relief under section 125 of title 23, United States Code.

(b) Notwithstanding the limitation contained in subsection (a) of this section, the Secretary shall not in any way control—

(1) the rate of obligation of such limitation by allocation of such limitation or in any other manner; and

(2) by priority or otherwise, programs or projects eligible for Federal financial assistance from those funds for such programs and projects which are subject to such limitation, if such programs or projects are otherwise eligible for such assistance under title 23, United States Code, or any other applicable provision of law.

CARPOOL AND VANPOOL PROJECTS

SEC. 128. (a) Section 3 of the Emergency Highway Energy Conservation Act, as amended, is amended as follows:

(1) Subsection (a) is amended by striking out "is authorized to approve demonstration projects" and inserting in lieu thereof "is authorized to approve projects".

(2) Subsection (c) is amended by striking out "acquiring vehicles appropriate for carpool use," and inserting in lieu thereof the following: "acquiring four-wheeled vehicles, other than station wagons, manufactured primarily for use on public highways for the transportation of not less than eight nor more than fifteen individuals and which are appropriate for carpool use,".

(3) Subsection (d) is amended by striking out "except that" and all that follows down through and including the period at the end of such sentence and inserting in lieu thereof the following: "except that the Federal share of such project shall be 80 per centum, and only funds apportioned under section 104(b) (1) and (6) of such title shall be available to carry out projects authorized by this section.".

(4) Subsection (e) is amended to read as follows: "(e) The Secretary of Transportation shall not approve any project under this section which will have an adverse effect on any mass transportation system.".

(b) It is hereby declared to be national policy that special effort should be made to promote commuter modes of transportatin which conserve energy, reduce pollution, and reduce traffic congestion. The Secretary of Transportation is directed to serve as an advocate of carpooling and vanpooling for the purpose of increasing voluntary participation in such modes, particularly during commuting periods, and for the purpose of identifying and removing legal and regulatory barriers which prevent increased participation of such modes. The Secretary is also directed to assist both public and private employers and employees who wish to establish carpooling programs where they are needed and desired, and to assist local and State governments, and their instrumentalities, in encouraging such modes by removing legal and regulatory barriers to such programs, supporting existing carpooling and vanpooling programs, and providing technical assistance, for the purpose of increasing participation in such modes.

(c) The Secretary of Transportation is authorized to make grants and loans to States, counties, municipalities, metropolitan planning organizations, and other units of local and regional government consistent with the policy of this section. Such grants and loans shall be awarded in a manner which emphasizes energy conservation, although the Secretary may use other factors as he deems appropriate. The Federal share of the costs of any project approved under this section shall not exceed 80 per centum. No grant awarded under this subsection may be used for the purchase or lease of vehicles.

(d) There is hereby authorized to be appropriated, out of the Highway Trust Fund, not to exceed $1,000,000 for the fiscal year ending September 30, 1979, $1,000,000 for the fiscal year ending September 30, 1980, and $1,000,000 for the fiscal year ending September 30, 1981, for expenditures incurred by the Secretary of Transportation in carrying out the provisions of subsection (b) of this section, and $15,000,000 for the fiscal year ending September 30, 1979, and $20,000,000 for the fiscal year ending September 30, 1980, for the purpose of carrying out the program described in subsection (c) of this section.

(e) Section 120 of the Federal-Aid Highway Amendments of 1974 (Public Law 93-643) is hereby repealed.

(f) The Secretary of Transportation shall not approve any project under subsection (b) or (c) of this section which will have an adverse effect on any mass transportation system.

(g) The Secretary of Transportation is directed to study the administrative effectiveness of carpooling and vanpooling programs within the Department of Transportation, including programs of the Federal Highway Administration, the Urban Mass Transportation Administration, and the Office of the Secretary. Such study shall be completed no later than September 30, 1979. Upon completion of such study, the Secretary shall propose a plan to centralize or modify such programs to make delivery of services and grants more efficient, more cost-effective, and to avoid duplication of effort. Such plan shall list statutory changes needed to implement such a plan, which shall be sent to Congress no later than March 30, 1980. There is hereby authorized to be appropriated to carry out this subsection not to exceed $125,000.

(h) Section 203(b)(7a) of part II of the Interstate Commerce Act is amended by inserting after "aircraft" a semicolon and the following: "or (7b) vehicles carrying up to fifteen persons in a single daily roundtrip for the purpose of commuting to and from work;".

ACCELERATION OF CONSTRUCTION OF INTERSTATE SYSTEM

SEC. 129. (a) If a State has not expended or otherwise obligated any of the funds apportioned to it for the Interstate System for any fiscal year which begins on or after October 1, 1978, before the first day of the fiscal year for which such funds are authorized, then all funds authorized to be apportioned to such State for the Interstate System for the next fiscal year shall be immediately available for obligation in any State which has obligated all of its apportionments other than an amount which, by itself, is insufficient to pay the Federal share of the cost of a project on the Interstate System which has been submitted by such State to the Secretary for approval. The amount of the apportionment made for the next succeeding fiscal year to such State for the Interstate System shall be reduced by the amount obligated under this section in the preceding fiscal year by such State, and a State whose apportionment for the preceding fiscal year was made available for obligation by another State shall receive an apportionment for such preceding fiscal year in an amount equal to the amount so made available. No State shall have made available to it in any fiscal year for obligation under the first sentence of this section an amount in excess of the amount which the Secretary determines may be apportioned to such State in the next succeeding fiscal year.

(b) Section 122 of title 23, United States Code, is amended by striking out "the retirement of the principal of such bonds", and by inserting in lieu thereof the following: "the retirement of the principal of such bonds the proceeds of which were used for projects on the Federal-aid primary system or extensions of any of the Federal-aid highway systems in urban areas and the retirement of the principal and interest of such bonds the proceeds of which were used for projects on the Interstate System"; and by striking out "This section shall not be construed as a commitment or obligation on the part of the United States to provide funds for the payment of the principal of any such bonds." and inserting in lieu thereof the following: "This section shall not be construed as a commitment or obligation on the part of the United States to provide for the payment of the principal or interest of any such bonds. The payment of interest on such bonds and incidental costs in connection with the sale of such bonds shall not be included in the estimated cost of completing the Interstate System.".

(c) No interest shall be paid under authority of section 122 of title 23, United States Code, on any bonds issued prior to the date of enactment of this Act, unless such bonds were issued for projects which were under construction on January 1, 1978. Interest on bonds issued in any fiscal year by a State after the date of enactment of this Act may be paid under authority of section 122 of title 23, United States Code, only if (1) such State was eligible to obligate funds of another State under subsection (a) of this section during such fiscal year and (2) the Secretary of Transportaiton certifies that such eligible State utilized, or will utilize, to the fullest extent possible during such fiscal year its authority to obligate funds of other States under such subsection (a) of this section. No interest shall be paid under section 122 of title 23, United States Code, on that part of the proceeds of bonds issued after the date of enactment of this Act used to retire or otherwise refinance bonds issued prior to such date.

ACCESS CONTROL DEMONSTRATION PROJECTS

SEC. 130. (a) The Secretary of Transportation is authorized to carry out access control demonstration projects designed to demonstrate whether preserving the capacity of existing highways to move traffic safely by acquiring and controlling the right of access to such a highway is a cost effective alternative to the construction of additional highways. Such demonstration projests shall be carried out (1) on highways which are of the Federal-aid primary or secondary system, and are well maintained and in good condition, and (2) in traffic corridors which are not already subject to heavy industrial, commercial, or residential development. The Secretary of Transportation shall carry out one such demonstration project in each of five States.

(b) On or before September 30, 1982, the Secretary shall report to Congress the results of the projects carried out under this section.

(c) There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund, not to exceed $50,000,000 for the four fiscal year period ending September 30, 1982.

(d) Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code.

BIKEWAYS

SEC. 131. (a) For the purpose of this section, the term—

(1) "Secretary" means the Secretary of Transportation;

(2) "bikeway" means a new or improved lane, path, or shoulder; a traffic control device; a shelter or a parking or a support facility designed or regulated to serve bicycles and persons using bicycles;

(3) "urbanized area" means an area so designated by the Bureau of the Census, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary. Such boundaries shall, as a minimum, encompass the entire urbanized area within a State as designated by the Bureau of the Census;

(4) "urban area" means an urbanized area or, in the case of an urbanized area encompassing more than one State, that part of the urbanized area in each such State, or an urban place as designated by the Bureau of the Census having a population of five thousand or more and not within any urbanized area, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary which boundaries shall, as a minimum, encompass the entire urban place designated by the Bureau of the Census, except in the case of cities in the State of Maine and in the State of New Hampshire;

(5) "rural area" means an area not an urban area or an urbanized area; and

(6) "State" means any one of the fifty States, the District of Columbia, or Puerto Rico.

(b) The Secretary is authorized to make grants to States, to municipalities wholly or partly within urban areas or urbanized areas, and to political subdivisions wholly or partly within rural areas, for projects for the construction of bikeways. Such bikeways shall be for commuting or recreational purposes, or for both such purposes. Such bikeways shall be located in urban areas, in urbanized areas, or in rural areas, or shall connect such areas with schools or employment centers, national, State, or local parks, seashores, or recreational areas.

(c) The Federal share of any project for which a grant is made in subsection (b) shall be 80 per centum of the total cost of such project. The remaining 20 per centum of such cost shall be paid by the grantee.

(d) Grants made under subsection (b) in urbanized areas should be in accordance with a continuing, comprehensive transportation planning process carried on cooperatively by States and local communities in accordance with section 134 of title 23, United States Code.

(e) The Secretary shall, by regulation, establish design and construction standards for projects for which grants are authorized in subsection (b) and section 217 of title 23, United States Code. Such regulations shall contain criteria that would ensure smooth surfaces, adequate widths, ample sight distances, design speed, reasonably negotiable grades, and such other requirements as the Secretary may deem necessary.

(f) Grants made under this section shall be in addition to, and not in lieu of any sums available under section 217 of title 23, United States Code.

(g) Section 109(f) of title 23, United States Code, is amended by adding after the words "median strips,", the following: "bikeways,".

(h) Section 109 of title 23, United States Code, is amended by adding a new subsection as follows:

"(l) The Secretary shall not approve any project under this title that will result in the severance or destruction of an existing major route for nonmotorized transportation traffic and light motorcycles, unless such project provides a reasonably alternate route or such a route exists.".

(i) There is authorized to be appropriated to the Secretary to carry out this section, $12,500,000 per fiscal year out of the Highway Trust Fund, and $12,500,000 per fiscal year out of any other money in the Treasury not otherwise appropriated for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

USE OF TOLL RECEIPTS

SEC. 132. The second sentence of subsection (b) of section 2 of the Act entitled "An Act granting the consent of Congress to the State of California to construct, maintain, and operate a bridge across the Bay of San Francisco from the Rincon Hill district in San Francisco by way of Goat Island to Oakland", approved February 20, 1931, is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "and new approaches to the San Mateo Bridge in the San Francisco Bay Area.".

LIMITATIONS

SEC. 133. To the extent that any section of this Act provides new or increased authority to enter into contracts under which outlays will be made from funds other than the Highway Trust Fund, such new or increased authority shall be effective for any fiscal year only in such amounts as are approved in appropriations Acts.

STUDY—FACTORS AFFECTING TRANSPORTATION OPERATIONS

SEC. 134. The Secretary of Transportation shall make a full and complete investigation and study of all those factors affecting the safe and efficient operation of bridges, tunnels, and roads within the United States, including, but not limited to, structural, operational, environmental, and civil disturbance factors.

EAST-WEST TOLL ROAD—INDIANA STUDY

SEC. 135. The Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, shall study the possibility of relieving the Indiana Toll Road Commission of obligations resulting from the use of certain Federal funds and report the results of such study to the Congress by November 15, 1978. Such study shall be limited to the following:

(1) Additional Indiana East-West Toll Road entrances and exits in locations designated as metropolitan areas by the United States Census Bureau, 1970 census or cities of twenty-five thousand or more population, and the approximate cost and course of funding of each interchange.

(2) Methods of economical toll collections assuring fair and equitable payment from the individual user and ascertainment of urban toll free areas.

(3) Improvements necessary to insure compliance of the Indiana East-West Toll Road with Interstate Highway Standards and the approximate cost and source of payment for such improvements.

(4) Projection of maintenance costs and revenues of the Indiana East-West Toll Road until 1994 under various toll systems and charges.

(5) Formula of toll distribution by which Indiana communities directly affected by ingress to or egress from the Indiana East-West Toll Road (limited to Indiana communities within fifteen miles of the Indiana East-West Toll Road) may be reimbursed for costs incurred due to the toll road from revenues remaining after expenditures are made for the upgrading of the Indiana East-West Toll Road to Federal highway standards, the maintenance of the toll road, the construction of new interchanges and bond obligations, specifically including reserves.

(6) The total cost to the State highway commission if tolls are removed.

(7) An estimate of the time frame for the earliest construction of whatever improvements are recommended, based upon each of the following alternative methods of financing: by proceeds from the sale of toll supported bonds, by funds provided solely by the State of Indiana, and by funds principally provided by the Federal Government.

BONDED INDEBTEDNESS STUDY

SEC. 136. The Secretary of Transportation shall conduct a study to determine the extent of outstanding bonded indebtedness for each State as of January 1, 1979, incurred by each State or public authority within each State prior to June 29, 1956, for the construction of toll roads or portion thereof incorporated into the Interstate System. The study should determine a method of allocating bonded indebtedness between portions of toll roads which have been incorporated into the Interstate System and portions which remain free to public travel. The study should determine what specific encumbrances there are to expeditious removal of tolls and recommended alternative methods for equitable payment of debt service for the purpose of making toll roads incorporated into the Interstate System free to public travel. The Secretary shall report his findings to Congress not later than January 1, 1979.

DEMONSTRATION PROJECT—RESTRICTED ACCESS

SEC. 137. (a) The Secretary of Transportation is authorized to carry out a demonstration project in a metropolitan area having a population of five hundred thousand, or more, to restrict the access of motor vehicles to the central business district of such area during hours of peak traffic for the purpose of determining the practicability of this method of reducing motor vehicle congestion in this area.

(b) The Secretary of Transportation shall submit a progress report annually on the project authorized by this section and a final report, together with his recommendations, not later than three years after the date of enactment of this Act.

(c) There is authorized to be appropriated, out of the Highway Trust Fund, such sums as may be necessary to carry out this section.

DEMONSTRATION PROJECT—VENDING MACHINES

SEC. 138. The Secretary of Transportation shall carry out a demonstration project on the Interstate System, which, notwithstanding section 111 of title 23, United States

Code, would permit the placement of vending machines in rest and recreation areas and in safety rest areas constructed or located on the rights-of-way of such System. The vending machines shall dispense such food, drink, and other articles as the Secretary of Transportation determines necessary to ascertain the need for, and desirability of, this service to the traveling public. The Secretary of Transportation shall report to Congress not later than two years after the date of enactment of this section on the results of the demonstration project authorized by this section together with any recommendations he deems necessary.

THOUSAND ISLANDS BRIDGE AUTHORITY

SEC. 139. The facility owned by the Thousand Islands Bridge Authority located in part on the right-of-way of Interstate Route I–81 in New York State six hundred feet from the border with Canada is hereby exempt from the restrictions contained in section 111 of title 23, United States Code, prohibiting certain commercial establishments on such rights-of-way. Such exemption shall be only for the purpose of permitting the use of such facility for the sale of only those articles which are for export and for consumption outside the United States.

INTERSTATE ROUTE I–90

SEC. 140. (a) Notwithstanding section 129 of title 23, United States Code, or any regulation or agreement to the contrary, the Secretary of Transportation is authorized to approve projects on the Interstate System for the construction of approaches and interchanges connecting route I–88 to route I–90 and route I–87 to route I–90, in New York State although such projects have no use other than as approaches to route I–90, if such projects are otherwise eligible for such approval.

(b) The Secretary of Transportation is authorized to approve as a project on the Interstate System the construction of an additional lane in each direction on route I–90 connecting route I–88 to such route I–90 between exits 25 and 26 on condition that traffic using such lanes be free of tolls.

HUNTINGTON BRIDGE

SEC. 141. (a) The Secretary of Transportation, hereinafter referred to as the "Secretary", shall, notwithstanding the provisions of subsection (b) of section 129 of title 23 of the United States Code, reimburse the Federal share of the actual cost of construction of a new toll bridge across the Ohio River at or in the vicinity of Huntington, West Virginia, construction of which (other than piers) is begun after October 1, 1978, but not including the cost of toll collection and service facilities, on the same basis and in the same manner as in the construction of free highways under chapter 1 of title 23 of the United States Code upon compliance with the conditions contained in this section.

(b) The Secretary shall reimburse the Federal share of the costs of construction as applicable to a project under section 120 (a) of title 23 of the United States Code from funds apportioned to the State of West Virginia, hereinafter referred to as "State", pursuant to paragraph (1) of subsection (b) of section 104 of title 23 of the United States Code whenever the State enters into an agreement with the Secretary whereby it undertakes performance of the following obligations:

(1) to provide for the construction of such bridge in accordance with standards approved by the Secretary;

(2) all tolls received from the operation of such bridge, less the actual cost of such operation and maintenance, shall be applied by the State to the repayment of the actual costs of construction, except for an amount equal to the Federal share payable of such actual costs of a project; and

(3) no toll shall be charged for the use of such bridge after the Federal share has been paid and the bridge shall be maintained and operated as a free bridge.

Upon the enactment of this section the Secretary shall, at the request of the State, enter into an agreement with that State if such agreement meets the requirements of this subsection.

(c) Such bridge shall be designated as a part of the Federal-aid primary system, other than the Interstate System, before the payment of any Federal funds under this section, notwithstanding the mileage limitations in subsection (b) of section 103 of title 23 of the United States Code.

(d) The Federal share payable of such actual cost of the bridge shall be made in not more than fifteen annual installments, from the funds apportioned to the State pursuant to paragraph (1) of subsection (b) of section 104 of title 23 of the United States Code, with the first installment being made one year after the project agreement has been entered into between the Secretary and the State highway department. Each such payment shall be applied against the outstanding obligations of the bridge.

NATIONAL TRANSPORTATION POLICY STUDY COMMISSION

SEC. 142. (a) Section 154(c) of the Federal-Aid Highway Act of 1976 is amended by striking out "December 31, 1978" and inserting in lieu thereof "July 1, 1979,".

(b)(1) Subsection (h)(1) of section 154 of the Federal Aid Highway Act of 1976 is amended by inserting after the second sentence thereof the following new sentence: "The personnel shall be entitled to reimbursement for travel expenses, per diem in accordance with the Rules of the House of Representatives or subsistence, and other necessary expenses incurred by them in performance of their duties as personnel of the Commission.".

(2) The amendment made by paragraph (1) of this subsection shall take effect on May 5, 1976.

METRIC SYSTEM SIGNING

SEC. 143. (a) No Federal funds may be expended to construct, erect, or otherwise place any sign relating to any speed limit, any distance, or other measurement, on any highway if such sign establishes such speed limit, distance, or other measurement solely using the metric system, unless Congress after the date of enactment of this Act specifically authorizes such expenditure.

(b) No Federal funds may be expended to modify any sign relating to any speed limit, any distance, or any other measurement on any highway for the conversion of such sign solely to the metric system unless Congress, after the date of the enactment of this Act specifically authorizes such expenditure.

(c) For purposes of subsections (a) and (b)—

(1) the term "highway" means a highway as defined in section 101 of title 23, United States Code; and

(2) the term "metric system" means metric system of measurement as defined in section 4 of the Metric Conversion Act of 1975 (15 U.S.C. 205c).

ENFORCEMENT OF VEHICLE WEIGHT LIMITATIONS

SEC. 144. (a) Not later than the one-hundred-eightieth day after the date of enactment of this section, the Secretary of Transportation, hereinafter referred to as the "Secretary", in consultation with each State shall inventory the existing system of penalties for violations of vehicle weight laws, rules, and regulations on any portion of any Federal-aid system in such State.

(b)(1) Not later than the one-hundred-eightieth day after the date of enactment of this section, the Secretary, in consultation with each State, shall inventory the existing system in such State for the issuance of special permits.

(2) For purposes of this subsection, the term "special permit" means a license or permit issued pursuant to State law, rule, or regulation which authorizes a vehicle to exceed the weight limitation for such vehicle established under State law, rule, or regulation.

(c) Not later than January 1 of (1) the second calendar year which begins after the date of enactment of this section, and (2) each subsequent calendar year, each State shall submit a report to the Secretary, in such form and containing such information as the Secretary by regulation deems necessary to determine whether such State enforced all the laws, rules, and regulations of the State respecting maximum vehicle weights permitted on the Federal-aid primary system, including the Interstate System, the Federal-aid urban system, and the Federal-aid secondary system during the fiscal year ending on September 30 of the calendar year preceding the calendar year in which such report is submitted to the Secretary. As soon as practicable after receiving such State reports the Secretary shall submit an annual report to Congress based on such State reports, together with such recommendations as the Secretary deems necessary.

FRANCONIA NOTCH, NEW HAMPSHIRE

SEC. 145. Section 158 of the Federal-Aid Highway Act of 1973 is amended by adding at the end thereof the following: "Upon approval by the Secretary of such Franconia Notch parkway, there is authorized to be appropriated to the State of New Hampshire, out of the Highway Trust Fund, an amount equal to 90 per centum of the difference between the cost of such parkway as established in the 1979 Interstate System cost estimate and the cost of constructing a four-lane Interstate System highway at that location as such cost would be established in such 1979 cost estimate if such Interstate System highway were to be constructed. The funds authorized by the preceding sentence shall be available only for expenditure on highways on any of the Federal-aid highway systems, other than the Interstate System, which serve as alternative routes around Franconia Notch. Such funds shall be available in the same manner and to the same extent as any of the funds authorized by section 104(b)(1) of the Federal-Aid Highway Act of 1978, shall be available until expended, and shall be subject to all other applicable provisions of chapter 1 of title 23, United States Code.".

DEMONSTRATION PROJECT—LOTTERY TICKETS

SEC. 146. The Secretary of Transportation shall carry out a demonstration project permitting a State to sell, by vending machine, or by employees of the State, at publicly owned and controlled rest and recreation areas and in safety rest areas on the rights-of-way of the Interstate System in such State, tickets for any lottery run by such State. Any agreement with such State entered into by the Secretary of Transportation before the date of enactment of this section prohibiting such sales shall be revised to permit such demonstration project. The Secretary of Transportation shall report to Congress not later than two years after the date of enactment of this section on the results of the demonstration project authorized by this section, together with any recommendations the Secretary deems necessary.

DEMONSTRATION PROJECT—BYPASS HIGHWAY

SEC. 147. The Secretary of Transportation is authorized to carry out a demonstration project on the Federal-aid primary system for the construction of a bypass highway from a point south of Prairie Creek Redwood State Park through the drainage of May Creek and Boyes Creek to extend along the

eastern boundary of Prairie Creek Redwood State Park within Humboldt County, California, for the purpose of determining the extent such bypass highway will divert motor vehicle traffic around such park so as to best serve the needs of the traveling public while preserving the natural beauty of the park. Such project shall be subject to the provisions of chapter 1 of title 23, United States Code, applicable to highway projects on the Federal-aid system. The Secretary shall report to Congress upon completion of the project the results of this demonstration project, together with any recommendations the Secretary deems necessary. There is authorized to be appropriated, out of the Highway Trust Fund, $50,000,000, to carry out this section. Such sum shall remain available until expended.

COLUMBIA RIVER BRIDGE STUDY

SEC. 148. The Secretary of Transportation, in cooperation with the States of Washington and Oregon, shall conduct a feasibility study of an additional bridge across the Columbia River between Vancouver, Washington, and Portland, Oregon. The Secretary shall report the results of such study, together with his recommendations, not later than January 1, 1979.

RURAL HIGHWAY PUBLIC TRANSPORTATION DEMONSTRATION PROJECT

SEC. 149. Subsection (a) of section 147 of the Federal-Aid Highway Act of 1973 is amended by adding at the end thereof the following: "A demonstration project shall be carried out under this section in and in the vicinity of the Sherman, Texas-Denison, Texas area.".

MULTIMODAL CONCEPT

SEC. 150. Section 143 of the Federal-Aid Highway Act of 1973 is amended by adding at the end thereof the following new subsection:

"(c) Based upon the report submitted to Congress under subsection (b) of this section, the Secretary of Transportation is authorized to provide for the preparation of preliminary engineering and design plans and the construction of models in connection with the development of the multimodal concept along the route described in paragraph (1) of subsection (a) of this section. There is authorized to be appropriated, out of the Highway Trust Fund, not to exceed $9,000,000 to carry out this subsection.".

ACCELERATION OF PROJECTS

SEC. 151. Section 141 of the Federal-Aid Highway Act of 1976 (90 Stat. 444-445) is amended by adding at the end thereof the following new sentence: "Not later than six months after the completion of such project, the Secretary of Transportation shall submit a report to Congress which includes, but is not limited to, a description of the methods used to reduce the time necessary for the completion of such project, recommendations for applying such methods to other highway projects, and any changes which may be necessary to existing law to permit further reductions in the time necessary to complete highway projects.".

BLOOMINGTON FERRY BRIDGE

SEC. 152. There is authorized to be appropriated to the Secretary of Transportation, out of the Highway Trust Fund, $200,000 for expenditure through the State of Minnesota in preparing environmental impact statements required by Federal law in connection with the construction of the Scott County-Hennepin County Highway 18 Bridge (Bloomington Ferry Bridge) in the vicinity of Bloomington, Minnesota. Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code.

DEMONSTRATION PROJECT OF INTEGRATED MOTORIST INFORMATION SYSTEM

SEC. 153. (a) The Secretary of Transportation is authorized to carry out a demonstration project of the use of a sophisticated automated roadway management system to increase the capacity and safety of automobile travel in high density travel corridors without providing additional lanes of pavement. The management system shall coordinate the traffic flow in major freeways and arterials servicing the travel corridor by use of an integrated system of vehicle sensors to monitor traffic, computers to assess traffic conditions throughout the corridor, and devices to communicate with drivers, police, and emergency equipment.

(b) There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund, not to exceed $30,000,000 for the four fiscal year period ending September 30, 1982.

(c) Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code.

DULLES AIRPORT HIGHWAY ACCESS

SEC. 154. Notwithstanding any other provision of law, the Secretary of Transportation shall permit carpools and vanpools to enter and leave the Dulles Airport Access Highway during rush hours using those entrances, exits, and ramps which are in existence on the date of enactment of this Act.

MAINE TURNPIKE

SEC. 155. (a) Upon the State of Maine or the Maine Turnpike Authority satisfying the following conditions, such State and such Authority shall be free of all restrictions with respect to the imposition and collection of tolls or other charges on the Maine Turnpike or for the use thereof contained in title 23, United States Code, or in any regulation or agreement thereunder:

(1) Repayment by the State of Maine or the Maine Turnpike Authority to the Treasurer of the United States of the sum of $3,055,000 which is the amount of Federal-aid highway funds received for the construction of interchanges or connections with the Maine Turnpike at West Gardiner, Kennebec County, Maine, and at York, York County, Maine.

(2) Destruction and removal of any existing toll plaza and toll collection facility on Interstate 295 at a location known as Exit 6A to the Maine Turnpike.

(3) Agreement by the State of Maine and the Maine Turnpike Authority, that no toll shall be imposed or collected by the State of Maine or the Maine Turnpike Authority, for the use of the following interchange or connection with National System of Interstate and Defense Highways in South Portland, Cumberland County, Maine, and Scarborough, Cumberland County, Maine, and identified as Interstate 295, connecting Interstate 295 and the Maine Turnpike.

The amount to be repaid shall be deposited to the credit of the appropriation for "Federal Aid Highway (Trust Fund)". Such repayment shall be credited to the unprogrammed balance of the Federal-aid highway funds of the same class last apportioned to the State of Maine. The amount so credited shall be in addition to all other funds then apportioned to such State and shall be available for expenditure in accordance with the provisions of title 23, United Sttaes Code.

INTERDEPARTMENTAL COORDINATION STUDY

SEC. 156. (a) The Secretary of Transportation shall make a full and complete investigation and study with the cooperation of the Secretaries of the Departments of Energy, Housing and Urban Development, and Commerce, the Administrator of the Environmental Protection Agency, and the Director of the Office of Management and Budget of—

(1) all those factors affecting the integration of the Clean Air Act Amendments of 1977 (Public Law 95-95), the Energy Policy and Conservation Act (Public Law 94-163), the National Mass Transportation Assistance Act of 1974 (Public Law 93-503), and the Federal-Aid Highway Act of 1978;

(2) the parallel among all rules regulations, administrative reviews, and approvals pursuant to the Acts referred to in paragraph (1) of this subsection;

(3) all those factors affecting the availability and coordination of funding sources to achieve improved air quality, energy conservation, and transportation efficiency; and

(4) the degree to which urban growth, development and Federal funding to urban areas is predicated upon compliance with the Clean Air Act requirements and plans to attain air quality standards.

(b) The results of the investigation and study described in subsection (a) of this section shall be reported to the President and the Congress no later than one year following the date of enactment of this section.

(c) Nothing in this section shall be construed to amend, stay, or in any other way restrict or limit any authority or duty under the Clean Air Act, the Energy Policy and Conservation Act, the National Mass Transportation Assistance Act, or the Federal-Aid Highway Act of 1978.

INCLUSION OF ROUTES IN INTERSTATE SYSTEM

SEC. 157. (a) The Secretary of Transportation shall make a full and complete investigation and study for the purpose of determining appropriate routes in the State of Alaska and in the Commonwealth of Puerto Rico for inclusion in the National System of Interstate and Defense Highways.

(b) In conducting such investigation and study, the Secretary of Transportation shall consult and cooperate with the State of Alaska and the Commonwealth of Puerto Rico.

(c) The Secretary of Transportation shall report to Congress his findings and recommendations under this section not later than January 1, 1979.

ROUTE DESIGNATION

SEC. 158. Notwithstanding the amendments made by section 108(b) of this Act, the Secretary of Transportation shall, not later than sixty days after the date of enactment of this Act, designate as routes on the National System of Interstate and Defense Highways 20.5 miles of existing State Route 11 in the city of Los Angeles, California, between FAI Route 10 and State Route 47/Community of San Pedro, 4.2 miles of the proposed Lockport Expressway in the town of Amherst, Erie County, New York, and 5.1 miles of proposed Interstate Route I-481, connecting Exit 34-A of I-90 to the Bear Road Interchange of I-81 in Onondaga County, New York.

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

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

There was no objection.

AMENDMENTS OFFERED BY MR. HOWARD

Mr. HOWARD. Madam Chairman, I have a series of amendments to titles I, II, and III. I ask unanimous consent that they be considered en bloc, considered as read, and printed in the RECORD at this point.

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

There was no objection.

The amendments are as follows:

Amendments offered by Mr. HOWARD: Page 84, lines 13, 14, 16, 17, 19, 20, 22, 23 and page 85, lines, 1 and 2, strike out "$4,000,000,000" each place it appears and insert in lieu thereof at each such place "$3,700,000,000".

Page 85, line 4, strike out "$2,333,000,000" and insert in lieu thereof "$3,700,000,000".

Page 85, line 5, strike out "1990.". and insert in lieu thereof "1990, and the additional sum of $1,633,000,000 for the fiscal year ending September 30, 1991.".

Page 85, lines 12, 16, 17, and 22 and page 86, lines 3, 7, 10, and 11, strike out "$500,000,000 each place it appears and insert in lieu thereof at each such place "$200,000,000".

Page 87, line 8, strike out "$2,100,000,000,000" and insert in lieu thereof "$1,950,000,000".

Page 87, line 12, strike out "$650,000,000" and insert in lieu thereof "$600,000,000".

Page 94, lines 8 and 16, strike out "Thirty-six per centum" each place it appears and insert in lieu thereof at each such place "Thirty-three per centum".

Page 110, line 22, strike out "$2,000,000,000 and insert in lieu thereof "$1,500,000,000".

Page 111, line 1, strike out "$1,800,000,000" and insert in lieu thereof "$1,300,000,000".

Page 153, line 2, strike out "$2,000,000,000" and insert in lieu thereof "$1,500,000,000".

Page 172, line 20, strike out "$1,860,000,000" and insert in lieu thereof "$1,675,000,000".

Page 178, lines 16 and 17, strike out "$400,000,000" and insert in lieu thereof "$335,000,000".

Page 183, line 3, strike out "$150,000,000" and insert in lieu thereof "$100,000,000".

Page 189, strike out lines 11 through 22 inclusive.

Page 189, line 23, strike out "(c)" and insert "(b)".

Page 190, line 8, strike out "(d)" and insert in lieu thereof "(c)".

Page 190, line 13, strike out "(e)" and insert in lieu thereof "(d)".

Page 190, line 14, strike out "$50,000,000" and insert in lieu thereof "$40,000,000".

Page 190, line 17, strike out the semicolon and all that follows down through and including "1982" on line 21.

Page 192, line 17, strike out "$50,000,000" and insert in lieu thereof "$30,000,000".

Page 195, line 15, strike out "$30,000,000" and insert in lieu thereof "$25,000,000".

Page 196, line 20, strike out "$125,000,000" and insert in lieu thereof "$110,000,000".

Page 204, after line 6, insert the following:

FEDERAL FINANCIAL ASSISTANCE

SEC. 329. (a) Paragraph (1) of subsection (a) of section 3 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"(1) The Secretary is authorized, in accordance with the provisions of this Act and on such terms and conditions as he may prescribe to make grants or loans (directly, through the purchase of securities or equipment trust certificates, or otherwise) to assist States and local public bodies and agencies thereof in financing the following categories of projects.

"(A) The acquisition, construction, reconstruction and improvement of facilities and equipment for use, by operation or lease or otherwise, in mass transportation service in urban areas and in coordinating such service with highway and other transportation in such areas.

"(B)(i) Transportation projects which enhance the effectiveness of any mass transportation project and are physically or functionally related to such mass transportation project or which create new or enhanced coordination between public transportation and other forms of transportation, either of which enhance urban economic development, or incorporate private investment including commercial and residential development. Eligible costs include property acquisition, demolition of existing structures, site preparation, utilities, building foundations, walkways, open space and the acquisition, construction, and improvement of facilities and equipment for intermodal transfer facilities and transit malls, but does not include the cost of construction of commercial revenue producing facilities, whether publicly or privately owned, or the costs of those portions of public facilities not related to mass transportation.

"(ii) The Secretary shall require that all grants and loans under this paragraph be subject to such terms, conditions, requirements, and provisions as the Secretary determines necessary or appropriate for purposes of this section including requirements for the disposition of net increases in value of real property resulting from the project assisted under this section and that any person or entity that contracts to occupy space in facilities funded under this paragraph shall pay a fair share of the costs of such facilities, through rental payments and other means.

"(2) No grant or loan shall be provided under this section unless the Secretary determines that the applicant has or will have—

"(A) the legal, financial, and technical capacity to carry out the proposed project; and

"(B) satisfactory continuing control, through operation or lease or otherwise, over the use of the facilities and the equipment.

The Secretary may make loans for real property acquisition pursuant to subsection (b) upon a determination, which shall be in lieu of the preceding determination, that the real property is reasonably expected to be required in connection with a mass transportation system and that it will be used for that purpose within a reasonable period. No grant or loan funds shall be used for payment of ordinary governmental or nonproject operating expenses, nor shall any grant or loan funds be used to support procurements utilizing exclusionary or discriminatory specifications.".

(b) Existing paragraph (2) of subsection (a) of section 3, is renumbered as paragraph (3) of the Urban Mass Transportation Act of 1964, including any references thereto.

Page 174, after line 9, insert the following:

"(10) Projects which meet the criteria set forth in section 3(a)(1)(B) of this Act may be funded from any amounts made available in paragraphs (5), (7), and (8) of this subsection or from any amounts which are transferred to any such paragraph pursuant to paragraph (9) of this subsection, except that the total amount available for such projects in any one fiscal year shall not exceed $200,000,000.".

Page 174, line 10, strike out "(10)" and insert in lieu thereof "(11)".

Mr. HOWARD. Madam Chairman, this series of amendments considered en bloc, is to reduce the amount of authorization levels in the highway and the mass transit portions of this bill. The Subcommittee on Surface Transportation and the full Committee on Public Works and Transportation reported out, by voice vote, a bill that involved approximately $11.3 billion per year in the highway and highway safety areas, and authorized $4.6 billion per year for the 4-year mass transit portion.

Due to the request of many of our colleagues we were asked if we could not find ways, even after 3½ years of study and hearings and testimony, to reduce the total amount in this legislation.

The subcommittee and its staff worked over the bill very well. We came up here with what amounts to an 8.8-percent reduction per year in the highway and highway safety authorizations, and an equally proportionate cut of 8.8 percent in the mass transportation portion of the legislation.

As to where the cuts would come, it amounts to $1 billion in the highway portion. There would be a reduction of $300 million in the interstate program from the Secretary's discretionary $500 million; so even with this cut, the formula amounts going out to every State will remain the same. The Secretary will have $200 million in discretionary funds rather than the $500 million.

The bridge replacement and repair program, a program which was expanded greatly due to the fact that we have 105,000 unsafe bridges in the Nation today, was reduced by a half billion dollars per year, bringing that down in the bill, which presently has $2 billion per year, to $1.5 billion per year.

One effort we made in this legislation had to do with modernization and improvements in the primary and secondary systems. The committee added $750 million per year for modernization, dualizing, adding safety features, and upgrading of the primary system, and added $250 million, to do the same for the secondary system. In this amendment we reduce those amounts: $150 million from the primary, $50 million from the secondary system.

Madam Chairman, we also have a series of changes amounting to $400 million per year in the mass transit part of the legislation. This was done not alone by the committee, but in talking to mass transit people throughout the country, both in the small towns and cities, and in the large areas, and in talking to the representatives from the American Public Transit Association.

We feel that if we are going to cut this bill, this is the most prudent way in which to do it. We feel justified with the original numbers; but, Madam Chairman, there is one other point we would like to make. In bringing the highway portion of this bill from $11.3 billion per year down to $10.3 billion per year, we can be assured that not only for the 4 years of this bill, but as far into the future as we can see, if every State is able to use every dollar every year, we can continue this program with no need for any additional gasoline tax increase. It is well below the level where we might, down the road, have to consider a gas tax increase.

Madam Chairman, we hope that the committee will accept this as a response to the colleagues who have asked us if we could reduce the levels. We have reduced them substantially, not with a 2-percent cut, not with an across-the-board cut, not with a 5-percent cut, but with an 8.8-percent cut, equally proportionate in both modes.

Madam Chairman, I urge the committee to accept this amendment.

I yield back the balance of my time.

Mr. SHUSTER. Madam Chairman, I move to strike the last word.

Madam Chairman, I rise in support of the amendments of the gentleman from New Jersey, the chairman of the subcommittee, amendments which fulfill a commitment we made jointly more than 2 months ago.

These are reasonable and responsible amendments. If adopted, they will preserve this bill as a sound and balanced piece of legislation which we can take to conference with a good chance of negotiating a compromise responsive to the needs of surface transportation.

The reductions imposed by these amendments are substantial—totaling $1.4 billion—and are offered as our best efforts to accommodate genuine concern over rising levels of Government spending.

At the same time, it is not excessive. It does not cut so deeply into the programs we have shaped after 3 years of work as to betray the hopes of those who look to this bill—and to this Congress—for a rational response to the enormous problems burdening our transportation systems. Like spending and inflation, those are matters of genuine public concern.

The amendments are balanced, too, in that the reductions are largely concentrated in areas of highest increase in authorizations, proportioned so that the priority needs they reflect will still receive significantly increased assistance.

It, therefore, represents the best judgment of your authorizing committee with respect to the achievement of maximum economies with minimal damage to the program. I would caution Members that further cuts—in the name of economy—would be false economy. Deferral of needed work on deteriorating facilities would simply mean much higher costs to be faced eventually. This we have sought to avoid in this amendment.

As ranking minority member of the Surface Transportation Subcommittee, I want Members to be aware that it is a consensus amendment, based on extensive consultation between majority and minority, and endorsed by the committee leadership and an overwhelming majority of the subcommittee.

In concluding, Madam Chairman, I say this to Members, particularly those troubled by the magnitude of this and other spending measures: I share your concerns. We share them. We have done our best to accommodate them. Support these amendments, support the bill, and let us get it into conference. Let us move this bill without any crippling amendments.

I urge adoption of the amendments.

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

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

Mr. DON H. CLAUSEN. I thank the gentleman for yielding.

I rise to associate myself with the remarks of the gentleman in the well in support of this amendment, and also to commend the chairman, the gentleman from New Jersey (Mr. HOWARD) for offering this amendment. It is generally representative of the committee's position, and I want to support the fact that it does represent a consensus.

The amendment would strike $1 billion per year from the highway portion of the bill and $400 million per year from the public transportation portion—a total of more than $5 billion over the 4-year life of the legislation.

It is the consensus of the committee that these cutbacks are prudent and wise and I intend to support the amendment.

There is no doubt but that there is ample justification could be made for the full funding as presently contained in the legislation. For the first time, we have combined highway, highway safety, and public transportation funding in the same bill. This approach is superior to a piecemeal effort and will lead to a better coordinated and improved transportation system.

However, despite these justifications, we have concluded after careful and thorough evaluation that inflation must be taken into consideration necessitating an 8.8-percent cutback to insure that program needs are balanced with available revenues.

This cutback will remove any possibility of the need for an increase in gasoline taxes or the need to dip into general tax revenues to support the programs. More importantly, there will be no need to reduce our authorizations in the future.

This amendment is the result of an honest effort on the part of the gentleman from New Jersey (Mr. HOWARD) and those of us on the committee to bring the authorization levels down to a reasonable and more realistic level.

This amendment has the support of those involved in the implementation of the programs. There is general agreement that the committee's recommendation is acceptable.

I urge my colleagues to support the amendment.

Mr. EDGAR. Madam Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. I thank the gentleman for yielding.

I would like to compliment the gentleman in the well and I would like to associate myself with his remarks and indicate that I think that this cut is a balanced cut between the highway and public transit in all facets of the bill. I think it makes sense, and I think we must underscore the gentleman's comments that to go any lower than this or to put any further restrictions on spending would not be in the best interests of the Nation's transportation needs.

I thank the gentleman.

The CHAIRMAN. The question is on the amendments offered by the gentleman from New Jersey (Mr. HOWARD).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. GIAIMO

Mr. GIAIMO. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GIAIMO: On page 84, after line 4, insert the following new section:

POLICY ON LEVEL OF AUTHORIZATIONS FROM HIGHWAY TRUST FUND

SEC. 101A. (a) Chapter 1 of title 23 of the United States Code is amended by inserting after section 101 the following new section:

"§ 101A. Policy on level of authorizations from Highway Trust Fund.

"(a) DECLARATION OF POLICY.—(1) It is hereby declared to be the national policy that annual authorizations for programs to be financed from the Highway Trust Fund be closely related to anticipated annual receipts accruing to the fund in order that the decision on appropriate program levels and the decision on sources of revenue to finance the program be made in conjunction with each other.

"(2) It is further declared that whenever authorizing legislation provides for growth in program levels, such growth should be consistent with (A) the rate of growth of revenues from existing sources, (B) the ability of States responsibly to obligate increased Federal funds, and (C) a sound overall Federal fiscal policy.

"(3) In determining for these purposes whether or not authorizations are closely related to Highway Trust Fund receipts, the estimated net receipts are to be adjusted upward as described in subsection (e) of this section. The annual authorizations will be considered to be closely related to receipts if they are less than or equal to the adjusted net receipts; but if the new authorizations from the Highway Trust Fund for the next fiscal year are greater than the adjusted net receipts, such new authorizations are to be reduced as provided for in the following subsections.

"(b) DETERMINATION OF NEED FOR CUTBACK IN AUTHORIZATIONS.—(1) The Secretary of the Treasury, after consultation with the Secretary of Transportation and at least one hundred and twenty days before the beginning of each fiscal year, shall estimate—

"(A) the adjusted net receipts of the Highway Trust Fund for such fiscal year, and

"(B) the new Highway Trust Fund authorizations for such fiscal year.

"(2) If the Secretary of the Treasury estimates that the new Highway Trust Fund authorizations for the fiscal year will exceed the estimated adjusted net receipts for such fiscal year, he shall determine the percentage which such adjusted net receipts are of such authorizations, and he shall publish this percentage in the Federal Register at least 90 days before the beginning of the fiscal year.

"(c) Cutback of New Highway Trust Fund Authorizations.—Nothwithstanding any other provision of law, if for any fiscal year the new Highway Trust Fund authorizations exceed adjusted net receipts, the Secretary of Transportation shall—

"(1) in the case of any new Highway Trust Fund authorization which is of the kind subject to apportionment, apportion (in lieu of the amount which, but for this subsection, would be apportioned) the amount obtained by multiplying the amount authorized to be apportioned for such fiscal year by the percentage determined for such year, and

"(2) in the case of any new Highway Trust Fund authorization which is not of the kind subject to apportionment, place a ceiling on the amount of such authorization for such fiscal year which is the amount obtained by multiplying the amount of such authorization by the percentage determined for such year.

"(d) ADJUSTMENT SUPERSEDED BY LEGISLATION REDUCING AUTHORIZATIONS.—An adjustment made by the Secretary of Transportation under subsection (c) shall not go into effect if, prior to the start of the fiscal year involved, the Congress passes legislation containing new Highway Trust Fund author-

izations that are less than or equal to the estimated net adjusted receipts.

"(e) DEFINITIONS.—For purposes of this section—

"(1) The term 'net receipts', with respect to any fiscal year, means—

"(A) the amounts appropriated to the Highway Trust Fund by section 209(c) of the Highway Revenue Act of 1956 for such year, reduced by the amounts transferred to other trust funds and further reduced by payments and credits under the Internal Revenue Code of 1954, and

"(B) interest credited to the Highway Trust Fund for such year.

"(2) The term 'adjusted net receipts', with respect to any fiscal year, means the net receipts for such year, appropriately adjusted as follows:

"(A) For each of the fiscal years 1979, 1980, 1981, and 1982, the net receipts shall be increased by $300,000,000, $300,000,000, $300,000,000 and $300,000,000, respectively.

"(B) The net receipts shall be further adjusted by the amount by which any new Highway Trust Fund authorization taken into account for a prior fiscal year under this section has lapsed, been cancelled, or otherwise been changed.

"(C) The net receipts shall be further adjusted by the amount by which the actual net receipts for the most recent fiscal year for which actual receipts are known differ from the estimate made by the Secretary of the Treasury for that year.

"(D) The net receipts shall be further adjusted for any excess of adjusted net receipts over the new Highway Trust Fund authorizations, to the extent such excess has not theretofore been taken into account under subsection (f) of this section.

"(3) The term 'new Highway Trust Fund authorization', with respect to any fiscal year, means authorization to make appropriations out of the Highway Trust Fund which first becomes available for obligation in such fiscal year. The term includes contract authority.

"(f) TECHNICAL CONSIDERATIONS—RESTORATION OF CERTAIN WITHHELD ACCOUNTS.—(1) If—

"(A) the Secretary of the Treasury estimates that the adjusted net receipts for a fiscal year will exceed the new Highway Trust Fund authorizations for such fiscal year, and

"(B) the Secretary of Transportation has reduced new Highway Trust Fund authorizations for any preceding fiscal year pursuant to subsection (c), the Secretary of the Treasury shall compute the amount of the excess referred to in subparagraph (A) and shall advise the Secretary of Transportation of the amount thereof. The Secretary of Transportation shall then apportion (or otherwise make available for use) the new Highway Trust Fund authorizations referred to in subparagraph (B) for their authorized purposes.

"(2) For purposes of paragraph (1)—

"(A) the aggregate amount restored for any fiscal year shall not exceed the excess determined under paragraph (1) for such fiscal year;

"(B) restoration under this subsection shall be made in the order of the fiscal years for which amounts were withheld under subsection (c);

"(C) in the case of any partial restoration of authorizations for any fiscal year, the amount of any authorization restored shall bear the same relation to the total amount restored as the amount of such authorizations withheld bore to the aggregate amount withheld under subsection (c) for such fiscal year; and

"(D) any amount restored shall remain available for the period for which it would be available if the authorization took effect with the fiscal year for which there is restoration under this subsection.

"(g) TRANSITIONAL RULES.—(1) In the case of the fiscal year beginning October 1, 1978, the Secretary of the Treasury—

"(A) shall make the estimate under subsection (b) not later than 5 days after the date of the enactment of this section, and

"(B) shall publish the percentage in the Federal Register not later than 10 days after such date.

"(2) Any new Highway Trust Fund authorization which becomes available on the enactment of the Surface Transportation Assistance Act of 1978 shall be treated as a new Highway Trust Fund authorization for the fiscal year 1979."

"(h) EFFECTIVE DATE.—The provisions of this amendment shall first be effective for trust fund authorizations for fiscal years beginning after September 30, 1978 and shall not be interpreted to reduce or withhold any funds authorized for prior fiscal years."

(b) The table of sections for chapter 1 of such title 23 is amended by inserting immediately after the item relating to section 101 the following new item:

"101A. Policy on level of authorizations from Highway Trust Fund."

Mr. GIAIMO (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD. It has been printed in the RECORD previously, I might add.

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

There was no objection.

Mr. GIAIMO. Madam Chairman, using what the Clerk just read as part of the amendment will stress and set forth what I am trying to do here with my amendment. It is declared to be the national policy that annual authorizations for programs to be financed from the highway trust fund be closely related to anticipated annual receipts, other words, pay as you go. If we do not adopt my amendment, I submit to the Members that we are going to be spending more than we are taking in in revenues, and we are going to go down the road, within 5 or 6 years, that the social security program went down where we increased the benefits and did not increase the revenues accordingly to pay for those benefits. I recognize the importance of the highway program.

I recognize that we have to in America get on with the highway program, but ask yourselves the question, why did the gentleman from New Jersey offer an amendment just a few moments ago to reduce his bill by $1 billion? I will tell you why, because he knows it is too high and the committee knows it is too high. It is an effort to try to get the bill in line so it will be acceptable. Acceptable to whom? Acceptable to those in the Congress and acceptable to the President downtown, who is extremely concerned about the effect of this legislation on inflation.

What are we doing here? We are not passing a simple little authorization bill here, which will come back to the Congress each year where it will then be subjected to the careful, close scrutiny, of the Committee on Appropriations, who will decide, given the economic conditions and given the inflationary pressures which confront us, what the proper and adequate level of Federal spending should be in the highway program, a Committee on Appropriations which scrutinze and study what the States could properly commit and contract for without adding to the massive inflationary pressures we already have in this country. We do not have that kind of legislation before us today.

Certainly insofar as the mass transit portion of this legislation is concerned, that is a classic authorization bill which has to come back each year for appropriations and each year when the Committee on Appropriations studies it, the Committee on Appropriations can determine what a proper level of funding would be, but not in the highway program. The highway program is contract authority. It is trust fund. You know what that means. That means once you vote this program today, that is the end of it. They can go out and commit up to $11.4 billion and, with the amendment of my colleague from New Jersey, it will now be $10.4 billion.

We have a steady revenue inflow from the taxes, the gasoline tax, or some of the other taxes on tires and batteries and from the other things. We have about $8.3 billion which flows in from revenues into the trust fund. We have been funding this program at about the $8 billion level. Now it is suggested to go to $10 billion. How are you going to pay for it?

Well, they will tell us we have plenty of money rolling into the trust fund. Well, we had a heck of a lot of money rolling into the social security fund for years. Then what happens? There is an old rule, "There is no free lunch in the world," and ultimately, "You have to pay the piper." That is ultimately the reason we have so much trouble in Government today.

Look at our unfunded liabilities in Government. Look at our social security unfunded liabilities and in the hospital accounts. Look at the pension fund of the Federal Government, which is mostly unfunded as far as it affects military persons and the civil service.

Now we are going to do the same thing with the trust fund in highways. We have a program that will be spending over $100 billion when it comes to completing the highway programs of this country. We have been going along fine in funding it as we go along.

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

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

Mr. GIAIMO. Madam Chairman, we have been funding it as we go along with revenues from the trust fund; but we know they are running out, because the trust fund is not designed to increase in the out years. It is assumed in the out years—and by the out years I mean 4 years from now—that this program level will stay at $10 billion.

Well, I submit to you, I have yet to see a Federal program that is funded at the rate of $10 billion today which will not grow because of inflation or program growth in the out years.

Now, they tried to remedy this a year or so ago when they came in with the

gasoline tax increase, and I think that was the way to do it. I voted for that tax increase. I was one of the heroic few around here at that time who did.

I think there were fewer than 100 of us—I believe about 70—and we said, "If you want to make the trust fund better, if you want to make it more viable, increase the gas tax."

That did not happen, so they had to look for other alternatives. What are some of the other alternatives?

We could remedy the program so that we can get revenues from general revenue taxes rather than from user taxes, but obviously that is not an acceptable alternative. Or we can do what basically this committee is doing. It is setting up a 4-year program, but it is setting up a revenue trust fund for 5 years. The theory is that ultimately the 5 years of Federal revenues will pay for the 4 years of the program, and perhaps they will for the first 4 years.

But what happens at the end of 4 years? We are already using the revenues from the year before. At the end of 4 years we are not going to terminate the highway program in this country. I certainly hope we would not because I know we are going to need one. We will renew it, and we will borrow against future revenues again, and at that point we will be well down the road that we have gone in the use of social security funds and in the social security accounts.

This is an inflationary program. This program, even with the amendment offered by the gentleman from New Jersey (Mr. HOWARD), will provide us a 47-percent rate of increase over last year. That is a staggering level of increase, particularly today when we talk about the need to hold the line, the need to get our budget in better shape, and the need to get our deficits down. We will be adding fuel to the flames of inflation if we build up this program and if we force the States to take more money. And, believe me, they will take it if we force them to take it; they always do. What we do by following this course is to give impetus to the upward pressures on inflation.

The time to get control of this program is now, if we are serious about controlling Government spending. We have talked about that time and time again in this Chamber. We have talked about it on budget resolutions, we have talked about it on tax cuts, and we have even talked about it on foreign policy issues. We have even tacked on riders to balance the budget.

But I submit that there in the authorizing process is where we really get control over spending, particularly in the mandatory programs, the nonappropriation programs, and the trust fund programs. We must get control now when we are authorizing them, because if we do not do it now, we will forever lose control over them.

I submit that we should bring this down to the level which the Prsident recommends—and that is 8.3—which the other body recommends, which the Committee on the Budget recommends, and which many Members in this Chamber recommend. We must bring it down to a more modest rate of growth. That still leaves us with an adequate rate of increase over last year—something in the neighborhood, I believe, of about 17 percent.

For heaven's sake, let us not go forward in this massive inflationary way and begin to borrow from future revenues in the highway fund.

We are going to hear all kinds of statements that we have plenty of money on hand, that we have revenues on hand. We may have them now, but here we are talking about revolving funds. It is like going out and buying things and paying for them with a credit card. It does not take the money out of one's pocket, but eventually the bill comes due.

The CHAIRMAN. The time of the gentleman from Connecticut (Mr. GIAIMO) has expired.

(On request of Mr. ROSTENKOWSKI, and by unanimous consent, Mr. GIAIMO was allowed to proceed for 3 additional minutes.)

Mr. GIAIMO. Madam Chairman, if it were not the fact that they have to borrow against future revenues, they would not be in here proposing this revenue change in the tax law to finance this bill in the out years, which are those years in the middle 1980's.

Mr. ROSTENKOWSKI. Madam Chairman, will the gentleman yield?

Mr. GIAIMO. I am delighted to yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Madam Chairman, as I understand the gentleman's amendment, it would cut the authorization $2 billion and bring it in conformity with the Senate bill; is that correct?

Mr. GIAIMO. Yes, in conformity with the Senate bill and to conform to what the estimate is of existing revenues.

Mr. ROSTENKOWSKI. Madam Chairman, there have been rumors about vetoes with respect to this particular legislation. Has the gentleman from Connecticut (Mr. GIAIMO) had any discussions with the administration with respect to the possibility of a Presidential signature on a bill such as this, with the amendment which the gentleman has offered?

Mr. GIAIMO. I have had discussions with the President's representatives at OMB. They inform me the bill is unacceptable to them in its present form. I have a letter here from Secretary Adams, who expresses opposition to the bill and urges support for my amendment.

Mr. ROSTENKOWSKI. I have had some discussions with the Secretary, and in those discussions it was pointed out to me that the funding in this authorization is far beyond their expectations and that, in fact, they find it very difficult to spend all of the money in the framework of the present legislation.

Given that as an observation, and with the possibility of a threatened veto, I should think that the wise avenue of approach would be to support the gentleman's amendment and to hope for a favorable consideration on the part of the executive.

Mr. GIAIMO. Madam Chairman, let me just give the Members an example. We have a very important program here which is known as the bridge program. It is a real program. I know there are many Members of the House who are concerned about it. I understand, if we adopt my amendment, it would provide for a bridge program I believe in the area of about $450 million or $500 million. That would be a massive increase, incidentally, over what that program has been carried at and funded at at the present. I believe it has been funded at less than $200 million. So there is a substantial increase there. This program, I believe, would increase the authorization for the bridge program to $2 billion. My God, are we serious about trying to get control over inflation?

And, second, do the Members realize, when we increase a program from $180 million to $2 billion, the tremendous pressures which we build on the States to try to raise their moneys to try to match those programs?

The CHAIRMAN. The time of the gentleman from Connecticut (Mr. GIAIMO) has expired.

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

Mr. GIAIMO. That kind of pressure and that kind of money available, as the Members know, pushes up the cost of bidding, it pushes up the cost of material, and it is a most inflationary way to initiate programs.

Mr. YATES. Madam Chairman, will the gentleman yield?

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

Mr. YATES. I thank the gentleman for yielding.

Madam Chairman, I happen to be a member of the Appropriations Subcommittee for the Department of Transportation and for the Highway Department. There is very little we can do on the Appropriations Committee to have any kind of control over the expenditures of the Highway Department. We get the bills, we pay the bills.

Mr. GIAIMO. It is contract authority.

Mr. YATES. That is right. In contrast to that, when we get the request for appropriations for urban mass transit we go over the request for appropriations and we are able to review it project by project by project, to determine what expenditure should be made. We have some semblance of control.

In his discussion with the distinguished gentleman from Illinois (Mr. ROSTENKOWSKI), and others, and the gentleman's own statement with respect to the bridges, I notice the gentleman talks about authorization. This is more than authorization.

Mr. GIAIMO. Yes. I said it is really contract authority.

Mr. YATES. The gentleman said that. I think it must be emphasized time and time again that what we are voting for here is not authorization, that when we pass the bill with the amounts in it, that is it. The Highway Department is authorized to enter into contracts. The expenditures are automatic. There is no further review by the Appropriations Committee, there is no second look at the expenditures. There is no control for budgetary purposes.

Madam Chairman, I support the gentleman's amendment, and I hope the amendment passes.

Mr. GIAIMO. In fact, as the gentleman knows, in the old legislation they worked out some system where the Appropriations Committee set some sort of ceiling limitation.

Mr. YATES. That was on administrative expenses, though.

Mr. GIAIMO. Even that is eliminated in this bill, as I understand it. So when the Appropriations Committee moves, even that modicum of control is developed in an ad hoc way.

Mr. YATES. All control is gone, and there is no more congressional control at all.

Mr. GIAIMO. The gentleman is right. Although we use the term "authorization," we have to remember that this is not an authorization bill in the classic sense, where you pass the law and you go to the Appropriations Committee. Here you pass the law. It is outflow. Congress cannot look at it again unless we deal with the basic legislation.

Mr. GARY A. MYERS. Madam Chairman, will the gentleman yield?

Mr. GIAIMO. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. I thank the gentleman for yielding.

Madam Chairman, at the risk of some criticism from my own committee, because I do serve on the Committee on Public Works, I do feel the gentleman is offering a prudent amendment.

I have great concern that we are going down the path the Congress took during the 1960's on the social security, "Easy to raise the benefits but kind of tough to raise the revenue" situation, as evidenced by the fact that probably today if there is a vote taken on the gentleman's amendment, I would think that most of the Members who would be voting against him are also the same ones who voted against the Howard 5-percent gas tax last year, which would have provided a situation which was much more acceptable. I voted for that, and I respect the gentleman for having offered it to the House, because I do think it would have brought revenues we needed.

There is some slight difference between this and social security because of the fact that social security is an entitlement program, but I do think that we do need to put a proper relationship between what we are willing to raise in revenues and what we are willing to give in spending.

Mr. GIAIMO. Let me say this: I have a great deal of affection and admiration for the gentleman from New Jersey. He has done magnificent work in this highway program and in the Public Works Committee. It is not with a sense of lightness that I come here and offer this amendment, but it is only because I am pleading with the Members, for heaven's sakes—and I work with this, as the Members know, with the budget all the time—for heaven's sakes, let us not go down the same road where we have increased benefits for the American people but we do not want to vote the money to pay for them. That is what gets us into all our trouble. The social security program, as I said, is a tragic example of that.

This would be beginning an unfunded operation. This trust fund will run out of money in the middle 1980's, and when it runs out of money we are going to have a bill submitted to us which is going to stagger us. Let us have a modest program with less increases. An increase of 17 percent is better than we do for defense or veterans or anyone. Let us get control of this program now. I urge the Members to support this amendment.

My amendment would make it national policy in determining the level of backdoor highway trust fund contract authorizations to consider "the rate of growth of the revenues from existing sources, the ability of States responsibly to obligate increased Federal funds and * * * overall Federal fiscal policy." Furthermore, the amendment would require that highway trust fund authorization levels not exceed anticipated net receipts of the highway trust fund on an annual basis, plus interest accruing to the trust fund. The immediate impact of this amendment will be to require a reduction in the highway trust fund contract authorizations in H.R. 11733 from the proposed level of $11.4 billion per year to roughly $8.3 billion for fiscal year 1979.

I offer this amendment because I believe that the highway trust fund authorization level in H.R. 11733 is unacceptable and that the $8.3 billion reflected in the House-passed second budget resolution is a proper level for fiscal year 1979 and provides a responsible 17-percent increase in the program.

When the House Budget Committee tallied the March 15 views and estimates from the committees, we were faced with an $80 billion deficit for fiscal year 1979. As the Budget Committee and the Congress worked together in preparing the first budget resolution, we reduced the anticipated deficit to around $51 billion. Now we have adopted the second budget resolution for fiscal year 1979 and we have a budget deficit of $38.8 billion. House actions on the first and second budget resolutions for fiscal year 1979 show that we are aware that there is a real relationship between Federal spending, Federal tax policy, national inflation, and the value of the American dollar. We know that we still have to reduce the deficit and we will. We all hope to see a balanced budget as soon as possible; maybe by 1980 or 1981.

Now, the $11.4 billion in highway trust funded authorization in H.R. 11733 is approximately $3.1 billion more than the amount assumed in the House passed second resolution. That is right, $3.1 billion more budget authority than in the resolution. The $11.4 billion in the bill is approximately 60 percent more than the current level of highway trust program funding. A 60-percent increase in the highway trust fund program is totally out of line with the funding increases granted in all other areas of the budget. There was no 60-percent increase in funding in defense, which must certainly be ranked as being of primary importance. There was nothing close to a 60-percent increase in veterans' affairs or other transportation programs for that matter. The increases were closer to 10 percent in defense, 12 percent in veterans' Affairs and 17 percent in all other transportation programs. A 60-percent increase for the highway program—or 45 percent if you assume the $1 billion amendment of the bill's floor manager, Mr. HOWARD—is totally out of line with the hard work and wisdom reflected in the work of the House in all other areas of the second budget resolution.

The American people do not want to see programs grow 60 percent or 45 percent in 1 year and the Congress understands that. Now we are faced with a bill that does not seem to reflect either the will of the American people or the will of the House. In the past I have termed this bill a budget buster, and that is what it is. It is a disagreement with the House-passed second budget resolution, and 60 percent and 45 percent increases in any annual program make it that much harder to reduce the deficit, control inflation, and defend the dollar. We can't struggle to reduce the deficit to $38.8 billion and then turn around and in the same breath pass bills which will ultimately raise the deficit. We cannot hope to balance the budget in 1980 or 1981 or 1982 or whenever if we vote today for uncontrollable outlays in those years—outlays which will then be completely out of our control.

There are real needs in the highway program. The $8.3 billion level for trust fund programs that my amendment contemplates recognizes our priority needs. It represents an increase of 17 percent over current year levels. In contrast, the $11.4 billion in H.R. 11733 cannot even be obligated by the States. The Department of Transportation's most recent estimate, based on surveying the States, is that the States can obligate a maximum of from $7.6 billion to $8.6 billion in fiscal year 1979.

I understand that when the Federal Government comes along and waves $4 billion in new money in front of the States and localities, they are going to have a hard time saying no. But can we conscionably give States more money than they can spend? Can we raise specific programs by 33 percent, 50 percent, and 100 percent in 1 year and expect the money to be spent effectively? The Public Works Committee says that the States need $10.4 billion (originally it was $11.4 billion). The President, the House and Senate Appropriations Committee, the Senate Authorizing Committee, and the Senate and House Budget Committees all agree that the fiscal year 1979 highway trust fund program should be in the area of $8.3 billion.

Make no mistake, about it, if we follow the course that this bill would set out for the highway program, we will find ourselves with another social security tax problem on our hands. We will spend big in the early years without any significant increase in revenues. Sooner or later down the line, we will find that we need more revenues to pay for the increased programs. Is not that just what happened to social security?

If the highway bill is much above the $8.3 billion projected for highway trust programs as per my amendment, the

President has said he will veto the bill. The President will veto the bill not because he is against highways, but because of the inflation, tax, and deficit problems associated with the proposed levels of funding in H.R. 11733.

Today, we have an opportunity to act responsibly—an opportunity to vote fiscal restraint and wage a fight against inflation. We have a classic opportunity to show the American people that we are not foolish big spenders. We can show by our votes on my amendment that we expect efficiency and not waste in our programs. I urge you to support my amendment.

Mr. HOWARD. Madam Chairman, I rise in opposition to the amendment.

Madam Chairman, we did have a long, single debate on the pro side of this amendment. I would first like to respond to just a few of the things the gentleman from Connecticut said.

First, on this talk about mortgaging the future, the fact that we have a 4-year authorization bill with a 5-year extension of the highway trust fund is as it has always been done. In the very beginning, in the 1950's, we established a 16-year highway trust fund for a 13-year program because we know that when we authorize or obligate for a construction program for highways or bridges or safety, it takes several years before the project is completed and the bills come due in various stages of the development. What we have to be sure of is, will the money be there when the bills come due.

This is a pay-as-you-go program. If we were to adopt the amendment offered by the gentleman from Connecticut, we would destroy the total highway program as well as the trust fund. We would be saying that this is a "pay-before-you-go" program. It would mean that if you have a project that will take several years to complete, you will have to have the money in hand before you begin it. No one in this Nation would ever buy an automobile on time; no one would ever be able to buy a house with a mortgage if we had a program throughout the country similar to this.

The idea, of course, is this: If you have a certain amount of money to begin a program, and if you have an assured source of income, whether it be a trust fund here or a job somewhere else, you are purchasing an automobile or a home, and make the payments as they come due, it is not necessary that you have all the money now or just go without years from now.

The gentleman from Connecticut talked about the social security system and how it can run into trouble. We have to have a certification in this program now. The Byrd amendment was adopted years ago. The Secretary of the Treasury must certify to the Secretary of Transportation that when the bills come due for these programs, the money will be there. If that is not the case, the law says that the Secretary of Transportation must cut back the programs to meet the amount of money that will be available.

The Byrd amendment has never been invoked in the history of the highway program. It would not be invoked in this bill. This bill goes 4 years.

But the gentleman said we are going to have a deficit in the trust fund in the 1980's or the mid-1980's. At the level that is in the bill at this moment, we can go on ad infinitum with this amount of money if every State uses every dollar every year, without a deficit, without the need for a tax increase. We have got 4 cents a gallon in this fund since 1959. That is what we get now. That is what we could carry this bill with completely.

The gentleman talked about the bridge program and his support for his bridge program. There would be under his amendment about $450 million a year or so. Just a couple of facts about the bridge problems in this country. We have 105,000 unsafe bridges in the Nation today. We have a bridge collapse on the average of one every 2 days in this Nation. In the older parts of our country we have hundreds and hundreds of bridges that need either repair or replacement. The cost at today's dollars to fix the bridges in this Nation is $25.1 billion. Under our present law we put $180 million into it.

But let us look at what we have in the bill now. In the bill now we have $1.5 billion per year on a 90–10 basis, Federal against State. The gentleman says $450 million a year is enough. Well, with the bill we have before us, just the bridges that are bad today, if no more bridges go bad or get old or fall down, and we just have to meet this problem, and we reject the gentleman's amendment and put this $1.5 billion in, if we go along with $1.5 billion a year just for these bridges at the normal 7-percent inflationary rate of cost, do Members know when we will finish fixing the bridges that are bad now? Never.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. HOWARD) has expired.

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

Mr. HOWARD. Madam Chairman, we will never catch up with it, even at $1.5 billion.

And then what will we be doing with $450 million? Has anyone talked about jobs and the spurt to the economy? The gentleman talked about a tax increase. That is absolutely wrong. He talked about inflation. If somebody does not like a bill, we talk about inflation. Spending causes inflation sometimes. Spending has negligible effect on inflation sometimes. But just off the cuff we hear the word: "Inflation."

I do not know whether the OMB or the DOT or the gentleman from Connecticut has a study on the inflationary aspects of this legislation before we made the cut a half hour ago, but we asked the Library of Congress to do an inflationary impact study on this legislation. The response comes back. It boils down to negligible, something like less than four-tenths of 1 percent.

This is a pay-as-you-go program. We are going to conference. As far the Appropriations Committee is concerned, they set and have the final word on the obligation ceilings every year, so we are not going into any kind of program that is going to send us down the line for years to come with no one in Congress being able to say anything about it.

If the gentleman's amendment passes, we will be by law ordering the Secretary of Transportation to cut back highway trust fund money.

The gentleman from Connecticut (Mr. GIAIMO) does not cut the gasoline tax at all. What he is telling you is this: He is going to have us keep collecting the tax money, but then not letting it be used for anything, and we are going to put billions and billions of dollars per year into the trust fund which, by law, we say can never be spent.

In view of proposition 13, if there is anything worse in the people's mind than taking a gas tax from them, or any tax, it is to take the tax from them and not use it for anything.

We have great needs in reclaiming our highways, great needs in fixing the bridges, great needs to help provide more safety in our transit system, we have great needs in the field of public transportation, if we are going to meet the energy problems and the needs that we have in the coming years.

So, Madam Chairman, with that prologue, I rise in strong opposition to the amendment.

Mr. JOHNSON of California. Madam Chairman, will the gentleman yield?

Mr. HOWARD. I am happy to yield to the chairman of our full Committee on Public Works and Transportation, the gentleman from California (Mr. JOHNSON).

Mr. JOHNSON of California. Madam Chairman, I thank the gentleman for yielding to me. I want to join the gentleman in the remarks he has just made and in strong support for the position he has taken. I know of no one in the House of Representatives who has done a better job in going throughout the United States and its territories and in coming up with the facts and figures and justifications for the programs that he has advocated and has put together in this bill than the gentleman from New Jersey (Mr. HOWARD). I just hope that the Members in the House will follow the advice of the chairman of their Subcommittee on Transportation and support his position and be in opposition to the Giaimo amendment.

Mr. HOWARD. I thank the gentleman for his kind remarks.

Mr. DUNCAN of Oregon. Madam Chairman, will the gentleman yield?

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

Mr. DUNCAN of Oregon. Madam Chairman, the gentleman said that the Committee on Appropriations carries final responsibility for setting authorization levels. Am I not correct that we yielded that back to the authorization committees, and said that we did not seek to appropriate that power so long as the authorizing committees did it themselves?

Mr. HOWARD. We also said, however, we would confer with them and attempt to come to an agreement each year, which we have at this time with the Committee on Appropriations.

Mr. DUNCAN of Oregon. I just wondered. I would not want it left unanswered.

Mr. HOWARD. Absolutely, we would not want to take it all on by ourselves.

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

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

Mr. ULLMAN. Madam Chairman, let me say that the matter in the gentleman's amendment came before the Committee on Ways and Means, in a different form, but it would have accomplished the same basic purpose. The committee looked at it very carefully and the committee voted against it on its merits. The trust fund has never operated in the way that the Giaimo amendment would force it to operate.

The CHAIRMAN. The time of the gentleman has expired.

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

Mr. ULLMAN. Madam Chairman, if the gentleman will yield still further, it would therefore appear to me that the wise thing to do would be to vote down the Giaimo amendment. We had some misgivings about the Highway Trust Fund program being too large; and I am hopeful in conference we may be able to pull it back somewhat and keep it within the budget.

We are concerned about the long-range fiscal responsibility of the whole trust fund concept. But I have to come out in sympathy with the gentleman's (Mr. HOWARD) argument, and in opposition to the amendment before us now.

Mr. HOWARD. I thank the gentleman very much.

Madam Chairman, if this amendment is adopted the Committee on Public Works and Transportation might just as well close up shop and look for some other job. And we might look at other committees in later years, or later this year, that might be overrun by this concern called budget, it might be the Committee on Agriculture next, it might be the Committee on Science and Technology next. This amendment makes a complete mockery of the authorization process.

Prior to the beginning of each fiscal year—and I think Congress ought to take a look at what it is giving up to the administration—prior to each year the Secretary of the Treasury would tell the Congress what the limit on authorization for the year should be. If Congress fails to comply, then the Secretary of Transportation himself would be ordered to cut back the program to the level which the Secretary set.

Madam Chairman, no other Federal program operates in this manner, and I think it is absurd that such a scheme as the Giaimo amendment should be applied to the highway program, all in the name of what? Those key words "fiscal responsibility."

Is it fiscally responsible to cut back a program below the levels the trust fund can safely sustain when we have needs for those funds? Is it fiscally responsible to adopt policies which would effectively prevent the use of the present $11 billion balance in the trust fund and even increase that balance? Is it fiscally responsible to let highway tax dollars lie fallow while inflation erodes the value of those very dollars?

Are we, in the name of fiscal responsibility, to rob the highway user of the taxes he pays and will continue to pay, under the gentleman's amendment, for better and safer roads and highways and bridges, so as to build up a balance in the Treasury to be used for what? Other Federal programs?

Madam Chairman, this is what the Giaimo amendment does, and all in the name of fiscal responsibility. As the gentleman from Oregon (Mr. ULLMAN) stated, this is not a new amendment. We had it around for 3 months, from May 16, the date the full committee passed the bill out, until just recently when it was before the Committee on Ways and Means. There was so much opposition to it because we thought it would lead to the destruction of the fund.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. HOWARD) has expired.

Mr. HOWARD. Madam Chairman, in order to have basic equality with the gentleman from Connecticut, I believe that if I can get unanimous consent for 5 additional minutes, we would be equal.

Therefore, Madam Chairman, I ask unanimous consent to be allowed to proceed for 5 additional minutes.

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

There was no objection.

Mr. HOWARD. Madam Chairman, the Committee on Ways and Means has recognized the validity of our funding approach. This mechanism has been used for years, used successfully, with never a deficit. Everytime a dollar was due, a dollar was there, and it was paid by the user.

Madam Chairman, the gentleman from Connecticut (Mr. GIAIMO) says that the bill will add to the deficit. Such claims have been made before; but how in the name of commonsense can we say that a pay-as-you-go program which draws its money from a dedicated source can contribute to the general deficit? If anyone wants to buy that notion, then perhaps the problem lies with the accounting system and not with a program which draws its funds from dedicated tax dollars.

Madam Chairman, we have safeguards. The Byrd amendment, which we have already mentioned, would guarantee that the trust fund may never go into a deficit. The trust fund is one of the few funding mechanisms which has worked well, and we should not tamper with it now.

The gentleman from Connecticut (Mr. GIAIMO) says that highway trust fund programs, if we amended this, would represent a 47 percent increase over fiscal year 1978. This may be superficially true, but the statement ignores the fact that this is a 4-year bill, with level authorizations, and not a 1-year bill and a one-shot increase of 47 percent.

Considering all 4 years, Madam Chairman, the average annual percentage increase in trust fund financed programs is approximately 15 percent.

The gentleman from Connecticut (Mr. GIAIMO) says that the funds in this bill cannot be spent by the States. He cites a survey of States which was taken by DOT some months ago. I have a statement that has not been released by DOT, which put funding levels for fiscal year 1979 ability of the States at $9.3 billion per year; $9.5 billion in 1980; and over that in fiscal year 1982, so that the Department of Transportation has its own sheet which says that these funds can be well over $9 billion, well above what the gentleman would reduce this program to.

Madam Chairman, aside from what would happen to safety, to bridges, to the upgrading of older roads in this Nation, in this bill there is not one extra dollar to build one foot of new highway in the country. We are going to fix the bridges, modernize the old roads, so that the States can use them.

The committee takes great pride in this bill, Madam Chairman. We worked on it for 3½ years. We heard hundreds of witnesses, have thousands of pages of testimony, and we bring to the committee a sound, fiscally responsible program, a program that uses the trust fund as it has been successfully used over 20-some years, and we begin to meet the real needs of our people in safety, in transportation, in energy conservation. We hope that the Members will not destroy the whole thing at this time. We are going to go to conference with the other body. They are much lower than we are. We did not work 3½ years to reach a stalemate, to have a bill vetoed, to have no legislation at all. We are going to probably end up like we always end up. A bill will go down to the White House that will be a little bit lower than Congress really thinks we ought to have and a little bit higher than the President would like to sign, but within that reach where Congress will have done its work in fulfilling its responsibility; the President will sign the bill, and we will have a good, progressive program for future years.

I urge the defeat of this vital, vital, destructive amendment, and I yield back the remainder of my time.

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

Madam Chairman, I rise to vigorously associate myself with the remarks of the distinguished gentleman from New Jersey (Mr. HOWARD), the chairman of our Subcommittee on Surface Transportation. There are several points which need to be emphasized.

The first is that the receipts into the Trust Fund, plus the balance, can sustain the projected expenidtures. The Department of Transportation itself has the document which says that. The

Committee on Public Works and Transportation came to that conclusion. The Committee on Ways and Means, very carefully looking into this very question, came to that conclusion, and the Department of the Treasury came to that conclusion. Receipts can sustain these expenditures.

It is very significant to note that the gentleman's amendment does not talk about expenditures. It talks about authorizations; authorizations must equal the receipts in any given year. That is an apples and oranges comparison. What really counts is whether or not the money is going to be there to pay the bills, to pay the expenditures when they come due. The evidence shows that it will be there, but, even more significantly, if it is not there, under the law we cannot have deficit spending in this program. It is one of the few programs, if not the only program, in Washington where there can be no deficit spending. Under the law the Secretary of the Treasury must certify that the funds will be there and, indeed, if this straitjacket is put on this program, if this new approach is legislated by the Congress this year, the end result will be a ballooning of the money in the trust fund. The $11 billion balance in the fund today will go higher and higher. Think about that for a moment.

I would suggest that there are many, at least some here, who understand that perfectly and know what they are doing. It is the same old antihighway crowd which has been against the highway trust fund, has been in favor of destroying the highway trust fund, and that is precisely what the end result would be here today if we accept this amendment. The highway trust fund would be straitjacketed, and there would be a ballooning balance in it. For some at least in this House that would be good news, because it means there would be more money in the highway trust fund which could be used to finance the deficit spending for other unrelated programs in this Congress.

Further, this amendment is blatantly biased because it cuts highways but does not touch mass transit. It cuts the program where there is money in a trust fund but does not touch the expenditures which must come out of an already deficit-ridden general fund. I can assure the Members that if, indeed, this amendment does pass—I do not think that it will, but if it does pass—I can assure the Members there are those of us who are going to give you "born again" fiscal conservatives the opportunity to exercise your fiscal conservatism on voting for a like amount of cuts in the mass transit program. I can assure the Members that they will have that opportunity should this amendment pass.

Lastly, it cannot be emphasized too strongly the highway needs of this Nation are enormous. The gentleman from New Jersey (Mr. HOWARD), the chairman, commented on them. The Members know from their own districts what their needs are.

In summary, let us take the funds which the users are putting into the trust fund and let us expend those funds for the needed highway programs across this Nation. Let us not be bamboozled in the name of false fiscal conservatism to let that money balloon for other unrelated programs, when the users of America's highways so badly need the taxes they pay expended to give them better and safer highways.

Mr. DUNCAN of Oregon. Madam Chairman, will the gentleman yield?

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

Mr. DUNCAN of Oregon. Madam Chairman, my understanding is that there is about a $19 billion, maybe a little better, surplus in this trust fund.

Mr. SHUSTER. There is an $11.4 billion balance.

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

(At the request of Mr. DUNCAN of Oregon, and by unanimous consent, Mr. SHUSTER was allowed to proceed for 2 additional minutes.)

Mr. DUNCAN of Oregon. Madam Chairman, if the gentleman will yield further, my understanding of the fund is that most of that has been committed, not in the sense of having been obligated, but having been committed for projects that have been approved by the Department of Transportation.

Now, I recall over the past few years that we have continually expanded or continually extended the benefits out of the social security trust fund and here within the past 6 months it has suddenly caught up with us.

Mr. SHUSTER. I would point out, there is nothing in the social security trust fund that requires the Secretary of the Treasury to certify that the funds will be there to meet these expenditures; but there is that language in the law today and, therefore, the analogy between the two trust funds simply does not hold up. They are not analogous.

Mr. DUNCAN of Oregon. Madam Chairman, if the gentleman will yield further, I would concede about that point. The gentleman is talking about the so-called Byrd amendment; is that correct?

Mr. SHUSTER. That is correct.

Mr. DUNCAN of Oregon. The only thing that disturbs me about this so-called surplus, it has been committed, it is not obligated. It is committed in the sense the Department of highways has committed and approved projects.

I worry about whether that Byrd amendment is effective in the slightest to protect that trust fund until these commitments are so high it is too late to do anything about it.

Mr. SHUSTER. It is effective in the extreme, because we cannot do anything about it, because the Secretary of the Treasury must certify that the funds will be there to meet the expenditures; so under the law there can be no deficit spending in this program, perhaps the only or one of the few programs in this National Government which is so protected.

Mr. DUNCAN of Oregon. Madam Chairman, if the gentleman will yield further, my figures were a little off. I was speaking from a hazy recollection and I thought we had about a $19 billion surplus, about $18 billion of which had been committed.

I have been supplied with some figures that indicate it is about $11.2 billion.

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

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

Mr. DUNCAN of Oregon. Madam Chairman, if the gentleman will yield further, I have been supplied with figures which indicate that there is a cash balance of $11.2 billion, but there is an $18 billion unfunded commitment, which leaves us with $6.8 billion of unfunded authorizations at the end of the year, and the Byrd amendment has not done a thing about it.

Mr. SHUSTER. They extend over many years and the funds will be there, assuming an ongoing program to meet these obligations.

Madam Chairman, I urge defeat of this amendment.

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

Madam Chairman, I take this time just to very strongly rise in opposition to the amendment of the gentleman from Connecticut and to try and emphasize another area that I think we should consider when we cast our votes in opposition.

Now, the committee has worked very, very hard on the legislation for a long period of time.

I think the bill was a very sound bill from a fiscally responsible position, even before the amendment of the gentleman from New Jersey (Mr. HOWARD), chairman of the subcommittee. The gentleman's amendment cut titles I and II by approximately $1.4 billion. We adopted that amendment here this evening .

I think everyone here this evening has already served in this body longer than I have. All of you have served on conference committees. All of you realize the understanding and trading and the give and take that is going to have to occur in the conference that this body is going to have to go through with the Senate on this particular legislation.

Right now with the chairman's $1.4 billion cut, the Senate bill is already $2 billion more than the House bill.

We are going to need some leverage when we get to the conference with the Senate. We are going to have to have something to pull out with them in order to get them to give in some areas in which we are vitally interested. If the amendment of the gentleman from Connecticut is adopted, the House conferees will be crippled. We will be at the total and complete mercy of the Senate as far as getting some things in which we are really interested and I think in which all the House Members are vitally interested.

I am speaking particularly of areas such as bridges where we differ a great deal from what the Senate has adopted

in its version. We have more funds included in the bridge program. I think the figure in the Senate bridge program is very, very low.

In addition, on the issues of primary and secondary roads, our bill differs a great deal from the Senate-passed version.

If the Giaimo amendment is agreed to, the only negotiating tool the House conferees are going to have will be taken away from them, and I think that would be a very serious mistake. The House is going to have an opportunity to look at the levels before the bill is passed on and sent to the White House. We should not cripple the hands of the Members we are going to be sending to the conference with the Senate by adopting the Giaimo amendment.

We have heard the reasons for our position, and the chairman of the subcommittee, the gentleman from New Jersey (Mr. HOWARD), has very accurately outlined the reasons why we think the money is at an appropriate level and could be easily spent and spent in a manner that would help this country, not hurt it.

On the other hand, we have heard the arguments of the gentleman from Connecticut (Mr. GIAIMO) as to why he thinks the funding is a little heavy.

Be that as it may, I think this amendment is something we should consider carefully, and we should not cripple the hands of the conferees when the bill goes to conference. The bill is bound to be a little different when it does come back from conference, we all realize that.

Madam Chairman, let us not cripple the House conferees in their negotiations with the Senate, and let us reject the Giaimo amendment.

Mr. GARY A. MYERS. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I do not understand why we must make the assumption that just because the House and the Senate come close in their figures, there would be no capability of the House to prevail on some of its provisions. Certainly there is an historical lineage on legislation on which we have gone to conference where the totals have differed. If we look at the total dollars related to such legislation, some sections were very similar to the Senate's, but some sections and subsections of the bill were changed, some reflecting the Senate's preference and some reflecting the House's preference.

So I do not think we can be convinced by that argument. The argument about the position of the House in the conference could actually be used as an endorsement for the amendment. It would seem to me there would certainly be a leverage for the two bodies to negotiate in conference. If in fact there are technical difficulties with the item which does, as the gentleman from Pennsylvania (Mr. SHUSTER) indicated, lock in a ballooning amount in the trust fund, that is not the objective of this gentleman in support of the amendment.

However, I would hope that the language of the amendment does not do that. If it does do that, it would not seem to me to create a situation in which that technical aspect of it could not be corrected in conference.

I had earlier mentioned the proposal of the gentleman from New Jersey during the consideration of the energy program and I refer to the proposal for a 5-cent gas tax. I would like to make reference to the fact that I stood shoulder to shoulder with the gentleman, along with a very minimal number of Members of the House, supporting the gentleman from New Jersey, who was indicating there is a need for funding to meet the growing transportation needs of this country.

I agree with the gentleman from Louisiana (Mr. BREAUX) that we do need an expanded bridge program. I think $1 billion is probably the area in which we ought to be, rather than $2 billion, for a number of reasons. That is a great expansion. I also agree that a number of our highways need to be rehabilitated.

I agreed with the gentleman during that debate that we ought to be responsible enough as Members of the House to not only agree to fund those programs but to raise the revenues to match those needs.

That is why I supported the gentleman in his position.

Mr. GIAIMO. Madam Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from Connecticut.

Mr. GIAIMO. Madam Chairman, I agree with much of what the gentleman from Pennsylvania (Mr. GARY A. MYERS) has said.

Is it not curious that even though it is represented that their funding system in this legislation is sound, the committee felt it had to find new sources of revenue?

Mr. GARY A. MYERS. That is what is puzzling me now.

Mr. GIAIMO. It also puzzles me.

First, they sought a gasoline tax, which I supported, because I believe we should keep this trust fund on a pay-as-you-go basis. But beyond that, not having received that tax, they are now initiating a 4-year program with a 5-year revenue package to take care of the 4-year program.

At the end of the 4 years they will come in with another 4-year program with another 5-year revenue package or perhaps a 6-year revenue package to pay for it. That is when we start the pyramiding effect, and in the middle 1980's is when we run out of money.

Mr. GARY A. MYERS. The gentleman is correct. And many of us may not be Members of the House at that time to take the responsibility for making appropriations to make up for the revenues that will be absent. That is all I am saying. I am willing to vote for increased funding for bridges and for increased funding for highways.

But I am also willing to say that I will vote for a 5-cent or a 2-cent gas tax if that is what it takes.

The gentleman is correct. The bill coming out of committee would require 6 years' funding revenues authorization and only a 4-year bill for spending. That has been trimmed down.

The gentleman from Oregon did not mention the fact that his committee was affected to some extent.

Mr. GIAIMO. Madam Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from Connecticut.

Mr. GIAIMO. I thank the gentleman for yielding.

Madam Chairman, would not the gentleman also suspect that the fact that the chairman of the committee is offering a $1 billion reduction in this program, and also the fact that the chairman of the Committee on Ways and Means suggests the possibility of further reductions in a conference, indicate that they concede that the program is excessive?

Now, if that is the fact, it seems to me the House ought to take responsible action and not await the conference committee with the other body and then arrive at a more consistent position.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. GARY A. MYERS) has expired.

(By unanimous consent, Mr. GARY A. MYERS was allowed to proceed for 2 additional minutes.)

Mr. GARY A. MYERS. Madam Chairman, I commend the gentleman. I agree with him. The argument that we have to go in extremely high so that we can deal with the Senate does not seem to be a meritorious argument. There are many authorizations in some of the bills that come out of the other committees, and some of the Members now speaking on that approach would certainly not advocate that approach.

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

Mr. GARY A. MYERS. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding.

Madam Chairman, do I understand the gentleman correctly that he thinks one way to properly fund this is to increase the gasoline tax 2 cents?

Mr. GARY A. MYERS. The original proposal that failed last year by this Congress was a 5-cent gas tax.

A 1-cent gas tax would yield about $1 billion a year in revenue. I think we ought to look at what is involved.

Mr. ROUSSELOT. Most of the advocates of the Giaimo amendment feel we should have a gasoline tax increase?

Mr. GARY A. MYERS. I am not sure. I have not polled those Members.

Mr. ROUSSELOT. May we get an answer from the gentleman from Connecticut on that? A gasoline tax increase, is that what we are advocating if we are for the Giaimo amendment?

Mr. GARY A. MYERS. I will respond. I do not view the Giaimo amendment to say that it endorses a gas tax. I view it to say that if you are not in favor of a gas tax increase, you ought not be in favor of increasing expenditures in the absence of an adequate amount of revenues, which is what I think the Giaimo amendment says.

Mr. ROUSSELOT. Several of the people who support the Giaimo amendment favor a tax increase?

Mr. GARY A. MYERS. No; I think it is split down the middle.

Mr. ROUSSELOT. It is split down the middle?

Mr. GARY A. MYERS. If I can recapture my time, the split would be that there are some Members who support the Giaimo amendment who think we ought to expand the program and, therefore, increase gas taxes to meet that obligation. There are some, obviously, who support the Giaimo amendment—if the gentleman from California would like to listen to my response, I would be glad to make it.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. GARY A. MYERS) has expired.

Mr. HOWARD. Madam Chairman, in order that we may meet the 7:30 rising time which has been promised, I ask unanimous consent that all debate on this amendment and all amendments thereto close at 7:15 p.m.

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

There was no objection.

The CHAIRMAN. Members standing at the time the unanimous-consent request was agreed to will be recognized for approximately 20 seconds each.

(By unanimous consent, Mr. SHUSTER and Mr. CLEVELAND yielded their time to Mr. HARSHA.)

(By unanimous consent, Mr. VOLKMER yielded his time to Mr. SIMON.)

(By unanimous consent, Mr. BLOUIN and Mr. FARY yielded their time to Mr. HOWARD.)

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. CORMAN).

Mr. CORMAN. Madam Chairman, nobody believes that one foot of highway is ever going to be built by anything other than the trust fund, and the trust fund ought not be used to balance the budget.

I urge a "no" vote on the amendment

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. GARY A. MYERS.)

Mr. GARY A. MYERS. Madam Chairman, I take time only to finish the answer to the gentleman from California (Mr. ROUSSELOT). I am not speaking for anybody supporting the Giaimo amendment. Some certainly would support increased gas taxes; some would support increased road rehabilitation. Some would suggest that we could keep the level of spending as it currently is and not raise gas taxes. That is the simple answer I can give to the gentleman from California.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. HARSHA).

Mr. HARSHA. Madam Chairman, I never cease to be amazed at how some of the Members change their approach and philosophy throughout the years to various problems confronting this legislative body. Some of the very proponents of this amendment were the same people who several years ago criticized the previous administration for impounding highway funds. That is exactly the intent and the full force and effect of the Giaimo amendment. It would impound highway funds to prevent this Congress from exercising its jurisdiction, and would give the executive branch the ability to impound highway funds.

That is exactly what we are doing, because it says that the apportionments would be based on the Secretary of the Treasury's annual estimates of trust fund revenue rather than the authorization bill enacted by Congress. In fact, this amendment could well be interpreted as a de facto overturning of the decision of the U.S. Court of Appeals for the Eighth Circuit in Missouri against Volpe which held that the Secretary of Transportation did not have the authority to reduce highway funding below the levels set by Congress.

Madam Chairman, I urge defeat of the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Madam Chairman and my colleagues, I come from a district that is in desperate straits for highway funds and bridges. Since I have been in Congress for two terms, I have had two people killed on bridges that have fallen down. For that reason, I voted for the Rostenkowski amendment to increase taxes and the Howard amendment.

But, if we do not have the courage to vote the taxes, let us not spend the money. It is that simple, and it is inflationary. Let me quote from the Engineering News-Record of September 21, 1978:

> Any sigh of relief from state highway officials after a brief drop in federal-aid highway bid prices early this year quickly turned into a gasp as bid prices during the second quarter of this year moved to record highs.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. ASHLEY).

Mr. ASHLEY. Madam Chairman, I rise in support of the chairman of the Budget Committee and his amendment. I think that the integrity of our budget process is very much on the line. I also think on the line is whether or not there is a feeling on the part of this body to address itself to what is the No. 1 issue of the Nation today, that is, inflation. If we want to do that, if we want to come to grips with that pernicious disease, this is an appropriate time to start.

The CHAIRMAN. The Chair recognizes the gentleman from Connecticut (Mr. GIAIMO).

Mr. GIAIMO. Madam Chairman, I urge support of this amendment. If we really want to go back home and tell the American people we are really doing something about excessive Federal spending and we are doing something about getting control of the excessive expenditures, we have got to eliminate this kind of grab against future revenues and have a program we can pay for as we go.

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey (Mr. HOWARD).

Mr. HOWARD. Madam Chairman, the gentleman from Illinois, our good friend (Mr. SIMON) quoted from the Engineering News Record that this could be inflationary. I quote from the Library of Congress that it would not, and we have the study.

People talk about the need for a tax increase. But the Department of Transportation and the Department of Treasury and the Congressional Budget Office all say that with the amount in this bill now there will be no need for a further tax increase.

Do not try to cut funds by destroying the program. We still have to go to conference. I urge defeat of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut (Mr. GIAIMO).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. GIAIMO. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 111, noes 238, not voting 83, as follows:

[Rollcall Vote No. 815]

AYES—111

Andrews, N.C.	Hamilton	Nedzi
Ashley	Hanley	Nolan
Aspin	Harris	Obey
AuCoin	Holtzman	Panetta
Bedell	Hyde	Pattison
Bellenson	Ichord	Pease
Bennett	Jacobs	Pike
Blanchard	Jeffords	Poage
Bonker	Jenkins	Preyer
Brademas	Kastenmeier	Pritchard
Brinkley	Kostmayer	Rangel
Brodhead	Krebs	Regula
Broyhill	LaFalce	Reuss
Burleson, Tex.	Latta	Richmond
Burlison, Mo.	Leggett	Rogers
Carr	Lehman	Rostenkowski
Cavanaugh	Lent	Russo
Cornell	Long, La.	Scheuer
Danielson	Long, Md.	Schroeder
Delaney	McCloskey	Seiberling
Dellums	McFall	Sharp
Diggs	McHugh	Simon
Drinan	Maguire	Spellman
Duncan, Oreg.	Mann	Staggers
Duncan, Tenn.	Markey	Stark
Early	Marks	Steers
Edwards, Calif.	Martin	Stockman
Fenwick	Mattox	Studds
Fisher	Mazzoli	Udall
Foley	Mikulski	Volkmer
Ford, Mich.	Mikva	Waxman
Fraser	Moffett	Weiss
Frenzel	Mollohan	Whalen
Garcia	Mottl	Whitley
Gephardt	Murphy, Ill.	Wirth
Giaimo	Myers, Gary	Wylie
Gudger	Neal	Yates

NOES—238

Abdnor	Baldus	Breckinridge
Akaka	Barnard	Brooks
Alexander	Baucus	Broomfield
Ambro	Beard, R.I.	Brown, Mich.
Anderson, Calif.	Beard, Tenn.	Buchanan
	Benjamin	Burgener
Andrews, N. Dak.	Bevill	Burke, Fla.
	Biaggi	Burke, Mass.
Annunzio	Bingham	Burton, John
Applegate	Blouin	Burton, Phillip
Archer	Boggs	Butler
Ashbrook	Bolling	Carter
Badham	Bowen	Cederberg
Bafalis	Breaux	Chappell

Chisholm	Heftel	Patten
Clausen, Don H.	Hillis	Perkins
Clawson, Del	Hollenbeck	Pettis
Clay	Holt	Pickle
Cleveland	Horton	Pursell
Coleman	Howard	Rahall
Collins, Ill.	Hubbard	Rinaldo
Collins, Tex.	Huckaby	Risenhoover
Conte	Hughes	Roberts
Conyers	Jenrette	Robinson
Corcoran	Johnson, Calif.	Roe
Corman	Johnson, Colo.	Roncalio
Cotter	Jones, N.C.	Rooney
Cunningham	Jones, Okla.	Rose
D'Amours	Jones, Tenn.	Rosenthal
Daniel, Dan	Jordan	Rousselot
Daniel, R. W.	Kasten	Roybal
Davis	Kazen	Runnels
Derwinski	Kelly	Ryan
Devine	Keys	Santini
Dicks	Kildee	Satterfield
Dingell	Kindness	Sawyer
Dodd	Lagomarsino	Schulze
Dornan	Le Fante	Sebelius
Downey	Leach	Shuster
Edgar	Lederer	Skelton
Edwards, Ala.	Levitas	Slack
Edwards, Okla.	Livingston	Smith, Iowa
Emery	Lloyd, Calif.	Snyder
English	Lloyd, Tenn.	Solarz
Ertel	Lott	Spence
Evans, Del.	Lujan	St Germain
Evans, Ga.	Luken	Stangeland
Evans, Ind.	Lundine	Stanton
Fary	McClory	Steed
Findley	McCormack	Stokes
Fish	McDade	Stratton
Fithian	McDonald	Stump
Flippo	McEwen	Symms
Flood	McKay	Taylor
Florio	Madigan	Thompson
Ford, Tenn.	Mahon	Traxler
Fountain	Marlenee	Treen
Fowler	Marriott	Trible
Frey	Mathis	Ullman
Fuqua	Meyner	Van Deerlin
Gaydos	Michel	Vander Jagt
Gilman	Miller, Ohio	Vento
Ginn	Mineta	Waggonner
Glickman	Minish	Walgren
Goldwater	Mitchell, Md.	Walker
Gonzalez	Moakley	Walsh
Goodling	Montgomery	Wampler
Gore	Moore	Watkins
Grassley	Moorhead, Calif.	White
Green	Moorhead, Pa.	Whitehurst
Guyer	Murphy, N.Y.	Whitten
Hagedorn	Murphy, Pa.	Wilson, Bob
Hall	Murtha	Wilson, Tex.
Hammer-schmidt	Myers, John	Wolff
Hannaford	Myers, Michael	Wright
Harkin	Natcher	Wydler
Harsha	Nowak	Yatron
Heckler	O'Brien	Young, Alaska
Hefner	Oberstar	Young, Fla.
	Ottinger	Young, Mo.
		Zablocki

NOT VOTING—83

Addabbo	Flowers	Quayle
Ammerman	Flynt	Quie
Anderson, Ill.	Forsythe	Quillen
Armstrong	Gammage	Railsback
Bauman	Gibbons	Rhodes
Boland	Gradison	Rodino
Bonior	Hansen	Rudd
Brown, Calif.	Harrington	Ruppe
Brown, Ohio	Hawkins	Sarasin
Burke, Calif.	Hightower	Shipley
Byron	Holland	Sikes
Caputo	Ireland	Sisk
Carney	Kemp	Skubitz
Cochran	Krueger	Smith, Nebr.
Cohen	McKinney	Steiger
Conable	Meeds	Teague
Cornwell	Metcalfe	Thone
Coughlin	Milford	Thornton
Crane	Miller, Calif.	Tsongas
de la Garza	Mitchell, N.Y.	Tucker
Dent	Moss	Vanik
Derrick	Nichols	Weaver
Dickinson	Nix	Wiggins
Eckhardt	Oakar	Wilson, C. H.
Eilberg	Patterson	Winn
Erlenborn	Pepper	Young, Tex.
Evans, Colo.	Pressler	Zeferetti
Fascell	Price	

The Clerk announced the following pairs:

On this vote:

Mr. Gammage for, with Mr. Addabbo against.

Mr. Derrick for, with Mr. Zeferetti against.

Mr. Teague for, with Mr. Eilberg against.

Mr. ERTEL and Mr. BROWN of Michigan changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

● Mr. ALEXANDER. Madam Chairman, I opposed the amendment. The funding levels as they will be revised by the amendments of the Surface Transportation Subcommittee chairman, the gentleman from New Jersey (Mr. HOWARD), are not extravagant. This bill is the result of 3 years of in-depth study and deliberation on the part of the Public Works and Transportation Committee.

Those who oppose the spending levels on the basis of environmental grounds fail to recognize that this highway bill shifts the emphasis on new construction to rehabilitation and restoration of existing highways. Rehabilitation of existing roads will have minor adverse environmental impact.

This bill continues the pay-as-you-go approach that Congress has followed in highway financing for over 20 years.

This bill is not inflationary. It provides Federal resources in an area that impacts on virtually every American—transportation. At some point, improvements on the Nation's highways, bridges and mass transit systems will have to be made. To commit Federal resources now will be less costly than in the future.

Madam Chairman, for those of us who rely on rural roads, I can tell you that my people support the use of their tax dollars toward an improved transportation system.

I am not prepared to support a reduction of the estimated $16 million in highway and bridge replacement funds that my State would experience if this amendment were adopted when our roads and bridges are deteriorating 50 percent faster than we can rejuvenate them.

I urged my colleagues to defeat the Giaimo amendment.●

● Mr. MILLER of Ohio. Madam Chairman, I rise to strike the requisite number of words. For nearly a decade completion of the East Huntington Bridge between Huntington, W. Va., and Lawrence County, Ohio, except for the placement of two piers finished in February 1977, has been delayed because of funding problems in the State of West Virginia. Originally scheduled to open in 1970 and alleviate the congestion on other Ohio River spans, the East Huntington Bridge was to be a vital commercial and commuting link between the tri-State area of Ohio, West Virginia, and Kentucky.

Because this bridge is unfinished, a serious traffic bottleneck has been created that has disrupted the commerce and growth potential of the area. Last year I personally inspected the bridge site and found incredibly long lines of vehicles waiting to cross the existing West Huntington Bridge and Sixth Street Bridge where 16,000 vehicles cross the Ohio. Due to their heavy use especially by large trucks, the maintenance and safety of these bridges have become a serious problem.

Section 141 of the bill will alleviate this situation by allowing a Federal reimbursement procedure whereby the State of West Virginia can begin construction that will lead to an early completion of the East Huntington Bridge.

I appreciate the excellent cooperation we have received from the committee and its staff and especially to Chairman HOWARD who inspected the bridge site.

I support section 141 and urge its approval.

Madam Chairman, I rise to strike the requisite number of words.

The highway bridge replacement program under section 118 of the bill is needed. There are more than 4,300 bridges in Ohio's 10th Congressional District—an estimated 25 percent of which are in need of major repair or total replacement. These bridges are vital links for fire and emergency vehicles, school buses as well as commuters. There simply are not the local resources to undertake such a massive bridge replacement program. That is why I support and urge approval of section 118.●

● Mr. ANDERSON of California. Madam Chairman, I have the greatest respect for the author of the amendment now before us (Mr. GIAIMO). I also recognize the position he finds himself.

But I must rise to oppose his amendment. His arguments are essentially the same as those presented—and rejected—by the Ways and Means Committee.

Our Public Works Committee and the Ways and Means Committee have carefully reviewed the funding levels of this bill and we all agree that the trust fund can sustain H.R. 11733's authorizations with no new taxes or increases in existing taxes.

For more than 2 years our committee has worked with businessmen, State and local officials, and taxpayers to develop a bill that addresses the priority needs of surface transportation programs.

The result of this work now hinges on the gentleman's amendment being rejected. This bill is not extravagant. Quite the contrary.

SUMMARY OF TRANSPORTATION NEEDS

Witnesses before our committee have testified that we are beginning to see the first symptoms of deterioration of our national highways. This follows the collapse of the Northeast railroads, the steady worsening of railroad beds and the inability of the air carrier industry to attract the investment capital needed to replace aging equipment.

This system, with its 3 million miles of paved surface serving more than 130 million vehicles traveling more than 1.3 trillion vehicle-miles annually, is essential for both passenger and freight traffic. Over 80 percent of this Nation's annual expenditures for all forms of transportation of persons and goods involves the highway mode.

Fundamentally, the highway system is supported by its users. From its beginning in 1916, Federal highway law has developed into a close working relationship between the Federal and State and local governments.

Let me take a few minutes to explain the effects of our accepting the amendment before us today.

We know that the highway plant is

wearing out faster than it is being replaced—we are going backwards. In 1972, DOT, in its National Highway Needs Report (NHNR) estimated that the total cost of bringing all roads and streets to minimum standards by 1990 would be $562 billion. This does not include the cost of completing the Interstate System.

This figure—adjusted to exclude local roads and street needs, to modify traffic growth—averages $47.3 billion per year.

WHO'S SPENDING WHAT?

In 1974, the Federal Government spent $265 million on capital outlays. State agencies spent $10 billion. Counties spent $1.3 billion. Municipalities spent $1.5 billion. Including maintenance, these totals changed to $534 million Federal, $16.7 billion State, $3.86 billion county, and $5 billion municipality.

In 1974, of over $26 billion spent on highways and maintenance, just $226 million came from the trust fund, and indeed, only $534 million came from the Federal Government.

It was forecast, that in 1977, trust fund expenditures would approximate $283 million while the other units of Government would spend nearly $30 billion.

Costs of maintenance and traffic services—historically a State and local responsibility—can be expected to increase from the current level of $8 billion. The costs may well average about $12 billion.

Madam Chairman, in addition to the documented fact that we are rapidly losing ground at keeping our Nation's highway system in repair, we have to all realize that the public's perception of what constitutes tolerable conditions is also involved.

A school bus accident with multiple fatalities may generate a public demand for the correction of certain deficiencies.

A catastrophe such as the collapse of a major bridge can change a situation from tolerable to intolerable immediately.

But given this, the amendment before us seeks to cut funding levels drastically.

In 1979, the gentleman's amendment would cut over $4.6 billion. Further, cuts would be $4.1 billion in 1980, $3.9 billion in 1981, and $3.6 billion in 1982. These are cuts of 60 percent.

THE ALTERNATIVE

Madam Chairman, I dislike taking to the floor to criticize amendments offered in good faith by my colleagues. I do it today only because of the alternative—that being the committee amendment offered by Chairman JIM HOWARD.

This amendment will reduce the $11 billion balance in the trust fund, but no deficit will be created. Nor will there be a need to provide additional gas taxes or reduce authorization levels in the future. In fact, by rejecting the amendment by the gentleman from Connecticut and accepting that of the gentleman from New Jersey (Mr. HOWARD) the balance in the trust fund will decrease from $11 billion this year to $9.5 billion in 1980, $3 billion in 1985, $514 million in 1990 to $1.9 billion in 1993.

In my home State of California, the Budget Committee's amendment would reduce funding by over $100 million. I ask unanimous consent to print at this point a chart explaining the effects of the amendment before us.

ATTACHMENT A

EFFECT OF GIAIMO AMENDMENT ON FISCAL YEAR 1979 APPORTIONED HIGHWAY FUNDS (FHWA) (AFTER THE HOWARD CUTS)

[In thousands; fiscal years]

State	1979 (Howard)	1979 (Giaimo)	Howard change from 1978	Giaimo change from 1979 (Howard)
Alabama	$169,264	$138,710	+$48,645	−$30,554
Alaska	132,516	108,595	+37,684	−23,927
Arizona	128,385	105,210	+22,508	−23,175
Arkansas	89,725	73,529	+38,494	−16,196
California	562,054	460,596	+122,918	−101,458
Colorado	113,615	93,106	+3,598	−20,509
Connecticut	144,876	118,724	+25,369	−26,152
Delaware	41,227	33,785	+11,549	−7,442
District of Columbia	88,259	72,327	+19,250	−15,932
Florida	255,413	209,308	+69,252	−46,105
Georgia	206,642	169,341	+56,398	−37,301
Hawaii	68,369	56,028	+13,303	−12,341
Idaho	60,058	49,217	+15,462	−10,841
Illinois	373,980	306,472	+57,543	−67,508
Indiana	129,034	105,742	+33,505	−23,292
Iowa	140,329	114,998	+44,939	−25,331
Kansas	136,097	111,530	+45,308	−24,567
Kentucky	192,678	157,897	+73,959	−34,781
Louisiana	229,419	188,006	+75,466	−41,413
Maine	50,638	41,497	+15,547	−9,141
Maryland	223,475	183,135	+51,368	−40,340
Massachusetts	213,047	174,589	+51,944	−34,458
Michigan	241,902	198,236	+54,164	−43,666
Minnesota	202,720	166,127	+57,205	−36,593
Mississippi	89,726	73,529	+21,328	−16,197
Missouri	188,835	154,748	+46,393	−34,087
Montana	81,012	66,388	+14,279	−14,624
Nebraska	83,228	68,204	+29,636	−15,024
Nevada	66,903	54,826	+15,268	−12,077
New Hampshire	49,980	40,958	+17,764	−9,022
New Jersey	187,420	153,588	+47,016	−33,832
New Mexico	81,064	66,431	+17,631	−14,633
New York	475,274	389,481	+139,654	−85,793
North Carolina	189,053	154,927	+56,522	−34,126
North Dakota	58,310	47,784	+15,968	−10,526
Ohio	294,495	241,335	+68,675	−53,160
Oklahoma	90,998	74,572	+27,965	−16,426
Oregon	123,712	101,380	+24,544	−22,332
Pennsylvania	410,784	336,632	+106,539	−74,152
Rhode Island	72,978	59,805	+28,466	−13,173
South Carolina	110,646	90,673	+40,092	−19,973
South Dakota	58,237	47,724	+16,737	−10,513
Tennessee	186,148	152,546	+59,736	−33,602
Texas	450,758	369,391	+109,666	−81,367
Utah	76,131	62,388	+15,839	−13,743
Vermont	50,959	41,760	+18,604	−9,199
Virginia	274,712	225,123	+76,186	−49,589
Washington	218,994	179,463	+64,661	−39,531
West Virginia	129,960	106,501	+31,341	−23,459
Wisconsin	143,983	117,992	+46,929	−25,991
Wyoming	59,965	49,141	+13,873	−10,824
American Samoa	570	467	+81	−103
Guam	570	467	+81	−103
Puerto Rico	37,362	30,618	+12,828	−6,744
Virgin Islands	570	467	+81	−103
Grand total	8,537,059	6,996,014	+2,229,761	−1,541,045

Note: Table prepared by Public Works staff from DOT data. Comparison includes interstate, primary, secondary and urban systems, planning, bridge replacement, high hazard/roadside obstacles, rail highway crossings, 402 FHWA, traffic signals and forest highways. Giaimo amendment would cut an additional estimated $319,000,000 from other trust fund financed programs for a total cut of $1,860,000,000 below Howard levels in fiscal year 1979.

We must not allow our Nation's system of highways to deteriorate. To that end we must not accept the Budget Committee's amendment.●

● Mr. DON H. CLAUSEN. Madam Chairman, the Surface Transportation Assistance Act of 1978, H.R. 11733, is the culmination of more than 3 years of work by the House Public Works and Transportation Committee of which I am a member. It is a major, comprehensive highway bill which provides for highway construction, highway safety, mass transportation in urban and rural areas and for a number of other worthwhile and needed highway related activities.

I intend to support the bill and would like to commend my colleagues on the committee for their hard work in completing action on the legislation. In particular, my friend and colleague from New Jersey (Mr. HOWARD) should be recognized for the central role he played in developing this legislation despite an illness that would have kept a normal man away from his work for many months longer. Our able chairman, the gentleman from California (Mr. JOHNSON) and the ranking minority members on the subcommittee and full committee also deserve our congratulations for their efforts in keeping this legislation on the right track.

The inflation problems we face and the cost escalations associated with this inflation suggest that we must move selectively to commit the necessary funds for completion of our highway systems. A number of unsafe segments of highway continue to threaten the lives of motorists and impede the free flow of goods and services. A positive funding commitment is necessary for the restructuring or rebuilding of these segments of our highway system.

We must also move in the direction of improving and updating our highways to accommodate our new and more comprehensive bus systems both in rural and urban communities where public transit requirements exist.

I support the future funding commitments contained in our legislation as they are necessary for the advance planning needed to permit the most modern and efficient transportation system pos-

sible. Our transportation engineers require assurances of funding to begin work in these areas.

The bill does in fact increase the percentage of Federal share for most noninterstate Federal-aid highway projects from 70 percent to 80 percent. This increase will permit the States to take fuller advantage of the programs. The Federal share for highway safety programs is also increased from 80 percent to 90 percent to encourage greater participation in this program as well.

We have also included for the first time the Northern Mariana Islands in our territorial highway program raising the share to 100 percent. As a member of the House Interior and Insular Affairs Committee which has principal jurisdiction over our territories I am pleased that the committee has recognized the special highway needs of this area.

Our bill continues our commitment to construction of bikeways. Bikes are becoming more and more important and popular as an alternative mode of transportation and recreation. Our bill provides for additional investments in bicycle routes in both urban and rural areas and also recognizes the importance of not reducing access to these pathways by requiring that every effort be made not to sever or destroy heavily used routes when new highway projects are undertaken.

Bikeways provide us with an alternative to automobiles. A comprehensive bicycle trail system will mean that a person is not locked into using his/her car for short local trips which will benefit people in terms of health and energy savings.

During our consideration of the legislation, we heard a good deal of testimony regarding the insurance problems affecting the safe and efficient operation of bridges, tunnels, and roads. The bill recognizes this problem and directs the Secretary of Transportation to make a full and complete investigation and study of the problem. The risk factors to be studied include, but are not limited to, structural, operational, environmental, and civil disturbance factors. The study will direct particular attention to the needs of our toll facilities.

Section 147 of the bill provides for a demonstration project for the construction of a bypass highway around a portion of the Redwood National Park located in my congressional district.

This provision is a continuation of a concept we first initiated in the Federal-Aid Highway Act of 1975—the preservation of parklands—and a commitment made earlier this year to assist the communities adversely affected by the expansion of the Redwood National Park. We first authorized the Secretary of Interior to acquire the land necessary for construction of the bypass in the Redwood National Park Expansion Act. This section in the highway bill represents a continuation of our efforts.

The present highway cuts through a portion of the park known as the Prairie Creek Unit. The volume of traffic through the park and the number of park visitors has grown to such proportions that other methods of handling the traffic must be considered.

The slow moving traffic consisting mostly of park visitors is forced to move with the faster moving commercial traffic. The result is a serious safety hazard as well as a diminished park experience for those who have traveled great distances to see the wonders of the majestic northcoast redwoods.

A well conceived and developed transportation system is essential to the creation of a viable park.

I urge my colleagues to support this legislation. I believe we must bring to this Nation a surface transportation program which addresses the needs of both rural and urban areas, safety considerations, and funding concerns in a long range manner. This has not been done before and is deserving of our support.●

● Mr. GILMAN. Madam Chairman, I rise in support of H.R. 11733, the Surface Transportation Assistance Act of 1978.

This bill is a comprehensive measure providing sorely needed funding for the priority needs of our Nation's interstate highway and mass transit systems.

The highway funding provisions of this legislation authorize $48 billion or $12 billion a year for highway construction, maintenance, and safety over the next 4 years. With $44 billion of these funds to be derived from the highway trust fund, the remainder is slated to come from general revenues. Fiscal year 1978 spending has been approximately $8.3 billion.

A significant portion of noninterstate highway programs would be increased from the 1978 level of about $2.6 billion to $3.6 billion a year. This increase over the current spending would be directed towards resurfacing, restoration, and rehabilitation projects on primary, secondary, and urban roads.

Mass transit authorizations over the next 4 years would amount to $18.5 billion or approximately $4.6 billion per year.

In addition, H.R. 11733 authorizes the highway trust fund for an additional 5 years, and calls for a study of alternatives to the highway trust fund tax system and a research assessment of who uses the highway system and what each user pays for his utilization of our Nation's highway systems.

Among the bill's other major provisions are: a 4 year authorization of $25 million annually to more effectively promote bikeway projects—a worthy energy saving and exercise-promoting program; and a $35 million program to be committed over the next 4 years to encourage energy conserving ridesharing projects involving carpooling and van pooling.

Madam Chairman, the critical importance of expeditiously passing this comprehensive proposal cannot be overstated: spending authorizations under the current Federal Highway Act are due to expire on September 30, 1978. While all States will suffer in the absence of speedy enactment of the measure before us, my New York colleagues and I are all too well aware of the consequences that would befall our State.

Responding to the critical need for new highways and the repair of existing roadways, New York State has substantially increased spending for highway construction. Contract lettings for highway construction during the fiscal year ending March 31, 1978 exceeded $700 million, approximately $200 million more than the previous year.

Due to this accelerated pace, all available State and Federal funds have been converted into productive employment. Such a program has allowed New York to make real progress in upgrading and reconstructing the highway facilities so vital to our State's continued economic health and growth.

However, the progress made by New York and those other States so desperately needing continued highway improvement—as well as the economic shot-in-the-arm such programs provide—will come to a grinding halt in the absence of passage of H.R. 11733.

In New York, for example, over 50 scheduled highway, bridge, and safety contracts have been or will be withdrawn from the State's letting schedule; just the beginning of project delays, and the layoffs accompanying them, if fiscal years 1979 funding is not provided soon.

H.R. 11733 will provide an estimated $1.35 billion in Federal transportation assistance to New York in 1979, funding essential to operating the existing transportation networks on which our economy relies and an estimated 56,800 jobs depend.

Madam Chairman, I also urge my colleagues to support an amendment, introduced by the distinguished chairman of the Surface Transportation Subcommittee, the gentleman from New Jersey (Mr. HOWARD), which will reduce trust funds expenditures by $1 billion in 1979 alone. This amendment is a reasonable step to assist us in providing for the continued integrity of the highway trust funds.

Madam Chairman, our highway system has contributed significantly to the social and economic structure of the Nation by providing large geographical choices of residence and job opportunities, and by distributing commercial and industrial activity while increasing the effectiveness of services.

Accordingly, I urge my colleagues to support H.R. 11733 so that we may continue to move forward in meeting the above objectives.●

● Mr. LEACH. Madam Chairman, I rise in support of the highway bridge replacement program provisions in the Surface Transportation Assistance Act.

My home State of Iowa leads the Nation in the number of deficient or obsolete bridges, so the problem is very close to home for me.

Iowa has, in effect, two "coasts," being bordered by the Mississippi and Missouri Rivers. As an agricultural State, we are dependent on good transportation to get our commodities to market. Bridges—both on system and off—are thus critical to our economy and to the public safety.

Of particular concern to me is a major bridge crossing the Mississippi River from Keokuk, Iowa, to Hamilton, Ill.,

which is in desperate need of replacement. Cost estimates for replacement reach as high as $15 million.

First built in 1871, when trains and horsedrawn carriages were the common modes of transportation, the Koekuk Bridge has become a critical problem to the safe and efficient transportation and commerce of our area of the State. Not only is it over 100 years old, it is barely 17 feet wide, thus requiring the large eight foot tractor trailers to stop in order to pass each on the bridge. A swing span on the bridge is used about 3,000 times annually to permit free flow of river traffic. Breakdowns of the swing span can indefinitely delay traffic and have caused more than a few births to occur midstream. While the bridge certainly has continued utility for railroad use, it has become obsolete for vehicular traffic.

The structure serves a tri-State area, including northeast Missouri and a total regional population of 100,000. Since the bridge serves more than one State, cross-jurisdictional funding problems have complicated progress towards replacement.

Earlier this year, I introduced special bridge replacement and repair legislation which, like the committee legislation before us today, expands the bridge assistance program. However, my bill placed emphasis on the establishment of a special discretionary fund for bridges serving more than one State. I am pleased to note that H.R. 11733 includes a similar discretionary authorization for bridges costing $10 million or more and am hopeful the Secretary of Transportation will take into account the special dual jurisdiction needs to which I have just alluded in authorizing special assistance for bridges in this category.

Madam Chairman, I commend the chairman and the members of the House Public Works and Transportation Committee for their efforts in bringing this constructive legislation before the House and believe that it will provide important relief to what has become a crisis problem in the area of transportation needs.●

Mr. HOWARD. Madam Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WATKINS) having assumed the chair, Miss JORDAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 11733) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 11733, presently under consideration.

The SPEAKER pro tempore (Mr. WATKINS). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

ANNUAL REPORT ON THE ADMINISTRATION OF THE RADIATION CONTROL FOR HEALTH AND SAFETY ACT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Interstate and Foreign Commerce:

To the Congress of the United States:

I transmit herewith the 1977 Annual Report on the Administration of the Radiation Control for Health and Safety Act (Public Law 90–602) as prepared by the Secretary of the Department of Health, Education, and Welfare.

The report recommends that those sections of subpart 3, Part F of Title III of the Public Health Service Act, 42 U.S.C. 262 et. seq. (Public Law 602), which require the compilation of this annual report be repealed. This report cost $3,780 to prepare.

All of the information found in this report is available to Congress on a more immediate basis through Congressional committee oversight and budget hearings and the FDA Annual Report. We have concluded that this annual report serves little useful purpose and diverts agency resources from more productive activities.

JIMMY CARTER.

THE WHITE HOUSE, *September 21, 1978.*

FOURTEENTH QUARTERLY REPORT OF COUNCIL ON WAGE AND PRICE STABILITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read, and, together with the accompanying papers, without objection, referred to the Committee on Banking, Finance and Urban Affairs:

To the Congress of the United States:

In accordance with Section 5 of the Council on Wage and Price Stability Act, as amended, I hereby transmit to the Congress the fourteenth quarterly report of the Council on Wage and Price Stability. This report contains a description of the Council's activities during the first quarter of 1978 in monitoring both prices and wages in the private sector and various Federal Government activities that may lead to higher costs and prices without creating commensurate benefits. It discusses Council reports, analyses, and filings before Federal regulatory agencies.

The Council on Wage and Price Stability will continue to play an important role in supplementing fiscal and monetary policies by calling public attention to wage and price developments or actions by the Government that could be of concern to American consumers.

JIMMY CARTER.

THE WHITE HOUSE, *September 21, 1978.*

REPORT OF 1976 UPLAND COTTON PROGRAM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The Speaker pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Agriculture:

To the Congress of the United States:

In accordance with the provisions of section 609, Public Law 91–524, I transmit herewith for the information of the Congress the report of the 1976 upland cotton program.

JIMMY CARTER.

THE WHITE HOUSE, *September 21, 1978.*

AGREEMENT BETWEEN UNITED STATES AND FEDERAL REPUBLIC OF GERMANY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95–386)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means and ordered to be printed:

To the Congress of the United States:

Pursuant to section 233(e)(1) of the Social Security Act as amended by the Social Security Amendments of 1977 (P.L. 95–216; 42 U.S.C. 433), I am transmitting the Agreement between the United States of America and the Federal Republic of Germany (F.R.G.), signed on January 7, 1976, the Final Protocol to the 1976 Agreement, also signed on January 7, 1976, and the Administrative Agreement to implement the 1976 Agreement, signed on June 21, 1978.

These U.S.–F.R.G. agreements are similar in objective to the U.S.-Italian social security agreements which I submitted to the Congress on February 28, 1978. Such bilateral agreements, which are generally known as totalization agreements, provide for limited coordination between the United States and foreign social security systems to overcome the problems of gaps in protection and of dual coverage and taxation. In addition to remedying these problems, the 1976 U.S.–F.R.G. Agreement and Administrative Agreement would extend under specified conditions voluntary coverage rights under the F.R.G. system to U.S. citizens who have a prior connection with the F.R.G. system or who reside in the United States and were victims of persecution.

I also transmit for the information of the Congress a comprehensive report

prepared by the Department of Health, Education, and Welfare, which explains the provisions of the Agreement and provides data on the number of persons affected by the agreements and the effect on social security financing as required by the same provision of the Social Security Amendments of 1977.

The Department of State and the Department of Health, Education, and Welfare join in commending this Agreement, Protocol, and Administrative Agreement.

JIMMY CARTER.

THE WHITE HOUSE, *September 21, 1978.*

MINILECTURE SERIES—TOURISM: OUR NATION'S GREATEST ASSET—PART V

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

Mr. SKUBITZ. Mr. Speaker, over the past several days, I have spoken repeatedly of my sense of shock over the State Department's careless disregard for promoting this country's national interest, particularly in view of our disastrous balance-of-payments situation. My sense of shock turns to outrage when I begin to realize just how much the Congress, and every Member can be misled and lulled into a false sense of security.

In January 1977, in a document transmitted to the Congress entitled "International Economic Report of the President," on page 112, it is stated and I quote:

Tourism is an important and growing segment of the U.S. economy, and it has a significant impact on the world economy. Annual tourism expenditures in the United States of $100 billion support over 4 million American jobs. Foreign travellers, some 17.5 million in 1976, account for over one twentieth of all tourism expenditures in the United States and generates more than 300,000 jobs with payrolls on the order of $2 billion. Tourism is one of the three largest employers in at least 30 states.

It is further stated and I continue to quote:

In most industries, competition is between individual firms; in tourism, it is between governments. More than 120 nations today operate national government tourist offices—organizations charged with developing policies and programs to generate inbound tourism and foreign visitor receipts . . . By the late 1950's foreign government spending in the United States on advertising and promotion designed to attract the American tourist exceeded $20 million annually. . . Concern over the economic implications of the deficit—the dollar drain" and the export of service sector jobs—led Congress to conclude that the nation had an economic interest in international tourism.

In 1961, the United States Travel Service (USTS) was established in the Department of Commerce as a national tourist office.

In 1976, the USTS conducted full-scale tourism promotion programs in Canada, France, Japan, Mexico, the United Kingdom, and West Germany which together account for 85 percent of foreign visitor arrivals to the United States and 80 percent of U.S. tourism receipts.

Mr. Speaker, the message was clear: Tourism is important to the U.S. economy, it will help reverse the "dollar drain" and the export of service sector jobs, and it is a matter for Federal Government involvement, since we are talking about government-to-government competition for the same tourist dollar.

In line with the message to Congress, a priority cable went out in February 1977, to all diplomatic posts and I wish to quote this cable in its entirety:

FM SecState WashDC
To all diplomatic posts priority
Unclas State 014670
For the Ambassador
Also for USOECD, USEEC
Subject: Assistance to U.S. business abroad

I am pleased to transmit the following letter from the President to you:

DEAR MR. AMBASSADOR: I am writing to emphasize that the support that you and your Embassy provide to the U.S. business community in increasing exports is one of your most important missions. A recent meeting with prominent business leaders concerned with our export performance convinced me that assistance to American business engaged in legitimate trade and investment activities is a vital element of our foreign economic policy. As such, it deserves your continuing personal attention.

Trade expansion is particularly important at the present time. Sales abroad are needed to reduce unemployment and restrain protectionism at home, and to improve the Nation's balance of payments. I ask that you, as my representative, ensure that a high priority is placed on the trade expansion and other commercial programs in operation at your Embassy.

We are performing well in this field, but I believe that, with your help, we can do even better.

Sincerely,

JIMMY CARTER.

I fail to see how a statement of intent could be clearer. There can be no doubt that this statement refers as much to Trade Center efforts as to the efforts of an agency such as the U.S. Travel Service which is unquestionably engaged in "legitimate trade and investment activities."

While I am sure that these two messages are clear to you Mr. Speaker, they apparently do not carry very much weight with our Department of State. I can only assume that certain ambassadors have chosen to interpret the mandate to place a "high priority on trade expansion and other commercial programs in operation at your embassy" as clear instructions to do away with viable and export performance oriented agencies not under the direct control of the Department of State, in favor of expanding the number of foreign service officers within the embassy.

In view of their apparent inability to read or perhaps comprehend the message from the President, it would seem to be rather futile to remind the Department of State that the U.S. Travel Service was mandated by act of Congress to maintain offices overseas in 1961. The Congress has also chosen to require that the overseas offices of the U.S. Travel Service be available and accessible to the general public. Do we conclude the Department of State feels that they are a law unto themselves?

Mr. Speaker, I am pleased to report, however, that there are a number of far-seeing individuals even in Foggy Bottom. A number of our ambassadors have conveyed to me their recognition of the importance of tourism to the United States and their frustration at being unable to set up a USTS office in their post. I take great heart for the future of our national tourism industry when these few courageous individuals raise their voice in protest at this further example of bureaucratic wool-pulling.

Thank you, Mr. Speaker.

HELPING MAKE THE WORLD SAFE FOR COMMUNISM—PART 2

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

Mr. ASHBROOK. Mr. Speaker, under the above heading, on June 8 of this year, I inserted in the record the edifying statement of Mr. Frank Emmick, the American businessman who defiantly opposed communism in Castro's Cuban prisons for 14 years. The thrust of those remarks, condemning the "Make the World Safe-for-Communism" theme of liberals in this country was briefly stated thus:

What a difference between this courageous American businessman and the U.S. traveling salesmen who are eager to ply their wares in Cuba, further tightening Castro's bonds of tyranny over the Cuban people.

In the same camp with these American businessmen one must put U.N. Ambassador Andrew Young some of whose disruptive statements, associations and activities I reviewed in the CONGRESSIONAL RECORD of August 16, 1978. I am sure Mr. Emmick would apply Ambassador Young's statement describing Cuban troops in Angola to the thousands of political prisoners in Castro's prisons—the prisons—"bring a certain stability and order." I would be more than glad to put Ambassador Young in touch with Mr. Emmick if the Ambassador decides he wishes to compare notes on Cuban and American political prisoners.

That the case of Ambassador Young is beyond redemption is demonstrated by a resolution by the American Legion this year at their national convention calling for the "Resignation of the U.S. Ambassador Young to the United Nations." This action to remove the Ambassador supports the "Young Must Go" solution which many Americans must endorse and which motivated a number of us here in the House to ask for his impeachment.

Any "Make the World Safe-for-Communism" study would find copious material in our present China policy. While making continuing overtures to Red China, the regime that helped account for the loss of thousands of Americans lives during the Korean war, present American policy is downplaying our long-standing, faithful ally Tiawan at every turn. Here again, the American Legion has expressed its concern regarding the trend in our China policy by calling for continued diplomatic relations with Taiwan and continuing in force the Mutual Defense Treaty of 1954 with Taiwan. This is the same proposal which my

resolution, House Concurrent Resolution 677 of August 2, 1978, would implement.

I insert at this point in the RECORD an example of the "Young-Must-Go" sentiment, the above-mentioned Legion Resolution 397, along with resolution 404 supporting our ally Taiwan. Both resolutions were adopted this year at the American Legion's 60th National Convention in New Orleans in August. In addition, there is included the text of House Concurrent Resolution 677 which I introduced on August 2, 1978, and which is now before the Committee on International Relations for action.

60TH NATIONAL CONVENTION OF THE AMERICAN LEGION HELD IN NEW ORLEANS, LA., AUGUST 22-24, 1978

Resolution 397. (Texas).

Subject. Resignation of the United States Ambassador Young to the United Nations.
Committee. Foreign Relations.

Whereas, Andrew Young, the U.S. Ambassador to the United Nations, has been a constant source of embarrassment to the government and the people of the United States since his appointment by reason of his many intemperate and ill considered public statements and verbal attacks upon various friendly countries and their representatives and officials, as well as the United States; and

Whereas, he has a consistent record of being too loose with the truth in remarks that either contradict the official position of the U.S. government such as American African Policy, or needlessly antagonize those involved, which does not enhance the image of the United States; and

Whereas, in an interview with a French newspaper during the week of July 9, 1978, while extremely sensitive negotiations were being conducted by the U.S. Secretary of State and the Soviet Foreign Minister over Human Rights and the SALT II agreement in which the Secretary of State at the U.S. President's request, was expressing the American government's objections to Soviet trials of dissidents in Russia and just prior to important conferences in Bonn, Germany and London, attended by the U.S. President and Secretary of State, Ambassador Young stated in substance that the United States holds hundreds, perhaps thousands of political prisoners in our prisons in comparing the dissidents on trial in the Soviet Union with civil rights workers in the United States; and

Whereas, in the same interview, Ambassador Young expounded the theory that those missionaries slain in Rhodesia were victims, not of terrorists but of "the camp" of Rhodesian Prime Minister Ian Smith; and

Whereas, such irresponsible and inexcusable reckless statements not only indict the United States; and, by inference, forgive the Soviet Union for its harassment of dissidents, but undermine U.S. policy and provide grist for the Communist propaganda mills; the reaction of the U.S. Secretary of State was reported to be unprintable and the Majority Leader of the U.S. Senate on July 16, 1978, stated publicly: "He has made several irresponsible statements. His latest was of such magnitude that resignation should have been considered . . ."; now, therefore, be it

Resolved, by The American Legion in National Convention assembled in New Orleans, Louisiana, August 22, 23, 24, 1978, that we strongly urge the President of the United States to demand and accept the immediate resignation of the United States Ambassador to the United Naations, from that office, and should he refuse to resign, that his appointment be terminated without further delay; and, be it further

Resolved, that The American Legion calls upon the Congress of the United States to join The American Legion in this action; and, be it further

Resolved, that copies of this resolution be forwarded to all members of Congress, to the Secretary of State, and to the President.

60TH NATIONAL CONVENTION OF THE AMERICAN LEGION HELD IN NEW ORLEANS, LA., AUGUST 22-24, 1978

Resolution 404. (Texas).

Subject. People's Republic of China (Peking) and Republic of China (Taiwan).

Committee. Foreign Relations.

Whereas, a new era of continuing good relationships has been established between the governments of the United States and the Republic of China (Taiwan) with the inauguration on May 30, 1978 of the Republic of China's new president, Chiang Ching-kuo; and

Whereas, it is most important that the United States continue its support of the people and government of the Republic of China (Taiwan); and

Whereas, President Carter stated on May 12, 1977, he would move "expeditiously toward normalizing relationships with the People's Republic of China (Peking)", with one reservation: "We don't want to see the Taiwanese people punished or attacked"; and

Whereas, Vice Premier Chi Teng-kuei of Peking stated on May 14, 1977, "From our (Peking) viewpoint, there are certain anti-revolutionary elements in Taiwan. I even believe that liberation may not be possible unless it is a military liberation by our (Peking) efforts"; and

Whereas, the People's Republic of China (Peking) is reported to be increasing its Red lobbying efforts throughout the United States; and

Whereas, The American Legion is aware of the efforts of the United States business community and the U.S. Government to improve peace and trade relations with the People's Republic of China (Peking); now, therefore, be it

Resolved, by The American Legion in National Convention assembled in New Orleans, Louisiana, August 22, 23, 24, 1978, that it recommends the U.S. Government continue its efforts to promote peace and trade with the People's Republic of China (Peking), and that it continue to support the Republic of China (Taiwan); under no circumstances should the United States reduce its support to the Republic of China (Taiwan) economically, militarily or psychologically; and, be it further

Resolved, that the United States should continue both its diplomatic relationship and its defense treaty commitment with the Republic of China (Taiwan).

H. CON. RES. 677

Whereas the free and valiant people of the Republic of China have been faithful allies of the United States throughout this century in war and peace, specifically in World War I, World War II, the Korean war and the Vietnam war, while the Peoples Republic of China, under Communist dictatorship, has been either directly or indirectly responsible for the deaths of thousands of United States servicemen during the Korean and Vietnamese wars and for thirty years has worked for policies directly in opposition to those of the United States and the free world, has conducted a vitrolic and unrelenting anti-United States propaganda campaign and has formented strife and radical actions in international affairs; and

Whereas the human rights policies of the two Chinas stand in vivid contrast, the Republic of China having progressed and developed into a free and open society with a free enterprise system, free movement of its citizens, and a high standard of living while the Communist government on the mainland has continued unabated its repressive policies, having liquidated millions of Chinese and through a reign of terror extinguishing free expression and thought; and

Whereas the Mutual Defense Treaty between the United States and the Republic of China was signed in 1954 at the end of the Korean war to discourage and defend against further Communist aggression and expansion in the west Pacific area; and

Whereas the Republic of China has honorably and faithfully carried out its responsibilities under that treaty for twenty-four years and that treaty is an integral part of the North Asian security commitments of the United States affecting not just China but Korea, Japan, the Philippines, and the entire Pacific area; and

Whereas deserting our wartime ally and faithful free China friends would seriously undermine the reliability and moral integrity of the United States leadership of the free world and among our allies; and

Whereas the future security of the United States depends on continued alliance with free and democratic nations of the world such as the Republic of China: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress—

(1) that the United States continue to have diplomatic relations with the Republic of China; and

(2) that the President not violate, abrogate or terminate the Mutual Defense Treaty between the United States of America and the Republic of China, signed December 2, 1954 (6 UST 433; TIAS 3178; 248 UNTS 213).

UNION ORGANIZING OF ILLEGAL ALIENS SHOULD BE PROHIBITED

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

Mr. ASHBROOK. Mr. Speaker, I have been deeply disturbed by the flood of illegal aliens into the United States. It is now estimated that between 7 and 10 million illegal aliens are within our borders.

I am especially concerned about this situation as it relates to jobs. Millions of jobs that could be held by Americans have been taken by illegal aliens. This is unfair to the unemployed men and women of our Nation who need a job.

To make matters worse, some unions are now openly organizing and aiding foreign workers. Two of these unions are the United Farm Workers and the International Ladies Garment Workers Union. They readily admit that they have large numbers of illegal aliens on their union rolls and that they are conducting organizing drives to recruit more.

This is intolerable. The UFW and the ILGWU, rather than seeking to prevent illegal aliens from taking jobs in our Nation's farms and factories, are now working against the interests of American workers. They are accomplices in taking away jobs that otherwise would belong to American citizens.

I have previously introduced legislation that would, among other things, make it unlawful for an employer knowingly to employ, continue to employ, or refer for employment an illegal alien. At the same time, however, it also should be unlawful for labor unions to knowingly

organize illegal aliens. This must be a two-way street.

It is time that Congress moved to halt the flood of illegal aliens into the United States. Effective legislation is needed now to prevent foreign workers from taking American jobs. Any such legislation should include a prohibition on union organizing of illegal aliens.

Following is the text of a Washington Post story that discusses union organizing of illegal aliens.

[From the Washington Post, Sept. 11, 1978]

TWO LABOR UNIONS, AID, ORGANIZE ILLEGAL ALIENS

(By Joel Kotkin)

LOS ANGELES.—Faced with a growing stream of aliens illegally crossing the border to work in the Southwest's farms and factories, some trade unions have begun openly organizing and aiding these undocumented workers.

Officials of the International Ladies Garment Workers Union (ILGWU) and the United Farm Workers claim that leaving illegal aliens unorganized threatens the job security and pay rates of native-born American workers. The unions' organizing drives have placed them in direct conflict with the Immigration and Naturalization Service (INS), the federal agency charged with finding, apprehending and deporting these illegal alien workers.

"We try to organize all unorganized workers. It's not of interest to us what their status is except their status as exploited workers," said Frederick Siems, executive vice president of the ILGWU. "This is the newest group and this is the group we must organize."

The ILGWU drive runs counter to one of the basic thrusts of the American labor movement: preventing foreign workers from taking jobs in the nation's farms and factories. Earlier this year the union, bolting from the official AFL–CIO position, endorsed a proposal to grant unconditional amnesty to all illegal aliens now residing in the United States. The AFL–CIO supports legislation to grant amnesty only to aliens who can prove U.S. residence dating from 1970.

The ILGWU's increasing interest in undocumented workers stems from their increased presence in the industrial work force. According to INS spokesman Bob Seitz, more than 40 percent of them now find their work in the industrial rather than the agricultural sector of the economy.

ILGWU officials in Los Angeles say their membership, now an estimated 8,000 here, has shot up since they began organizing heavily in garment plants employing large numbers of illegal aliens. Many of these plants, according to union organizer Mario Vasquez, employ as many as 80 percent Hispanic workers; sometimes a majority are illegals.

To help organize these workers, very few of whom speak any English, the ILGWU over the last three years has put 10 Hispanics on its 13-member organizing task force here. The common language at the union's office here is Spanish, and most posters, leaflets and pamphlets lying around are in that language.

"The union is simply adapting to new conditions," said organizer Vasquez, native of Mexico and long-time community activist. "The ILG was built by immigrants and really could not get away from it. The only difference now is it's not legal to immigrate, but it's all the same thing."

The ILGWU and other unions attempting to organize illegals are finding themselves at loggerheads with INS. Federal raids on factories employing illegal aliens are disrupting unionizing efforts and violating constitutional rights of both legal and illegal workers, union officials say.

Last month ILGWU attorneys filed suit in federal court here to force restrictions on INS raids on garment factories in search of illegal aliens. The suit charges current INS practices violate due process, privacy and search and seizure rights.

Joining the ILGWU as plaintiffs are four Hispanic union members in America legally who were interrogated by INS agents during a raid.

The immigration service is also being sued by a group of predominantly Hispanic workers arrested in May at the Sbicca of California factory in El Monte, east of Los Angeles.

That raid took place six days after the company turned back a representation bid by the Retail Clerks Union. Sbicca Co. spokesman Gordon Swain denies worker charges that the employer called in the INS, but he would provide no further comment on the case.

Bob Seitz, INS spokesman for the southwest region, insists it is extremely rare for federal agents to raid a factory without permission of the employer. "I'm not sure of it in this case, but in about all these big cases we have the support of the employers," Seitz said.

INS tries to steer clear of labor disputes, although sometimes "this can happen," he said.

Seitz believes the attorneys pressing the Sbicca and ILGWU suits are trying to "get illegals all the rights they can." He said most big unions, such as the United Mine Workers and United Auto Workers, support his agency's work because it protects the jobs of Americans from unfair competition from noncitizens.

The INS spokesman denied charges, leveled in both suits, that the service employed racist methods in its raids because only Hispanic-looking workers were questioned. Seitz said an experienced officer knows almost immediately which worker is legal and which is not.

"The average Mexican national is very polite and probably frightened," Seitz said with a grin, "while the average Chicano will look at you and say, 'I don't have to talk to you, pig.' "

Seitz believes the only way to cut illegal immigration to "manageable levels" is to raid factories where large numbers of illegal workers are suspected. He warned that union moves to restrict INS activities—such as requiring individual search warrants for each alien and full Miranda self-incrimination warnings for each arrested worker—could further over burden the service.

Many labor leaders working with illegals, however, claim no amount of police power can stop the tide of immigration until countries like Mexico begin providing more jobs for their citizens. "There will be no long-range solution until Mexico gets on the ball," said Marc Grossman, spokesman for the United Farm Workers.

His union has large numbers of illegal aliens on its rolls, Grossman admits, "but we're not the government, we don't bring them here, the employers do. But when they do, we'll organize them."

Grossman said these illegal workers are extremely vulnerable to employer pressure because of fears about "Migra," as INS is known to Hispanic workers. John Moore, attorney in Fresno for the California Agriculture Labor Relations Board, said veiled employer threats about deportation and the very presence of INS around the fields has a distinctly chilling effect on attempts to organize undocumented farm workers.

"The effect of the INS comes through the whole social system in the field," Moore said. "When the Migra comes to a place like Giumarra Vineyards and starts popping people like locusts in the fields just before the (unionization) election, what do you think the effect is? If you're an illegal, you're scared. You have no choices, your survival depends on doing what the employer tells you."

Giumarra Vineyards, just east of Bakersfield in the San Joaquin Valley, was the site of a disputed election last year in which a UFW representation bid was defeated. The election itself and the employer tactics are being investigated by the California Farm Labor Board.

For many illegal workers, a union job seems the best protection from the alleged abuses of employers and the dreaded Migra.

"We have to have the union to help us," said Arturo Viallejo, who comes from an impoverished town south of Mexico City and was arrested during the INS raid at Sbicca. "I think that with our union maybe we will have some representation. Without it we have no protection, no benefits."

Currently allowed in to testify on the Sbicca case, the 30-year-old worker is determined to stay in this country and help his fellow illegals organize into unions. "You can't stay in Mexico," Viallejo said. "The political and economic situation is terrible there. People without jobs keep growing. People have nothing and have to come here to live better."

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

Mr. ASHBROOK. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Speaker, I want to make sure, if the gentleman will yield, to take advantage of the kindness of the gentleman from Maryland and wish the gentleman a happy birthday. I think it is his 50th birthday. He looks a lot older than that.

Also, I wish to convey to his absolutely gorgeous young wife my congratulations on her birthday, too. In her case, for those who believe as I do, there will be no purgatory: She is serving her time now.

Happy birthday.

PRESIDENT CARTER'S ADDRESS TO THE UNITED STEELWORKERS OF AMERICA CONVENTION, ATLANTIC CITY, N.J.

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

● Mr. BRADEMAS. Mr. Speaker, I believe that Members of the House will read with interest the address of President Carter before the United Steelworkers of America Convention on September 20, 1978. I ask unanimous consent to insert the text of the President's address in the RECORD. The address follows:

REMARKS OF THE PRESIDENT UPON ADDRESSING UNITED STEELWORKERS OF AMERICA CONVENTION, SEPTEMBER 20, 1978

President McBride, Senator Williams, Senator Case, Governor Byrne, delegates of the United Steel Workers of America, and my other friends: It is an honor to be introduced by one of the most outstanding leaders in America today—your president, Lloyd McBride—(applause)—and it is also a pleasure to meet with and to talk to one of the finest groups of working men and women that I know, the United Steel Workers of America. (Applause)

You may not know it, but you had a great

deal to do with the success of the Camp David meeting. Knowing that I had to be here with you to speak today, I was able to bring to a conclusion those difficult negotiations.

Late Saturday night, Prime Minister Begin finally came to me and he said, "Mr. President, I agree to get out of the Sinai if you will let me out of Camp David." (Laughter, applause)

So I am here to point out to you that we are partners, we are brothers and sisters in a great effort to make our country and the world better.

I am also here to reaffirm my solidarity with the working people of our Nation in pursuing the goals that we share. There is no clearer expression of my commitment to this solidarity with working people than my appointment of Ray Marshall as Secretary of Labor. He is my friend and he is yours. (Applause)

You who have gathered here in convention represent one of America's greatest national assets. I am not talking about the size of your great organization alone, nor even about the enormous gains that steelworkers have realized from this union in the last forty-two years.

I am talking about the broader social vision of this international union and of the American labor movement.

You have been part of the conscience of America. Conscience is what motivated Phil Murray to organize this union in the beginning. Conscience is what motivated one of the most decent and honorable men ever to serve as a union president, my friend, I. W. Abel. (Applause) And as you well know, the president's able successor on my right here is poured out of the same crucible. These men exemplify your fight for decency and for social justice and for human rights—not just for your own members, but also for millions of others who never carried a union card.

You have fought for the right of young people to have a decent education; your own children and the children of others. And we are working together this year to achieve an unprecedented increase in Federal aid to education.

You have fought for the right of older people to enjoy security and to escape the burden of doubt and fear.

When I assumed office less than two years ago, our Nation's social security system was on the verge of financial collapse. Everywhere I went during the campaign, the elder citizens of our country would stand up and say, "What are we going to do in the future because we are about to lose our sense of purpose and our sense of security?"

You can be proud that the Steelworkers Union, under very political circumstances, joined with my Administration and the leaders of Congress to restore the integrity of the social security system.

As long as I am in the White House, as long as the Steelworkers continue your momentous influence in our country, the social security system will continue to be sound, and you can depend on it. (Applause)

LABOR AND THE CARTER ADMINISTRATION

On issue after issue, right down the line, the labor movement and my own Administration have stood together. And we can be proud of what we have accomplished.

We stood together to give four million Americans a chance to earn a life, a living of dignity and decency under revised and improved Federal minimum wage. We have stood together to pass the new Mine Safety and Health Legislation which Lloyd McBride and all of you have been fighting to pass for many years.

That legislation greatly strengthens the thousands of miners in your union, and puts the responsibility for enforcement for the first time where it belongs—in the Department of Labor under Secretary Ray Marshall. (Applause)

We have stood together on occupational safety and health. Your union helped to lead the fight to pass a strong Occupational Safety and Health Bill years ago. But for eight years, that legislation was systematically undermined by a hostile Administration.

We have turned away from the nitpicking that was designed to discredit the OSHA program. We are inspecting the most dangerous job sites. Today, we are attacking the most serious threats to health.

The value of a human life cannot be measured on a balance sheet. And as long as I am President and have your support, the health and safety of American workers on the job will be protected. And you can depend on that. (Applause)

PROTECTING AMERICAN JOBS

In the last two years, we have stood together to safeguard American jobs threatened by unfair foreign trade. The skills and the experience of America's steelworkers cannot be matched anywhere in the world. But the rules of international trade must be fair to America's workers.

America's workers, and especially America's steelworkers, should not be forced to compete against foreign exporters who do not sell their products at a fair price. (Applause)

I will not permit our workers to suffer from unfair trading practices; dumping must stop. (Applause) The steps that we have taken to help steelworkers and the steel industry are already beginning to be felt: employment in steel has increased just this year 24,000 jobs; plant utilization was only 76 percent when I became President. Now the utilization of plant capacity in our country in the steel industry has risen to 90 percent. (Applause) Shipments of steel throughout the world, as you well know, have dropped off at an alarming rate in the last two years. But shipments of domestic steel this year are already up five percent over last year; industry revenues which are needed to modernize the plants and equipment to keep you in jobs in the future, have risen substantially.

We will continue to work toward an international steel agreement with our major trading partners to deal with the problems of a depressed world steel market. I pledge to you that we will sign no agreement that is not fair to American steelworkers and to the people of the United States. (Applause)

THE ENERGY CRISIS

Closely related to our trade problems is the challenge of the energy crisis. Last year, foreign oil cost us in American dollars $45 billion. This is an increase of 800 percent in the last six years. This means that this massive export of American dollars is not only eroding the value of American dollars overseas, it has helped to build the inflation that we face at home. It has weakened confidence in our Government, both here and throughout the world. It has cost America many jobs and will cost many more in the future.

It has left our Nation far too dependent on uncertain foreign oil supplies for the energy that we must have to run our steel mills, to heat our homes, and our schools, and to fuel our transportation system.

The Senate began voting yesterday on one of the most crucial parts of my national energy plan—the natural gas conference report. This legislation, when passed, will save our country in oil imports, two million barrels per day by 1985, keeping jobs here at home, making us independent, letting us have a sound, sure supply of natural gas in states where it is not produced, with carefully prescribed prices.

As you well know, industry is now tending to move to states that produce natural gas from states that are not major natural gas producers.

This legislation will let those opportunities for jobs prevail throughout our country; and, at the same time, will not damage the economic strength or prosperity of the natural gas in oil-producing states, either. We must pass this legislation to ensure that industries and communities which depend on natural gas will be assured of continued supplies. This is especially true, as you well know, in the steel industry.

I am sure that you all remember the crisis that this Nation faced during the natural gas shortage in the winter of 1977, just after I became President.

Nationwide, more than a million Americans were laid off because the American gas industry could not obtain, could not supply enough, and the rest of industry in our country could not obtain the gas it needed. Between fifty and one hundred thousand steelworkers were left unemployed. Our Nation, and your own members, other working people in our country, cannot afford that kind of loss in the future.

Passage of this legislation, along with the other less controversial energy conference reports before the Congress, will give our Nation what America so badly needs: our first National Energy Plan. The consequences of failure for our country are unacceptable. We have debated long enough. It is time to put the interest of our Nation and the American people first and act without further delay to have a national energy policy to benefit you and all others.

I ask you this morning to help me with this crucial decision that will affect your lives.

You and I have also stood together to enhance our Nation's crucial role in world affairs.

I believe that our Nation must continue to have a strong defense. And as long as I am in the White House and you give me your support, our defense capability will be second to none on earth. And you can depend on that. (Applause)

Our Nation must continue to lead in the most difficult and important undertaking on this planet—the search for peace. And we will do that, in the Middle East and elsewhere throughout the world.

Our Nation, as you know, was damaged by Watergate, CIA, Vietnam, and we lost a lot in the esteem of other people around the world for us, and in the esteem that American people have always had for our own Government. But our basic commitments, the beliefs and ideals on which our Nation was founded have not changed at all.

Our Nation must continue to support human rights. And I am proud that our country stands, not only here but everywhere, for liberty and justice. And I pledge to you that as long as I am in the White House, America will never turn its back on the struggle for human freedom and human rights around the world. And you can depend on that. (Applause)

There is something clean about America. There is something decent about America. There is something idealistic about America. There is something unselfish about America. There is something strong about America. It is what makes our people love our country.

And I want to see those basic commitments restored. And in that restoration will come strength, based on the American people themselves, where those commitments have never changed, in spite of mistakes made in the past by some of our leaders. Worldwide human rights questions are important. And we know that our own rights, our own freedoms were won in struggle, and we know that struggle still continues. It continues for you and me in the fight to have a fair and responsible labor law reform bill. (Applause)

LABOR LAW REFORM

I am disappointed that because of a massive expensive, completely distorted propaganda effort, that the Congress has not yet passed this important legislation.

Our labor law reform bill is not a grab for power by the unions, but it is a reach for justice, justice for American working men and women which is long overdue. This is the only piece of legislation that I personally helped to draft every single paragraph. It is a reasonable and responsible piece of legislation. Its purpose is to prevent a small minority of employers from flagrantly continuing to violate the law. (Applause)

I see very clearly how you feel about this matter. (Laughter)

Our goal is simply to guarantee the rights which were promised American workers 43 years ago in the National Labor Relations Act. And I am determined to reach that goal. It will be at the top of our legislative priority list for next year if we don't get it this year. And I want to be sure that we have legislation of which you and I can be proud. (Applause)

You represent more than a million Americans. What has always impressed me is that you have never used your influence or power to demand a handout. What you have asked for is jobs, good jobs, sound jobs, safe jobs, healthy jobs, with reasonable pay.

Our society honors work. We believe in work. That is the great strength that we have as Americans.

JOBS FOR THE AMERICAN WORKER

When I took office less than two years ago, there were 10 million people in this country who wanted to work, but could not find full-time jobs. Unemployment had more than doubled in the preceding eight years. The unemployment rate stood at eight percent.

I pledged to work with you to provide jobs for the American people.

Working together, we have doubled the number of public service jobs in America to 725,000. We have tripled Federal support for public works. We have cut taxes for working Americans and low-income Americans by $7 billion last year, a much larger increase—decrease in taxes will come this year so that American people could have the purchasing power to stimulate demand for goods, to create jobs for people who produce those goods. We doubled the size of the Job Corps. We have passed our Nation's first Youth Employment Bill to reduce the tragic unemployment rate among our young people. And we have already begun to see the results.

We have had a net increase, a net increase of six million new jobs in America, never before achieved. Last month, the unemployment rate dropped below six percent, a reduction of 25 percent since I have been in office. (Applause)

In New Jersey, for instance, the unemployment rate in the last 12 months has dropped almost three percent. I am proud of that record. We still have a long way to go. We have a right to be proud of the gains we have made. But the progress that we have made and the progress that we can make are both in danger. They all face a threat of the utmost seriousness—the threat of inflation.

Inflation strikes at our faith in the future.

ANTI-INFLATION LEGISLATION

Inflation can wipe out our savings, and it can destroy our dreams.

Inflation is hardest, though, on those who have no savings and who lack the degree of economic power and security that union membership has brought to you. Inflation cruelly gouges and cheats the old and the poor. With inflation at seven percent, which we have seen for the last ten years, fixed incomes are cut in half every ten years.

When there is inflation, it is often the government and unions that get the blame. That is obviously unfair. But you and I do share, along with others, of course, a great responsibility.

We must join together to fight this enemy, inflation.

We must join together to help the Congress resist the special economic interests which behave as if they care nothing for the common good.

One example is the hospital cost containment legislation that I submitted earlier this year.

A couple of weeks ago, Speaker Tip O'Neill came back to Washington from a weekend in Boston. One of his friends, a working man, brought him a copy of a hospital bill which was received by one of his constituents. The man's little son was in an accident. He had fallen and struck his mouth and four of his front teeth were driven up into his gums. He stayed in the hospital 26 hours. His bill was $2,330.99. As we all know, those who own and operate many of our hospitals are the very ones who decide whether a patient should be admitted or not, who decide how long they stay, who decide what treatment they shall get, who decide how much to charge for that treatment.

Because of this extraordinary monopoly over a certain aspect that is crucial to every American's life, the cost of hospital care is increasing at twice the rate of inflation in our country.

Something must be done. This year, we have not been successful in getting legislation passed which would have permitted hospital costs to go up only 50 percent more than the inflation rate.

But with your help next year, perhaps we can be successful in defending the basic rights of American people to good health care at a reasonable cost. (Applause)

Since 1950, hospital costs have gone up more than 1,000 percent. Well, the medical lobby and the hospital industry lobby so far have been successful in blocking this legislation. There would be a saving for the American people in the next five years if this legislation was passed of $56 billion. Obviously, there is a lot at stake. So far, the conscience of America, including yourself, have not yet been aroused enough to convince the members of Congress that this needed legislation should be passed. But it is time for all of us to stand up to these special interests and to all the others that refuse to look past their own selfish concerns.

Another example of important anti-inflation legislation is airline deregulation.

Many of you flew in here by commercial airline service. One price that has gone down in the last year substantially is the price of an airline ticket on domestic and overseas flights.

At first, the airline industry screamed that this would be devastating to them. Many airplanes on which I flew as a candidate for President would only have 25 percent or less of the seats filled. Now, because of reduced fares, those same planes are averaging 75 percent accuracy. Travel to other countries is increasing rapidly. The average working people of our country can travel in speed and comfort. And the profits of the airline companies have gone up substantially. It has been good all around.

This has mostly been done by regulatory action, the Civil Aeronautics Board, my own decisions, particularly in overseas flight. But shortly, perhaps even today, the House will vote on an airline deregulation bill that will put these enormously improved practices into law and make them permanently.

We need to let those policies be imbedded in the law so that domestic airline fares can also be reduced by competition under the American free enterprise system. Government, of course, cannot do jobs like this alone in holding down unnecessary prices. In fiscal year 1976, I began to study how I might, as President, if elected, do something about the very large Federal budget deficits. I believe in a balanced budget.

BALANCING THE FEDERAL BUDGET

When I ran for President, the Federal deficit was in the 60's of billions of dollars, $66 billion. In Fiscal Year 1978, the first budget that I prepared, we had cut it down in the 50's of billions of dollars, $51 billion. Next year, Fiscal Year 1979, the Federal deficit will be down into the 40's of billions of dollars. And my goal for 1980 Fiscal Year, which I am preparing now, is to bring the deficit down into the 30's of billions of dollars.

This is in spite of the fact that we are giving better services to the American people and in spite of the fact that we will probably have a total of $25 billion or more of reduced income taxes for the American people.

I am determined to exercise discipline over the Federal budget—even if it means saying no to popular proposals on occasion, if that is what it takes to fight inflation.

We can get more out of what we do spend if our government is streamlined and responsive. I talked about government reorganization during the campaign. But it is worse by far than I thought it would be.

That is why Civil Service reform is so important. We need a Civil Service system that makes the bureaucracy manageable and rewards good performance.

The Civil Service reforms will do this. The House passed this bill overwhelmingly. The Senate has already passed it. And I believe that if this is accomplished, we will have a better government while fully protecting the rights of government workers.

In waging this war on inflation, I reject the policies of the past. I will not fight inflation by throwing millions of Americans out of work. And you can depend on that. (Applause)

Such a policy was followed in the past. But it is morally wrong. We have suffered from severe inflation for the last ten years.

Our current inflation is certainly not due to excessive wage increases or responsible Government programs. It will do no good to search for villains, whether in government, business or labor. But business and labor, like government, are critical to stopping inflation. As both business and labor try to catch up with past inflation and protect themselves against future inflation, prices and wages keep mounting, just to protect oneself. And in the end, no one wins.

To bring inflation under control, we must have cooperation among business, labor, government, the general public of our country. This is indisputable.

In the near future, I will announce a strengthening of our limited arsenal of weapons against inflation.

I can tell you today that what we will do will be fair. It will not penalize labor or any other group in our society.

At the same time, it will be tough. I will ask for restraint and some sacrifice from all.

I ask you to consider what I will have to say with open minds and in a spirit of cooperation and patriotic concern.

The problem of inflation is enormously difficult, far more complicated, far more difficult than it was a decade or two ago. Controlling this problem is not just one option among many. It is an absolute necessity. We must control inflation, and in order to do it, we must work together.

I spoke of conscience at the beginning of this talk. I have no hesitation in calling upon the conscience of the United Steelworkers of America and the American Labor movement, when the best interests of our country are at stake. I place my faith in the broad social concern that you have shown so often in the past. I have doubt that you will meet the challenge that faces our country once more.

Together—as partners—we can, and we will, continue to build for the future, an even greater America.

Thank you very much. (Applause)●

THE NEW RIGHT: LIBERALS REAPING WHAT THEY HAVE SOWN

The SPEAKER pro tempore (Mr. WATKINS). Under a previous order of the House, the gentleman from Ohio (Mr. ASHBROOK) is recognized for 15 minutes.

Mr. ASHBROOK. Mr. Speaker, by their own admission, liberals are facing a grassroots rebellion of hundreds of thousands of people, against both liberal candidates and their policies. Carter appointee Bella Abzug accused these people of being connected with the Ku Klux Klan, Senator McGOVERN has declared them racists, and junior Senator from Ohio (HOWARD METZENBAUM) has connected them with the Know Nothings and the Ku Klux Klan.

When the equal rights amendment was stopped in its tracks, Bella Abzug blamed the Ku Klux Klan, the Roman Catholic hierarchy, and the Mormon Church. When the people of California voted two to one for proposition 13, GEORGE McGOVERN declared the action had "undertones of racism." Mr. METZENBAUM discussed the know nothing movement and the Ku Klux Klan of the 1920's. He then said:

The same mean, vindictive spirit rallied behind Joe McCarthy's witch hunts of the 1950s and that [T]hat same mean spirit that gave us McCarthyism is today at the root of violent, die-hard resistance to equal rights for all Americans.

The very liberal Ohioian went on to link those who helped defeat liberal Clifford Case, "one of the finest men who ever served in the U.S. Senate," with the Ku Klux Klan mentality.

Bella Abzug, GEORGE McGOVERN, and HOWARD METZENBAUM all know that nobody believes their wild charges. Nobody believes that the half of the American population which opposes the equal rights amendment is in league with the Ku Klux Klan. Nobody believes that two-thirds of the population of California objects to high property taxes because of "undertones of racism." And nobody believes that a majority of the Republicans in New Jersey favored Jeff Bell for the Senate because they are secret Ku Klux Klan sympathizers. Everyone, including Abzug, McGOVERN, and METZENBAUM, knows very well that what they are really saying is that the people have no right to organize to fight liberalism.

This is probably the first time in history that politicians in a democratic country ever had the unmitigated gall to accuse the grassroots of plotting to take the Government away from them.

But the fact that no one believes the liberals' hysterical charges does not mean that no one resents them. As chairman of the conservative victory fund, which was instrumental in nominating Jeff Bell and in defeating Clifford Case, I resent the charge that those associated with that effort are somehow related to the Ku Klux Klan. The fact that the man who made the charge does not really believe it himself does not make it any less serious. We all know the uproar they would create if we did the same thing by linking those who vote for indirect aid to Communist countries, vote against strong defense, vote against intelligence activities, attack the FBI, CIA, and the military, with Communist motivations or Communist causes. Oh no, that would be a smear but what they are doing is supposedly all right. We all know that the big unions have targeted the right as their major focus for attack and we can expect the vituperative attacks such as the IAM chief leveled against a great American, Congressman JACK KEMP. Let them do it. The American people will not be fooled.

If people from all over the country gave $10, $20, or $100 to defeat Clifford Case, it is because liberals like Clifford Case have voted, year after year, to tax and spend. People are mad at the crushing burden forced on them by prolifigate liberal spenders and the architects of runaway Government.

Hundreds of thousands of Americans in this country choose to send their money to defeat Case or reelect Jesse Helms for the simple and legitimate reason that liberal party bosses in their own States will not listen to them. There is no clearer proof of the lack of choice offered to Americans today in many States than that so many people have chosen to use the mails to have some influence in areas where a choice is offered. This is a reason, not an excuse. No American citizen needs to give anyone an excuse for giving his small donation to any candidate anywhere in this country he chooses.

Liberals cannot attack this right directly. Instead, they conjure up a sense of outrage which is almost comical. When it comes to conservatives giving money to support conservative candidates, liberals suddenly become fanatical States' righters. After attacking supporters of Jeff Bell and JESSE HELMS, Mr. METZENBAUM made one of the most provincial statements I have heard from a Member of Congress in many years. This is a direct quote:

"And some U.S. Senators even have the audacity these days to write letters to residents of other states, to the constituents of other U.S. Senators, to tell us how to vote on issues like situs picketing and labor law reform. I say to the new right and to those Senators 'keep out of Ohio. I don't need your help to speak and vote for the people of my state.' "

Does this mean that the next time George Meany dumps thousands of dollars earned by workers in others parts of the country to support a liberal candidate in the South, my colleague from Ohio will object? Of course not. Does this mean that Mr. METZENBAUM or Mr. McGOVERN or Bella Abzug will not endorse liberal organizations which solicit money for leftist causes all over this country? Of course not. It means simply that State borders, like everything else, are good only so long as they serve the liberal interest.

Mr. Speaker, you may be assured that Jeff Bell, Senator HELMS and myself are all three being opposed by money from outside our States. But most of it is not money which has been given freely by those who earned it, as is that of the conservative victory fund. The money opposing us is taken from working people by pressure and distributed by labor bosses according to their own liberal political preferences. To these out-of-State funds, the Abzugs, McGOVERNS, and METZENBAUMS have never been known to object. They certainly did not object to the massive contributions of the National Education Association in 1976, contributions which have been held illegal by the courts. I know my 1976 opponent was the recipient of NEA contributions in the union's efforts to defeat me that year.

For 30 years liberals have been going to Washington, and for 30 years they have sent out hordes of bureaucrats and tons of regulations to harass Americans of every section and class. Liberals have given us a half a trillion dollar budget and gutted down defense system to the point that freedom is being endangered throughout the world. It is not a surprise that there is a political rebellion on. What is surprising is that it took so long to get under way.

As for those liberal elitists who shout that the grassroots have no right to object to all this, they are shouting into the wind. And the wind is rising.

DEFENSE EXPENDITURE PLANNING AND SALT: A CASE FOR THE MX ICBM SYSTEM IN THE INTEREST OF PRESERVING PEACE.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 15 minutes.

● Mr. KEMP. Mr. Speaker, nearly a year has elapsed since the expiration of the first-round strategic arms limitation accords, and we appear no closer to a satisfactory agreement assuring the survivability of U.S. land-based forces than we were a year ago. President Carter's veto of the fiscal year 1979 defense authorization bill underscores the adverse impact the protracted delays in negotiating a ratifiable SALT agreement are having on our defense planning process and consequently, our defense posture for the 1980's.

In his fiscal year 1978 budget submission, President Ford provided funding for the initiation of full-scale development of the MX ICBM system. This proposal was subsequently withdrawn by the Carter administration in its revisions to the Ford budget. Regretably, the administration not only refused to provide for such funding in the fiscal year 1979 budget, but has also decided against funding in fiscal year 1980 as well. Despite suggestions made during the course of the administration's testimony in upport of its fiscal year 1979 budget requests, to the effect that it would request supplemental funding for MX full-scale development, this has not occurred.

The failure of the administration to

press forward with the development of the MX program is having a damaging effect on both our SALT posture and on our future defense posture. By failing to press expeditiously with MX development, we are providing the Soviet Union with no incentive to negotiate a SALT agreement which would reduce their ballistic missile payload capacity (throw-weight), and thereby provide a more equitable and ratifiable agreement. Indeed, our failure to develop the MX rapidly encourages the Soviets to accelerate their ballistic missile modernization program to deploy heavy-payload ICBM's, and fractionate the payload into large numbers of high-yield ICBM warheads with accuracy sufficient to destroy any work of man in the United States.

Expeditious development of MX would persuade the Soviets, as can no other act or rhetorical assertion of this administration, that the Soviet investment in ICBM's is futile. By deploying MX, the Soviet Union would be deprived of the most important element of U.S. nuclear forces which it can now target; the land-based ICBM force. With the MX deployed in a multiple aim point (MAP) mode, it could not be targeted by current or projected Soviet force levels through the mid-1980's. Only U.S. submarines in port (30 to 40 percent of the 41 U.S. missile-firing submarines now deployed) and the portion of the manned-bomber force not on operational alert (75 percent of the force is not on alert) could be targeted.

Moreover, the failure of the administration to act on the full-scale development of the MX system has given the Soviet Union an opportunity to "stonewall" U.S. negotiators at SALT on such complex issues as the problem of the modernization of the ICBM force currently delaying completion of the SALT exercise. The Soviets see an opportunity to stop for at least 3 years, if not forever, via the SALT protocol, U.S. development of a survivable ICBM. The vacillation of the Carter administration has provided Soviet negotiators with an incentive to seek restrictive language in SALT that make such an agreement utterly unratifiable.

The protracted delays in initiating MX full-scale development are pushing further into the future, the day when MX can be deployed, and even further away from the day when MX can make a substantial contribution to achieving a significant reduction in the vulnerability of U.S. land-based ICBM's. Since President Carter assumed office, the initial operating capability (IOC) of MX has slipped 3 years at the earliest under the expenditure "profiles" considered by the administration.

As a result, U.S. defense planning for the 1980's is facing its gravest era of uncertainty since the Soviets initiated their own deployment of nuclear weapons in the 1950's. In the absence of MX, defense planners must contend with the stark vulnerability of the entire U.S. ICBM force by the mid-1980's if not before. Further, because of construction delays, the number of submarine-launched ballistic missiles (SLBM's) will have available in the event of war will be at its lowest point since the U.S. SLBM deployment was completed in the mid-1960's. As President Carter has declined to modernize the penetrating bomber force, we will be compelled to rely on the untried first-generation cruise missile, to deliver bomber-carried nuclear weapons by the mid-1980's.

All of these adverse trends are having their impact on U.S. strategic nuclear forces at a time when the Soviet threat has never been greater. Not only are the number of Soviet targets more numerous as Soviet strategic and general purpose forces grow in number, but the forces are more dispersed and hardened, thereby increasing the requirement for numbers of U.S. nuclear weapons to provide a credible threat to these forces to preserve deterrence.

The Carter veto of the defense authorization bill has brought home the concerns about the adequacy of present expenditures to preserve nuclear deterrence we can reliably foresee in the next decade. Decisions made this year to "save" a few hundred million dollars in fiscal year 1979 can cost literally tens of billions of dollars in a crash program in the next decade to meet the threat whose contours are readily visible to nonpoliticized observers today.

The defense authorization bill which is likely to emerge, if President Carter gets his way, will be approximately $10 billion below the level of spending proposed by President Ford for fiscal year 1979. Expenditures for NATO—allegedly a major concern of the Carter administration—will be 14 percent below the amount proposed by President Ford for the same fiscal year.

In short, President Carter's defense policy not only contributes to the long-term weakening of our defense posture for the confrontations with the Soviets in the 1980's, but also cripples our SALT posture to the point where it will be impossible to win an agreement which will assure American security during the next decade, and be capable of winning congressional approval.

A supplemental appropriation bill for fiscal year 1979 is urgently needed to initiate full-scale development of MX so that we may have hopes of gaining an equitable SALT agreement, while providing our forces with weapon systems adequate to both our defense requirements and arms control objectives in the next decade and beyond.●

NICARAGUA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. MURPHY) is recognized for 60 minutes.

Mr. MURPHY of New York. Mr. Speaker, my purpose here today is to call to the attention of the U.S. Congress some of the salient facts relative to the serious situation in Central America, and in Nicaragua particularly. I must point out that many hysterical headlines have given American readers a grossly distorted picture, not only of the reality of the Nicaraguan position, but of the open and blatant involvement of various Communist/Marxist revolutionaries from the Havana/Moscow axis, as well as both active and passive aid from other South American nations such as Venezuela, Costa Rico, and Panama.

Let me make it very clear at the outset: Nicaragua has a constitutional government, and Anastasio Somoza is its constitutionally elected President. In that respect, it is no different than the United States. Yet if the Black Panthers, Weathermen, or Symbionese Liberation Army were to invade the White House, take hostages on Capitol Hill, and begin executing residents of Foggy Bottom, the Washington Post would certainly cry out for the speedy containment of such a bizarre move to take over the U.S. Government. So far, the media have been distressingly silent on the comparative situation in Nicaragua.

Nicaragua is not isolated in its troubles with the Communist campaign of violence and terrorism. It is only one step in a finely orchestrated program to destabilize all of Central America, including the governments of Guatemala, Honduras, El Salvador, and Costa Rica. I include Panama in these governments about to be lost to the Soviet sphere of influence, but that is a story for another time, and one which you may be certain I will pursue at considerable length at the appropriate time. And now Venezuela has become involved, openly aiding the terrorists, many of which have been trained in Cuba.

Venezuela, of course, is one of the leading members of OPEC, the Organization of Petroleum Exporting Countries, an organization made of many members who openly support the Palestine Liberation Organization—who, in turn, depend quite heavily on the Soviet Union for support. The PLO and the Sandanistas, according to Radio Havana, issued a joint communique in Mexico City to "emphasize the bonds of solidarity which exist between the two revolutionary organizations." It attacked "the racist State of Israel" for reported military sales to anti-Communist Latin American countries, and for serving as "an enclave of North American imperialism" in the Middle East. That should help give us some clue as to the basic political philosophy of the Nicaraguan rebels. As the founder of their movement originally stated, murder and terrorism is acceptable if done in the cause of communism. I would hope there are none in this Chamber who believe that to be so.

Yet that is precisely the case in Nicaragua: The attempted violent and armed overthrow of an elected government. The Sandanista's "Commander Zero" left no doubt they would create a revolutionary state, expropriate all Somoza property, nationalize natural resources, and establish a popular and democratic army. I cannot believe that this is what we Americans would wish for. President Somoza was elected, which

cannot be said of Castro or Torrijos, both of whom took office at gunpoint, and who leave little doubt of their Communist philosophy. Nicaragua holds elections, and President Somoza, by law, cannot succeed himself in 1981. Nicaragua is a nation where the opposition party holds 40 percent of the seats in the legislature—7 percent more than the minority in this body of the U.S. Congress. There is a thriving and free opposition press which openly criticizes the Government. And yet, we hear only of the Government's use of force—a legitimate use of force—in putting down riots and terrorism in the streets.

As I have noted, the attacks are not solely from the inside. Training takes place in Cuba and elsewhere, while Venezuela and Panama openly aid the terrorists. Raids are conducted across the border from Costa Rica, whose Government claims it is powerless to stop these attacks against its neighbor, but when the Government of Nicaragua acts to defend itself by pursuing the terrorists, Costa Rica protests that its borders are being violated. I have included in my prepared remarks a chronology of Costa Rican involvement which I would ask to be inserted in the RECORD at this point. (Attachment No. 1.)

Nicaragua has been told that, should it attempt to destroy the Sandanista bases in Costa Rica, it will have to answer to Venezuela as well. Panama has threatened to send in "volunteers," and the Panamanian Ambassador to the OAS announced Panama had already sent helicopters to Costa Rica to defend its territory—helicopters which are supplied by U.S. security assistance programs and are, by law, not to be used or assigned to third countries.

Where is our outrage at this?

The Nicaraguan situation is not, contrary to newspaper reports, a popular uprising against a repressive government. President Somoza has brought to Nicaragua the most liberal, progressive, and democratic government it has enjoyed in its entire history. The attacks against him are not even Nicaraguan in origin—most of the highest leaders of the Sandanista front are Costa Rican and Mexican citizens, while the most recent attacks were orchestrated immediately after the Communist's world youth festival in Havana, Cuba, last month. Radio Havana is now calling for the formation of international regiments to aid the Sandanistas, most likely to be commanded by officers of Cuba's Africa Corps.

Is it simply a coincidence that the Soviet Union maintains a huge embassy in the capital of Costa Rica, where the Cuban Government is also represented? None of the other five Central American countries have diplomatic relations with either of these Communist countries.

When the Russian Embassy was established, they officially requested seven accredited members of the Embassy. As of today there are 38 official and an estimated 180 Russians who are participants in Embassy activities compared to the 26-member Embassy that the United States maintains in Costa Rica. The United States conducts $260 million in trade with Costa Rica. And the U.S.S.R.? Six million dollars in trade. Just today La Nacion, the largest newspaper printed in Costa Rica, editorially questioned this huge Russian "force" and an article in that same paper stated that the Russian Embassy is a center of conspiracy in Latin America and is behind the unrest and strikes that exist in that country.

The Marxist interest in the region is not at all surprising. It is the largest country in the area, and occupies a key geographical position, as well as being known as a close ally of the United States. Nicaragua contains the primary potential alternative site for a trans-oceanic canal, if one is needed in addition to the Panama Canal. I have great fears for the future of Panama Canal in the hands of Torrijos, and to lose the Nicaraguan alternative to communism is to completely lose control of our shipping lanes and our southern defenses. The rest of Central America is a simple step from Nicaragua. And if we learned nothing else from the Cuban situation, we should have learned that Cuba was the first step of the Soviets into our hemisphere, not the last.

The Sandinistas have vowed to continue terrorizing Nicaragua until they impose a "popular proletariat democratic" government. That title has a haunting ring to it. The best interests of the United States, and indeed the rest of the free world, is by no conceivable means an alinement with terrorist groups, abetting murder in the overthrow of a constitutional government by the single stated enemy of the United States: Soviet-style communism.

Our Government can no longer afford the luxury of a hands-off attitude. This is true not only in the direct case of Nicaragua and the continuing terrorism but also in the case of the indirect assistance afforded the guerrillas by Costa Rica, Venezuela, Panama, Cuba, and others. We are not a simple onlooker: We are, or should be, directly and actively, involved at the very least in negotiating an end to the violence. We should, and must, take a firm stand in calling for an end to the fighting, and an end to the outside interference.

Nicaragua has always been a strong ally of the United States, a position which was outlined at considerable length in this Chamber last year when we debated the continuance of aid to Nicaragua in the military assistance legislation. I have supplied a transcript of that debate and my statement for the RECORD on human rights in Nicaragua of June 21, 1977 (Appendixes B and C) and ask that they be printed at the end of my remarks.

The essence of that debate, however, was that by a considerable margin (225 to 180) this Chamber agreed that it was in the best interests of the United States to continue military assistance to the Government of Nicaragua. Military assistance, by any definition, means defense of the nation and its government from armed invasion or conflict. Can there be any possible foundation for the Congress to separate our military assistance from moral or political assistance?

We approved that aid so that the existing constitutional government might be strengthened against its enemies. Now that those enemies are committing murder in the streets and countryside, there are those who complain that perhaps the Nicaraguan Government should not defend itself and its people from terrorism inflicted upon them by Communist-led zealots whose only aim is to impose another Cuba upon a free people. I find that point of view extremely difficult to understand or to defend.

As you can read in last years debate, many of my colleagues in the House have joined me in telling the American people that Nicaragua has been faced with a Marxist revolution for years. Now that the violence is a reality, the media appears to portray the terrorists as daring heroes in pursuing their cause. That cause is communism, pure and simple, and their threat to execute members of the Nicaraguan Legislature is blood lust at its worst, and I point out that the U.S. media groups trumpeting the initial sneak-attack successes of the terrorists in Nicaragua are the same media groups that called the Tet offensive in Vietnam a raging Communist success, when in reality it was a disastrous defeat. The incidents have many similarities. For example, the media played up to a farethee-well the fact that two dozen Communist sappers fought their way into the American Embassy in Saigon just as they are still playing up the fact that the FSLN stormed and took the Nicaraguan Legislature.

The misreporting is the same—I know the results will not be.

I say we should not be stampeded again by a publicity hype like we were 10 years ago. I say let those who demand change take their case to the Nicaraguan people in the next election. President Somoza will not be a candidate, being eliminated by law from succeeding himself. Let the Sandinistas tell the people of Nicaragua, and those of us in the Free World, what they have to offer in the way of a proper rational government. Let the well organized opposition party in Nicaragua make its case. And then let the people of Nicaragua decide for themselves at a ballot box, not at the muzzle of a Communist gun.

Mr. Speaker, the foes of Nicaragua have worked on this Congress long and assiduously. On June 23, 1977, they succeeded in bringing the House to an extended debate on aid to Nicaragua and my friend from Texas, Mr. DE LA GARZA, made an eloquent statement at that time that is today more germane than ever. He said:

> So we topple this Somoza. So we knock out the military in Argentina. So we knock out the military in Chile. What will take their place? Communism.
>
> * * * * *
>
> The Cubans are there. The Russians are there. We will not have any church. We

will not have any bishops. We will not have any liberty. We will continue the oppression. We will continue the torture. This is historical.

We do not have a need for any hearing in any committee to accept the fact that the Communists torture, that they oppress, that they deny religious choice.

The alternative in these countries, if we just cut them off at this time and stop the dialog, is Communism.

Many of us cheered. As for myself, I cheered. I said: "Batista is out. Castro, the brilliant young man with stars in his eyes, is coming in. He has toppled the dictatorship." Take a look at how many Cubans are left who were free. Take a look at those in Florida. Yes, I cheered when Castro came into power. I said: "The dictatorship is out. Freedom will once again come to Cuba. The people will be able to go to their churches. The bishops will be able to minister to their brethren." Democracy will return, free elections, our system of freedom.

Did this happen? No. And if we knock out the existing governments, right, left, dictator, or what, as the gentlemen have suggested, what will be left, my friends? Communism. We must work with the President, we must work within the established institutions. We have sent the message, we will not tolerate oppression, denial of human rights from any source. But you do not do this by striking blindly in an appropriation bill.

That advice is just as good today as it was then and I urge my colleagues to heed it.

Mr. Speaker, in the interests of making available more speaking time for my colleagues to join in support of a constitutional Nicaraguan Government, rather than a bloody Communist coup, I would insert at this point in the RECORD a number of newspaper articles and editorials. All are not particularly laudatory of the President of Nicaragua; instead, they represent in most cases a balanced point of view in noting that Nicaragua is only the latest crescendo in the Communist orchestration of savagery and brutality designed to encompass within their repressive grasp what remains of the free world. Also included is a transcript of a televised interview with President Somoza which took place September 19, 1978, on the Public Broadcasting Network. I recommend it highly to my colleagues to dispel many of the misconceptions of the current media image which has so inaccurately portrayed the reality of today's Nicaragua.

APPENDIX A

COSTA RICA AND THE NICARAGUAN FSLN

The government of Nicaragua has repeatedly complained that the Costa Rican government has taken little or no action against the Sandinista terrorists. The following are a compilation of incidents with Costa Rica which have given rise to the Nicaraguan complaint.

On Sept. 30, 1977, 4 Sandinistas that were arrested in Costa Rican territory were released by a judge because of lack of evidence against them. These 4 Sandinistas were Manuel Mora Salas, the son of the former Deputy Manuel Mora Valverde, who is the leader of the Communist Party in Costa Rica; Carina Rivas, Guillermo Tejada and Eduardo Ferreje. The Costa Rican Public Security Ministry reported at the time of their arrest the discovery of documents that revealed a terrorist operation in Managua and Rivas. The Costa Rican Minister of Public Security, Mario Charpentier Gamboa, stated that 4 people were arrested, and that they were involved in a plot to topple the Somoza government. Minister Charpentier added that they supplied arms to the leftist guerrillas in Nicaragua.

In April 1978, security forces in Costa Rica apprehended Plutarco Elías Hernández while he was "training militant anti-Somoza forces in the outskirts of San José."

On June 1, 1978, Plutarco Elías Hernández, well-known Costa Rican Sandinist, was pardoned by the Costa Rican authorities. He had been sentenced to 16 years in jail for his participation in a bloody attack on the Costa Rican prison of Alajuela, where he was trying to free Carlos Fonseca Amador, a Cuban-trained Marxist who was in jail in Costa Rica.

1977

February 23

UPI—Costa Rica announces trade mission visit to Cuba.

February 25

EFE—announces arrival in Costa Rica of a Soviet technical mission headed by Romuald Tomberg.

October 18

UPI—Guido Fernández, director of newspaper LA NACION of San José, Costa Rica, stated that "it was possible that (there were) Sandinistas conspiring to overthrow the government of Managua from Costa Rican territory, as there were many of them exiled in this country."

October 17

EFE—quoted the former Costa Rican Foreign Affairs Minister as saying that his government "will never hand over any Sandinista to Nicaragua."

EFE—also reported that large quantities of arms were discovered on a farm in Costa Rica owned by Nicaraguans. One of the Nicaraguans confirmed participation in Sandinista terrorist attack on San Carlos in Nicaragua.

EFE—also reported that the Costa Ricans had detained 15 people allegedly involved in the San Carlos attack.

October 26

UPI—Costa Rican government extended political asylum to 8 Sandinistas fleeing the Nicaraguan National Guard. One of them was a Honduran. They had attacked San Carlos on Oct. 13 killing several National Guardsmen.

Costa Rican Vice President Fernando Guzman's decree granting them political asylum stated that they could live anywhere in Costa Rica but not within 100 kilometers of Nicaraguan border.

UPI story states that FSLN has been using the area on both sides of the Nicaraguan-Costa Rican border since its founding in 1961.

October 15

UPI—Sandinistas entered Costa Rican territory after the attack on San Carlos.

October 27

New York Times service quotes Costa Rican and FSLN leader Plutarco Elías Hernández, "Those who think we will be going straight to Communism are wrong. . . . "we have always avoided so-called terrorism. . . . We haven't gone in for bombings or political assassinations and we have carried out only one kidnapping in 1974 . . . to free some companions from jail".

Pedro José Chamorro is murdered in his bed in May by FSLN terrorists.

Gen. Pérez Vega of the National Guard is drugged, beaten and murdered by Nora Jenkins, avowed member of the FSLN in March.

October 27

New York Times article (continued) "Although Hernández recognizes that the Front enjoys the moral support of Cuba, he insisted that it receives no money from Castro regime and that no Nicaraguan guerrillas have been trained in Cuba since President Fidel Castro stopped "exporting revolution" around 1970. (Within a week after the FSLN siege of the National Palace last month, 22 of the Sandinista guerrillas were reported to be in Cuba).

Even though Hernández stated that they (the FSLN) would not go straight to Communism, he also said the first actions planned by the Sandinistas when they took over the Nicaraguan government would be the expropriation of Somoza interests; nationalization of the banking sector; sweeping land reform and the establishment of diplomatic relations with Socialist countries.

October 31

Agence France Press reports a solidarity meeting in Mexico City of Chilean MIR and Bolivian Army of Liberation in support of Nicaraguan FSLN.

October 21

Latin American Political Report states, "Now that Costa Rica as well as Honduras is providing sanctuary for FSLN guerrillas, the National Guard may find that it has its work cut out, especially since they are now operating in the deep south as well as from their traditional bases in the northern hills."

Novedades, pro-Somoza newspaper, claimed that the invasion of San Carlos "occurred with the knowledge and acquiescence of the Costa Rican authorities."

Granma, official organ of the Cuban Communist Party, reports formal opening of Cuban Consultate General in San José, Costa Rica.

Granma also reports on FSLN communique distributed in Costa Rica detailing the activities of Sandinistas during October.

The Guardian, a Communist organ, reports Nov. 2 "In Costa Rica, a group of well-known Nicaraguans, including several wealthy businessmen and lawyers issued a statement praising the 'political maturity' of the guerrillas in warning that the Sandinista Front must participate in any solution to Nicaragua's problems."

EFE reports that 14 FSLN terrorists captured by Costa Rican authorities for engaging in political activities against the Nicaraguan government. 3 had been given political asylum just a few weeks earlier by the Costa Rican government.

In July, the Group of 12, Nicaraguan exiles living in Costa Rica, return to Nicaragua where they exhort populace to overthrow the government.

La Prensa reports that on July 22 last the police station at Los Sabalos and El Castillo near the Costa Rican border were attacked by the FSLN. National Guardsmen and civilians were killed.

1978

August 22–24

FSLN siege and kidnapping at National Palace is followed by terrorist attacks on Masaya, Estelí, León, Chinandega, Matagalpa, Peñas Blances, and Jinotepe.

The 25 Sandinista terrorists and 59 of their terrorist colleagues released from Nicaraguan prisons were flown to sanctuary in Panama. Shortly thereafter, 22 of the terrorists were reported to be in Cuba. Commander Zero (Eden Pastora), the leader of the Sandinistas, went from Panama to Costa Rica and then returned to Nicaragua clandestinely. Zero gave a press conference in Costa Rica as well as Panama.

September 19

As of this date, all the major cities in Nicaragua had been secured by the National Guard after fierce fighting with the Sandinistas, with the exception of Esteli, which was still offering some resistance, although it was waning at last report.

APPENDIX B

[From the CONGRESSIONAL RECORD, June 23, 1977]

"Amendment offered by Mr. CHARLES WILSON of Texas: On page 20, line 21, of the bill, in section 505, delete 'Nicaragua'."

Mr. CHARLES WILSON of Texas. Mr. Chairman, this amendment is very simple. It simply reinstates Nicaragua as a recipient of U.S. military assistance.

First of all, the most important point which needs to be made is that, in my judgment, Nicaragua is not a gross violator of human rights. Nicaragua's main sin seems to me to be that it is friendly to the United States. What is the situation in Managua? The largest newspaper in Nicaragua, La Prensa, is in vigorous opposition to the Somoza regime. In any country which we think of as being in gross violation of human rights we very seldom see a vigorous, large, major newspaper that is anti the President. But there is active opposition to the President of Nicaragua. The last election there was monitored by the Organization of American States. The very people who helped my good friend from New York orchestrate the case against human rights in Nicaragua are now back in Nicaragua continuing their opposition to the government.

How many countries can we think of that are accused of being in gross violation of human rights would allow their people to come to the United States, testify against their country, and then go home and remain free? Certainly that does not fit my description of a country that violates human rights, nor that of most Members.

We did have some Catholic priests making allegations, and we had a bishop's letter of some sort that alleged great violations of human rights there. I am suspicious of this, however.

In my district I have 500,000 white Protestants, mostly Baptists; I have 100,000 black Protestants, mostly Baptists. As a result of this and as a result of only being exposed to Protestant preachers and in many cases to evangelists, I became very suspicious of radical preachers as a very young boy. Since I came to Washington I have expanded that suspicion to include radical rabbis, radical priests, and radical Korean gurus. We should rely on our own State Department and not on religious opinion in these matters, especially when religious opinion has a stake in the results.

Before the present government took power in Nicaragua, the church was much more powerful and the church owned much more land.

It has been said by my friend, the gentleman from Wisconsin (Mr. OBEY), that the gentleman from New York (Mr. KOCH) has indeed made a case against Nicaragua, in fact a compelling case against Nicaragua. I submit to the Members that any Member of this House can make a compelling case against any country on this Earth. No one is perfect, no one is pure.

I would like to show the Members some things I would use if I were making cases against people that I did not particularly like for one reason or another. I could show the police in Houston pictured as "brutal and unchecked." But my friend, the gentleman from New York (Mr. KOCH), could say, "What would you expect from barbarians such as those?"

And so in addition to that, I might say to my friend, the gentleman from New York: "Attica—a premeditated massacre. They came to Attica to kill and to torture—Attica where time ran out."

The recipient countries of about one-third of the funds in this bill have also been accused of violations of human rights. Israel is pictured as an "occupier, using excessive force, and enforcing strict security." This resulted in a 5-month investigation where reporters have shown that Israeli interrogators routinely mistreat and often torture Arab prisoners.

That is not true. I have been there many times, and I know it is not true. The Israeli occupation of the West Bank is probably the most humane occupation in the history of civilization. Just because some reporters who wanted to write a story said it violates human rights does not make it true.

In the same light, because some dissident bishop came up here and said these things about Nicaragua does not make them true.

On the international scene there are over 100 countries, that are said to be violators of human rights, and money for many of them is contained in this bill. We should not single out one country, and if we are going to single out one country, we should not single out one of our best friends in this hemisphere.

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

Mr. CHARLES WILSON of Texas. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman. I thank the gentleman for his statement. I certainly concur with it, and I go back to the gentleman's initial point.

The gentleman has indicated—and I think it is proper—that almost every country falls a little bit short of what we might ideally establish as a norm. Does the gentleman not think that many in this body try more zealously to apply these high standards to our friends than to our enemies?

Mr. CHARLES WILSON of Texas. I think that is right, but I am not even conceding that Nicaragua has done these things. I am only saying that some dissidents in that country say they have.

The CHAIRMAN. The time of the gentleman from Texas (Mr. CHARLES WILSON) has expired.

(On request of Mr. DERWINSKI and by unanimous consent, Mr. CHARLES WILSON of Texas was allowed to proceed for 1 additional minute.)

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

Mr. CHARLES WILSON of Texas. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Chairman, I have one question to ask of the gentleman, but first I wish to comment that in going over his worldwide list of oppressive regimes, the gentleman should not forget the Democratic machine in Chicago.

Mr. CHARLES WILSON of Texas. Yes, of course.

Mr. DERWINSKI. Mr. Chairman, my question is this: Would the gentleman enlighten the House on the facts of guerrilla war that is going on in Nicaragua and the need for some of the security measures they have had to take because of lawlessness?

Mr. CHARLES WILSON of Texas. That is true. As this House will recall, as ill fated and as ill advised as it was, the Government of Nicaragua allowed its country to be used as a steppingoff point for the Bay of Pigs, and as a result Nicaragua has been a continuous target for Castro. The result has been continuous confrontations with Castro-trained guerrillas.

The CHAIRMAN. The time of the gentleman from Texas (Mr. CHARLES WILSON) has again expired.

(On request of Mr. ZABLOCKI and by unanimous consent, Mr. CHARLES WILSON of Texas was allowed to proceed for 2 additional minutes.)

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

Mr. CHARLES WILSON of Texas. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Chairman, I thank the gentleman for yielding. At the very outset I wish to commend the gentleman from Texas (Mr. CHARLES WILSON) for proposing this amendment. I think it is a responsible amendment.

We are all dedicated to promoting human rights, but we certainly should not single out countries that are friendly to us in trying to get them to live up to our mores and our standards.

There are violations of human rights in some degree as the gentleman from Texas (Mr. CHARLES WILSON) has pointed out, in almost every country.

Mr. Chairman, I must ask the gentleman this question: Would it not be preferable, if the gentleman's amendment did prevail, in order that the FMS funds be available? It is my understanding that Secretary Todman has given assurance that the funds would be withheld until improvements in the area of human rights would be made. Would that not be a greater incentive to bringing about that which the Subcommittee on Appropriations and particularly the gentleman from New York are trying to bring about in Nicaragua?

Mr. CHARLES WILSON of Texas. The gentleman is absolutely correct. The State Department has given our committee assurances that there will be no military assistance for 1978 unless there are improvements in human rights. The administration feels that if it has this leverage, there will be an improvement in human rights; and only if it has this leverage will that improvement occur.

Mr. ZABLOCKI. Would the gentleman also agree, if his amendment does not prevail, that the proposal of the Subcommitee on Appropriations would be counterproductive to our countries' interests?

Mr. CHARLES WILSON of Texas. Absolutely counterproductive.

Mr. ZABLOCKI. I thank the gentleman.

Mr. KOCH. Mr. Chairman, I move to strike the last word.

(Mr. KOCH asked and was given permission to revise and extend his remarks.)

Mr. KOCH. Mr. Chairman, it is always somewhat painful to ever be in opposition to my good friend, the gentleman from Texas (Mr. CHARLES WILSON). We are on the same side so many times.

However, let me say why this is a clear, convincing, and compelling case, and why the committee did what it did.

I think we ought to put all the cards on the table, Mr. Chairman.

This amendment introduced by my good friend, the gentleman from Texas (Mr. CHARLES WILSON, is supported by my colleague the gentleman from New York (Mr. MURPHY). It would restore $3.1 million in military credit sales. That is all we are cutting off. We are not cutting off the $15 million in economic aid that is in the bill. They already have $58 million in appropriated moneys not yet expended, which we gave them, and that money is now in the pipeline.

The amount of $3 million for military aid for last year has been held up by the State Department because of the current human rights situation, so they have not even gotten last year's sum which we appropriated. The United States still holds it.

Why are we in this situation and why can I demonstrate that this is a compelling case, different from any of the others that might have been brought to us? I say that because this committee held extensive hearings, 2 days of hearings on this subject of a deprivation of human rights in Nicaragua.

It is interesting to hear the witnesses against the Samoza regime discounted by Mr. WILSON. Let me recite who the witnesses were. One would get the impression from my good friend, the gentleman from Texas (Mr. CHARLES WILSON), that the witnesses here are some dissident priests, some radical priests, who, God knows, want to topple

Nicaragua. Let me recite who the committee relied on.

In January of this year all of the Catholic hierarchy, including the archbishop of Managua, the bishop of Grenada, and the bishop of Matagalpa, and a number of other members of the Catholic clergy in Nicaragua issued a pastoral letter which could not be printed in the press because the press is under censorship. However, it was read from the pulpit of every church.

Let me just read a couple of passages. This statement is from that pastoral letter, which as I said, was read in every church in Nicaragua.

It says, talking about the Government, that the Government utilizes methods which are "humiliating and inhuman; from tortures and rapes to executions without a previous civil or military trial."

Then it goes on to say as follows:

"Another violation that disturbs the practice of the fundamental liberties is the interference in the religious realm.

"In other locations in the mountains of Zelaya and Matagalpa the patrols have occupied the Catholic chapels using them as barracks.

"There are cases in which delegates of the Word (the reference is to priests) have been taken prisoners by members of the Army, have been tortured and others have disappeared."

Then it goes on to say as follows:

"All these practices and others like them, contrary to human dignity and the fundamental rights of man, degrade civilization and are totally contrary to the plan of God, Christ is categorical in what He says in this respect: 'What you did with one of these the least of my brothers, you did to Me.'"

Mr. Chairman, that is the pastoral letter which was read in every church in Nicaragua.

My good friend, the gentleman from New York (Mr. MURPHY) put a four- or five-page statement in the RECORD a couple of days ago, and I read it with great interest. He talked about the witnesses who came before our very committee, and he said the following in his statement:

"As to the allegations of political prisoners, torture, disappearance, and the threat of exile, our intelligence sources can confirm no political prisoners, no executions, no torture, and no disappearances."

However, Mr. Chairman, what does the State Department say about that? Let me quote from the hearings of April 5. I am now quoting the Deputy Assistant Secretary of State Charles Bray, who said:

"It is our belief, based on available information and the opinions expressed by reasonable and unbiased sources, that the Nicaraguan National Guard has used brutal and, at times, harshly repressive tactics in maintaining internal order. . . .

Let me go on and tell the Members—because there will be a question raised as to whether or not we will in some way or other endanger U.S. national security if we cut off the $3,100,000 in military credit sales—let me tell you what the Secretary in charge of the State Department's Division on Human Rights has said in response to a question posed by this committee, a question which the gentleman from Maryland (Mr. LONG), the chairman asked her:

"What would be the reaction of the State Department if this committee were to suspend all aid to Nicaragua, in view of some of the gross violations of human rights that have taken place there? What would be lost to the United States and would there be a violation of our security interests?"

The CHAIRMAN. The time of the gentleman has expired.

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

Mr. KOCH. The answer to that question was given by Mrs. Lucy Benson, Assistant Secretary of State for Security Assistance, and she said:

"I cannot think of a single thing."

What do we have here that distinguishes this case from any other one that might be brought up by way of an amendment? We have testimony, that is what we have, and we have the testimony of opponents that was given to us by my friend, the gentleman from New York, JACK MURPHY. He asked for a special day of hearing. We gave it to him. I interrogated those witnesses. I said to one of the witnesses that Congressman MURPHY quotes in his statement in the CONGRESSIONAL RECORD. I said to one of the witnesses that testified:

"Would you characterize the archbishops of Nicaragua as radicals on the left?"

And this answer was given by the witness, Professor Wilson, who was brought to the committee by JACK MURPHY and referred to in his statement in the CONGRESSIONAL RECORD, and Professor Wilson said this:

"I would say definitely they are not characterized as such."

So the difference, my friends, is this, when the gentleman from Texas, CHARLIE WILSON, says he is talking about some radical priests whom he does not trust, I do not know what he is talking about. But I can say that one of the most conservative Catholic hierarchies in Latin America, happens to be the hierarchy in Nicaragua, and they have had it up to here.

Finally, Mr. Chairman, the Nicaraguan Government would not permit this pastoral letter to be published in the press that was written by the bishops.

Just to conclude, Mr. Chairman, what are we taking from them? Three million one hundred thousands dollars in military sales credits when there is exactly that amount in last year's appropriation that the State Department has said it would not turn over because of the repression in Nicaragua.

What are we giving them? We are giving them some $15 million in economic aid. Let us face it, what did we give them in addition to this $15 million, last year and the years before? Fifty-eight million dollars in economic aid that is still unspent and appropriated now in the pipeline.

If there ever was an occasion to cut off military aid, this is it.

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

(Mr. CEDERBERG asked and was given permission to revise and extend his remarks.)

Mr. CEDERBERG. Mr. Chairman, I rise on this occasion in support of the amendment because I do not think we are doing anything for human rights by naming Nicaragua in this bill.

First let me say that all of us are for human rights. I do not know of anyone who is not for human rights. The question is how do we best accomplish the objectives that we want in human rights? It certainly is not by naming countries in this bill.

I have been down at the White House and and the President has expressed a desire for some flexibility as he deals with this very difficult problem. I have told the President, and I told Secretary of State who called me yesterday morning, that I would try to be helpful as they try to foster human rights and improvements in human rights in all of these countries.

No one is saying there are not problems, not only in Nicaragua but in many other areas. But it just seems to me that we are going to lose our ability to be helpful in this area if we just go blindly on our way naming countries in this bill, because the President and the Secretary of State then do not have the opportunity, or the opportunity will be denied them, of trying to accomplish the very thing that we all want. So I would hope that we would seriously consider supporting this amendment. It is a good amendment. Here is a country that is one of the friendliest countries we know, who always supports us in the United Nations, who allowed us to use their territory to prepare for the Bay of Pigs operation. For us at this time to deny the administration the ability to deal with these people is unwise.

I received a letter yesterday, and it may have been referred to earlier, from Terence Todman, the Assistant Secretary for Inter-American Affairs, on this very subject. Let me just quote. I will not quote all of it.

"I give you the formal assurance of this Administration that we will not sign a fiscal year 1978 security assistance agreement unless there is an improvement; nor would we sign an agreement in fiscal year 1978 without further consultations with this Committee designed to assure that you and we agree that there has been improvement in the human rights situation."

What more do we want if the administration says this? I believe the administration, and we should not take away from them the tool that will give them the opportunity to improve human rights in this and in other areas.

Mr. LONG of Maryland. Mr. Chairman, I move to strike the requisite number of words, and rise in opposition to this amendment.

The gentleman from New York (Mr. KOCH) was the author of an amendment which cut out this money for Nicaragua. The cutting is only one-sixth of the money. Five-sixths of all the aid will still be there; so nobody can say we are really hurting our friends too much. If we have hurt Somoza, it has been in a very friendly way.

What we are trying to do is to send him a message, a message that the Department of State has always been very reluctant to give. State is great on talking but when it comes to actual performance, really doing something, they do not deliver. That is what this Congress is for. That is what the appropriations process is for.

We talk here about human rights violations. Some say their rights have been violated if somebody speaks to them harshly. Let me read the Members a little bit about what real brutality is.

We have here testimony from Fernando Cardenal, Society of Jesuits—a Nicaraguan Jesuit priest, former dean of the University of Central America, currently professor of philosophy at the National Autonomous University of Nicaragua. Here are some of the human rights violations he describes.

When a prisoner is captured, his head is immediately covered by a sort of sack made of strong black material and tied at the neck with a cord. This sack hardly allows the person to breathe. In this fashion the questioning starts.

The prisoner is insulted, threatened, and beaten, especially in the stomach, chest and head. Simulations of hangings and executions are frequently practiced. The testicles of prisoners are stuck with needles. The prisoner is left in a refrigerated room for several days, still hooded, and with no nourishment but salt water. Electric shocks are also applied, especially in the genital area.

Other common forms of torture practiced including hanging the prisoner from the thumbs, clubbing him on the head, and submerging him in pits of filthy water until the prisoner loses consciousness.

Women are raped, and they are stripped naked for interrogation.

Father Cardenal goes on—

Amada Pineda, Arauz, a married peasant woman and mother of eight children was brutally raped in 1974 by all the members of the National Guard patrol headed by Sergeant Soto. They abused her sexually for several days, leaving her very ill.

The gentleman from New York has correctly pointed out that Mrs. Benson said no great harm is going to happen to our foreign policy if we cut this one-sixth of our foreign aid to Nicaragua, if that is cut off. People came before us and gave plenty of time to those who wanted to defend the Government of Nicaragua. Here was my colloquy with Mr. Molina:

"Mr. LONG. Your 5 minutes are up, Mr. Molina.

"Do you have a contract with the Nicaraguan Government?

"Mr. MOLINA. At the present time I don't have a contract.

"Mr. LONG. Have you had a contract?

"Mr. MOLINA. Yes; I have had a contract. Under contract I worked with the Government. Like I say, my field has been the human rights area.

"Mr. LONG. How big a contract did you have?

"Mr. MOLINA. A $2.5 million contract."

Then I said, after some further discussion:

" . . . Supposing you came here and gave us the story that Mr. Brown gave us—just suppose. Do you think you would ever get another contract in Nicaragua?"

There followed about 15 minutes of this and that and the other, but he did not claim he could ever get another contract if he had given the opposite kind of testimony.

If we believe in human rights, if we are shocked by this kind of thing, then this is the case we go to bat with. If we do not do it, then let us say we are never going to cut off anything to any country because of human rights violations. This is a crucial case.

I urge that this amendment be defeated.

Mr. O'BRIEN. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I would address myself, before getting into the body of my remarks, to the notion that if human rights were not being violated in this area we would not be debating the issue at all, so notwithstanding the powerful statements by the chairman, the heart of the matter is how can we best improve human rights in Nicaragua.

As the gentleman from New York (Mr. KOCH) asked the other day while we were in general debate: Why Nicaragua? Well, while I am not the most knowledgeable Member of the House on foreign affairs by a long shot, let me nevertheless tell the Members what I think is persuasive in this argument over the adoption of the amendment.

First, it is supported by the State Department and the administration. Notwithstanding the comment by Mrs. Benson before the committee, there is no doubt that the testimony of support by Mr. Bray, representing the State Department, given this year on April 5, was that the administration needed this amendment.

Second, it was mentioned by the gentleman from Maryland earlier in the debate that the best kind of aid is a bilateral type of aid. We are a party to this agreement for aid. We are not giving it to any independent body that will isolate us from all control.

Third, we are dealing with an international friend. There is no Latin American nation that has supported us in Latin American affairs or in the United Nations more consistently than Nicaragua.

Fourth, consider executive authority and its importance to a new administration. This is the administration of the majority. This is the first time this administration has had a chance to do something with human rights. This administration is the announced champion of human rights. Let our President try. He wants the authority to act in such matters, and, quite candidly, he could not have such authority and we could not give it to him in any better way than we are doing in the Nicaraguan case.

In addition to the exercise of this authority, there has to be some proof of some progress in the negotiations over human rights before the funds can be transferred.

And something that has not been touched upon, the negotiators must return to the committee and consult with Members like the distinguished gentleman from Maryland (Mr. LONG) on whether there has been any progress. If there is any way or any proper way in which we should be involved in such matters, this is that way.

With respect to human rights, we are all involved in the cause. But how do we provide them and protect them? Keep in mind we should not have so much anxiety to punish the offender that we would forget our objective, which is to help the oppressed.

The Nicaraguans are the humans who are having the trouble. These are the people we are trying to help, and the amendment serves this purpose.

There has been some evidence the light of freedom is breaking through in Nicaragua. I understand on good authority that the National Guard's questionable activities have been cut back, and that political exiles are being granted more freedom. There is some light coming through. We ought to encourage this trend. I do not think we should strip the President of his chance to help Nicaraguans.

One more point. The gentleman from New York (Mr. KOCH) talked about Uruguay last year. Where are we now? Uruguay is now one of the most inflexible countries of Latin America. This business of cutting off aid has not worked with Uruguay. We did it last year, and now these people are isolated from us.

I do not think the human rights committee of the gentleman from Minnesota (Mr. FRASER) had any access to Uruguay at all.

Mr. Chairman, all I say in conclusion is that if we cut off this particular aid, such action will not remove any sacks from any heads. It will not help a single Nicaraguan who needs help. It will simply freeze up a bad situation.

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

Mr. O'BRIEN. I yield to the gentleman from New York.

Mr. KOCH. Mr. Chairman, the gentleman mentioned that last year we cut off aid to Uruguay in the same amount, $3 million. The Department of State was in opposition.

This year Secretary of State Cyrus Vance came before our committee and said, in effect, "You were right last year, you were so right. We are not going to ask for military aid for Uruguay this year."

In addition, things have changed in Uruguay. Does the gentleman know that Uruguay has allowed people from the outside to come into Uruguay and to inspect the prisons; is the gentleman aware of that?

Mr. O'BRIEN. No; the gentleman knows they would not let the gentleman from Minnesota (Mr. FRASER) come there for hearings. I do not think the case of Uruguay supports the gentleman's position.

Mr. MURPHY of New York. Mr. Chairman. I move to strike the requisite number of words. I rise in support of the amendment.

(Mr. MURPHY of New York asked and was given permision to revise and extend his remarks.)

Mr. MURPHY of New York. Mr. Chairman, I think we may have two State Departments, particularly when we hear Lucy Benson say there will be no effect on U.S. policy if we do not support Nicaragua in this endeavor.

I would like to read part of a statement that accompanied the letter from Secretary Terence Todman to the chairman of the subcommittee, the chairman of the full committee; and the ranking minority member:

"SECURITY ASSISTANCE FOR NICARAGUA

"U.S. security concerns in Nicaragua and the rest of Central America relate directly to our need for secure flanks and our commitment to hemispheric collective security under the Rio Treaty. Our objectives include prevention of the jurisdiction of hostile forces and bases into the region, limitation of hostile influences, protection of lines of communication, and maintenance of regional stability. We seek to provide the Central Americans with the sense of security essential for social, economic and political development, and to encourage their initiatives toward regional cooperation. While no single Central American country can be considered vital to U.S. security, further attenuation of our influences in the region as a whole would weaken our security position in the hemisphere."

"In addition to that security interest, the Department feels that for political reasons Nicaragua should continue to receive the modest amount of security assistance from the U.S. requested for fiscal year 1978."

Nicaragua physically is the largest of the Central American countries. It extends from the Pacific to the Caribbean. It is a blocking position in Central America against the spread of Communist subversion. That is why it is a target for Communist infiltration from Cuba and has been ever since Castro took power in Cuba. That country has a blocking position and we knew it 30 or 40 years ago when we put two U.S. Marine divisions in there in order to stop the flow of terror in Central America. We realized even then the strategic importance of this particular country.

Now, how did the witnesses get here that built up such a convincing case of human rights violations in Nicaragua? Well, now, there is an organization here in Washington called WOLA; that is the Washington Office of Latin America. The Washington Office of Latin America has gone into Central America, and here is their statement and I read from it. It is addressed to participants in hearings before the Subcommittee on International Organizations of the Committee on International Relations. It is from Bill Brown, who works with the gentleman from New York (Mr. KOCH). The statement is coauthored by Mr. Jose Eldride, an Allende Chilean supporter. It gives instructions on the preparation of testimony, its nature and format. WOLA says it is going down in Latin America to find the people to testify against El Salvador, Guatemala, and Nicaragua and to do their work.

I submit at this point in the RECORD the text of this primer for anti-American testimony before a committee of the Congress, dated May 11, 1976:

WASHINGTON OFFICE OF LATIN AMERICA,
Washington, D.C., May 11, 1976.

Re Preparation of Testimony: Its nature and format.

To: Participants in Hearings before Subcommittee on International Organizations of the Committee on International Relations, House of Representatives of the U.S. Congress.

From: Bill Brown and Jose Eldridge.

We are mailing this information sheet concerning your participation in the upcoming Congressional hearings in the hope that it will be helpful to you in the preparation of your testimony. It is also planned to have a member of our staff (probably Bill Brown) come to Central America to meet with you sometime during the week of May 24th. Exact details will be furnished soon.

First, we reprint herewith a substantial part of the text of the original proposal for the above-cited hearings, since this outlines the nature and the scope of the proceedings which will be held on June 8th and June 9th. It is quite probable that you have already seen this proposal; copies were mailed to all prospective witnesses about two weeks ago, but, due to the uncertainties of mail delivery in some areas, we feel that a repetition of the material could prove beneficial to you in the preparation of your testimony. Furthermore, under separate cover, we are

sending a Congressional publication (South Korea and the Philippines) containing the published records of a previously-held set of hearings, similar in format to this in which you will be concerned. This should give you a good idea of just how such hearings are held.

"Proposal for a Congressional Hearing into the Denial of Democratic Processes and the Violations of Human Rights in El Salvador, Guatemala and Nicaragua: The underlying premise of this proposal is that the present policy of the United States toward Latin American countries, as carried out under the direction of Secretary of State Henry Kissinger tends toward the support of military dictatorships, with the consequent undermining of locally engendered attempts to maintain and/or to establish free and genuine democracies, and that this policy is, unfortunately, pursued openly at the precise moment in history when the United States is commemorating the 200th anniversary of the founding of its democracy. It is contended herein that this morally bankrupt support of dictatorships in the countries affected results, first, in absolute suppression of political expression and the functioning of all democratic processes and, second, in wholesale violations of human rights, all of which is done to guarantee the continuance of the dictatorship.

"In order to illustrate this premise it is proposed that the state of civil and human rights violations in three Latin American countries be examined, with qualified witnesses from each asked to testify before an appropriate committee of the Congress. These countries are El Salvador, Guatemala and Nicaragua. They were chosen because they have much in common (extreme poverty, repressive military dictatorships, large scale denial of political rights and wholesale violation of human rights) with respect to the area of proposed investigation. Witnesses from these countries, chosen from among the leaders of the opposition to the governing dictatorships, could be expected to provide much valuable criticism and constructive comment.

"In all three of these countries, in spite of many years of repression, strong and potentially viable political coalitions survive, and continue to strive for meaningful democratic expression. These political coalitions have broad bases of popular support, from professional and business groups, from university professors and students, from church, labor and farm organizations. In general, however, it may be said that the largest organization, and the dominant leadership, is provided by the Christian Democrats, who have sound roots in democratic processes.

"These coalitions today, despite strong demonstration of continuing efforts to mount effective political opposition to the ruling dictatorship, have been robbed time and again of victory at the polls—through fraud, military interference and the complete denial of the ordinarily accepted expressions of political rights. Yet, in each of these three countries, political leaders continue to look toward and to work for a future in which the benefits of a true democracy may be enjoyed by all citizens. In these efforts political leaders daily face death, torture, disappearance (a relatively new and frightening form of political harassment) and the threat of exile.

"In the proposal outlined here, testimony before an appropriate committee of the Congress would be given by three outstanding political leaders of the political coalitions, one each from El Salvador, Guatemala and Nicaragua. This testimony would be relevant to an examination of the total problem of United States policy in relation to these countries. Such important considerations as the following, as well as any additional pertinent material which might be included, would be taken under examination at the proposed hearings.

1 State Department policy in relation to the charge frequently voiced in the host country that the United Sates supports and 'props up' the military dictatorship.

2. The nature and the value of U.S. economic aid, whether it does indeed reach those most needy segments of the population. Open criticism of the AID program, from highly qualified non-government leaders should be beneficial in future AID planning.

3. Military aid (and the now discontinued OPS aid), just what it means and how much it is used to support the military dictatorship and to repress the exercise of democratic rights. (Guatemala and Nicaragua, on a per capita basis, have been among Latin America's largest recipients of such aid.)

4. First hand reports from qualified witnesses on the nature and extent of violations of human rights in each country.

5. First hand reports from qualified witnesses on the nature and extent of the denial of the free exercise of democratic rights to the citizens of the respective countries.

6. Other relevant information germane to the subject matter of the proposed hearing.

"The Washington Office on Latin America has made inquiries among the leaders of the political coalitions in each of the countries under consideration and has received assurances of cooperation and support. There are a number of responsible and truly democratic persons, each of whom would make highly qualified and articulate witnesses, ready to testify. It is felt that the proposed plan is workable and that the results would be of great value not only to members of Congress, but to the people of the United States as well, people who, while jealously guarding their own principles of democracy, have demonstrated for 200 years their love and their concern for democracy everywhere in the world."

These proposed hearings have now become a reality and will be held over a two-day period (June 8th and 9th, 1976). In Washington with the afternoon of each day from 2:00 p.m. to 5:00 p.m. or 6:00 p.m. scheduled for testimony. On the first day, June 8th, testimony will be given by each of the three spokesmen from the countries under consideration. (Verbal testimony should last from 15 to 20 minutes, no longer, and will be followed by questions from committee members. Complete details regarding presentation of testimony are given below).

Invitations have now been sent by the Congressional Committee to the following individuals: Dr. Fabio Castillo (El Salvador), Dr. Rene de Leon Schlotter (Guatemala) and Lic. Petdor Joanquin Chamorro (Nicaragua). These distinguished representatives of their respective countries will testify on the first afternoon. Testimony on the following afternoon (June 9th) will be furnished by three qualified witnesses who have not as yet been designated. It is planned that two will be from the academic field, and one from the U.S. Department of State. In the case of the witnesses from the academic area, it is planned to have one witness testify on the state of violations of human rights in the three countries under consideration; the second will be asked to analyze the implications of U.S. economic assistance and of U.S. military aid to the area. These witnesses will address themselves to overall considerations of the problems under investigation, and will not duplicate the specific testimony of the first three witnesses.

On the first day each of the three witnesses will be expected to comment on the following four topics, as they apply to his particular country and, of course, to include any additional testimony which he might feel would be appropriate and useful to these hearings. The four topics are:

1. Violations of human rights, including documentation regarding unlawful arrest and imprisonment, use of torture, assassination, "disappearances", and instances wherein large segments of the population of entire villages have been slaughtered.

2. Violations of political rights, including documentation of wholesale political repression, massive pre-election intimidation, illegal restraint on freedom of political activity, restraints on freedom of the press and of public assembly, and large-scale fraud in the voting process itself.

3. Assessments of the impact of U.S. policies toward each country, with reference to the significance of U.S. support in helping the dictatorships perpetuate their positions of power.

4. Evaluation of U.S. economic aid programs in terms of benefit to the people as a whole, i.e., the economically lowest 60 percent of the population. (This assessment should include all Agency for International Development funding, as well as financial aid from sources largely controlled by the U.S., such as the Inter-American Development Bank, the World Bank, etc.) and an evaluation of the impact of U.S. military assistance programs.

As stated above, it is expected that these hearings will result in the providing of much information which will be useful to the Congress in establishing guidelines in the preparation of future legislation. It is, therefore, imperative that testimony be sharp, penetrating and critical of U.S. involvements wherever necessary. It is our understanding, from direct conversation with or from reliable reports concerning, each of the witnesses being asked to testify that each has profound concerns regarding U.S. policies in his country; that each has profound concerns regarding the suppression of political rights in his country. We would, therefore, expect a thorough and completely critical analysis of the problems we are addressing in these hearings.

As to the format of the testimony itself there is no limit (except the dictates of prudence) to the length of the material submitted—perhaps a limit of 9,000 to 10,000 words. Your testimony, in its entirety, will be printed in the hearing report, as indicated in the publication (dealing with South Korea and the Philippines) sent separately for your guidance. Those sections which you will read from your testimony as you appear before the Subcommittee, should not, in total, be more than 1600 to 4000 words. Just that amount which can be read by you in 15 to 20 minutes, no longer. This is important, since ample time each afternoon must be left for questioning by members of the Subcommittee. You should arrange your material so that paragraphs to be read (totalling no more than 15 to 20 minutes of reading time; see above) can be easily excerpted from the entire testimony.

It is our understanding that each of the witnesses is sufficiently fluent in English to permit the reading of his own testimony. Should, however, a witness desire to have an interpreter during questioning, this will be arranged. All written testimony must be submitted in English. If it is necessary to have translations made, this can be done, but such material must be submitted to us by June 1. When our staff person meets with you, any remaining questions can be answered.

It is also possible to include additional written testimony, distinct and separate from the testimony given by the witnesses before the Subcommittee. This written testimony will be printed in the hearing report and will become an important part of the total body of information produced by the hearings. (For examples of the way this written testimony is handled, see South Korea and Philippines hearings publication). We urge you to elicit such material from qualified persons—scholars, church leaders, labor leaders campesino leaders—those in your country who have recognized expertise in their respective fields. Their written testi-

mony, subject to acceptance by the Subcommittee, will enhance the value of these hearings.

[continuing.]

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

Mr. MURPHY of New York. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Are they going to look for witnesses to give the same testimony on Cuba?

Mr. MURPHY of New York. I would imagine they would have already come if they did request that opportunity to go to that country.

But, they find Pedro Joaquin Chammorro in Nicaragua as their key man, and he is the one who sent up Father Fernando Cardenal, whose brother is a Marxist, and both of them have freedom of movement throughout Nicaragua and the Americas. They sent Father Miguel D'Escoto who advocates violent overthrow of the government and who presently is operating a housing program which is financed with $7 million of United States funds for the people of Nicaragua.

I would like, however, to point out that Pedro Joaquin Chammorro, is the publisher of La Prensa—and my friend from Texas just referred to it—let me give a little of the background as it was placed in the record of the Committee on International Relations. He has organized an armed invasion of Nicaragua. He was convicted of conspiracy in the assassination of the former President of Nicaragua, the present President's father.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. MURPHY of New York. Mr. Chairman, I ask unanimous consent to proceed for 5 additional minutes.

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

There being no objection——

Mr. LONG of Maryland. Mr. Chairman, I reserve the right to object. I wonder if we could try and get a limitation on debate. I wonder if the gentleman could cut that down to a couple of minutes.

Mr. MURPHY of New York. I think that if my colleague would bear with me, 5 minutes is a small amount of time to address ourselves to a vital area of interest in the Americas, because Nicaragua is the first target and the first wedge as we seal away our allies in Central America, and the evidence of what this is about——

Mr. LONG of Maryland. Further reserving the right to object, at the conclusion of the gentleman's testimony I would like——

Mr. DELLUMS. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

POINT OF ORDER

Mr. BIAGGI. Mr. Chairman a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. BIAGGI. The time for objecting has passed. If the Chair will read back, he has stated no objections were heard.

The CHAIRMAN. The Chair will indicate to the gentleman from New York that the gentleman from Maryland was on his feet seeking to reserve the right to object.

Mr. MURPHY of New York. Mr. Chairman, I ask unanimous consent to proceed for 3 additional minutes.

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

There was no objection.

The CHAIRMAN. The gentleman from New York is recognized for 3 minutes.

Mr. MURPHY of New York. We are still talking about Pedro Joaquin Chammorro. He is one of the individuals who sent these witnesses up and worked with the Washington Office on Latin America. He met with Fidel Castro and Che Gueverra to send support for armed rebellion against the Government of Nicaragua. He conducted a full armed invasion. He led public riots in the streets of Managua. He was banished from Nicaragua twice, and officially advocated defiance of the Nicaraguan Constitution, which requires citizens to vote, and called upon citizens to abstain from voting.

He became head of UDEL—the Union for Democratic Liberation. That is a conglomeration of Marxists and violent organizations.

That is where the witnesses came from, and then we had some balanced witnesses come up and give some quite different information.

The pastoral letter from the Bishops had two translations. There is one in Mr. KOCH's statement in the report, and there is a second translation in the hearings of the committee. I wish the committee staff would get together on the two translations, because there is no mention of rape in the committee statement, but there is in Mr. KOCH's report.

What the pastoral letters says is that if you cause terrorism and violence on one side, you cause terrorism and violence on both sides. They were talking about the FSLN, the enemies of the Nicaraguan government, the Sandinista Liberation Front. It is the same type of entreaty that Pope Pius, Pope John and Pope Paul have all used—throughout World War II, the Korean war and the Vietnam war. And here is why it decries violence on both sides. An incident took place in Nicaragua in December of 1974 where FSLN terrorists captured hostages to blackmail the Government of Nicaragua. Fourteen terrorists surrounded a home where a party was being held for the U.S. Ambassador to Nicaragua.

They killed Mr. Castillo, the host and three guards at the house. They captured the former Minister of Agriculture. They captured Sevilla-Sacasa, Nicaragua's Ambassador to the United States—a man who is the dean of the diplomatic corps here in Washington. They captured in all, 42 other people. Who negotiated their freedom? President Somoza, with the Archbishop of Managua, Monsignor Miguel Obando y Brovo of Managua. These people demanded 14 convicted criminals—all FSLN terrorists—to be taken out of cells. They demanded $5 million. They got $1 million. They got a plane. They flew to Cuba. The Ambassadors of Spain and Mexico were among those who helped negotiate. The same terrorists, 14 months later, were back in Nicaragua.

Mr. LONG of Maryland. Mr. Chairman, I move that all debate on this amendment and all amendments thereto close in 15 minutes.

The CHAIRMAN. The question is on the motion offered by the gentleman from Maryland (Mr. LONG).

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

Mr. ASHBROOK. Mr. Chairman, I demand a division.

Mr LONG of Maryland. Mr. Chairman, I withdraw my motion.

Mr. BAUMAN. Regular order, Mr. Chairman.

The CHAIRMAN. The Chair has already put the question, and a division has been demanded.

On a division (demanded by Mr. ASHBROOK) there were—ayes 29, noes 26.

Mr. BAUMAN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently 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 clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Maryland (Mr. BAUMAN) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 171, noes 220, not voting 42.

Mr. SPENCE and Mr. SEBELIUS changed their vote from "aye" to "no."

So the motion was rejected.

The result of the vote was announced as above recorded.

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

Mr. Chairman, I have resisted every amendment in this bill so far in this debate to cut off funds for any country by legislative act. I opposed the amendment yesterday which would cut off the funds for Argentina.

This is the only time today that I will make an exception to that rule and it is the only time today that I will oppose the position of the administration. I think there is a very good reason for doing so.

It has been my general position that we should leave it to the President and to the State Department to determine who gets aid and who does not unless extraordinary conditions are present. I think those extraordinary conditions must be two.

No. 1. There should not be any U.S. security interest involved in the area; and

No. 2. I think it is incumbent upon those who try to cut off funds to build a specific record in black and white which the entire Congress can read before they make a determination as to whether or not they ought to cut off funds.

Mr. Chairman, what I am more concerned about than any other factor at this point, given what has happened to this bill, is process. I am concerned that a bill like this, which is always emotional, will always be unraveled unless we follow a disciplined procedure. That is why I opposed the Argentine amendment yesterday, because we have not built where everyone could read it in the committee hearings, a record to justify the elimination of funds to Argentina; but the committee did that in this instance. We had a full day's hearing at the request of persons opposed to the committee action. We went into it in great detail.

It seems to me that while as a general rule we ought to follow the administration's request and give them maximum flexibility, in an area where there is no security interest and in an areas where we can show beyond a shadow of a doubt that the country we are talking about is beyond hope of redemption in terms of their behavior on human rights, then we ought to make that one exception.

Mr. Chairman, I do not know if anyone knows or is very familiar with the record of the Somoza regime, but I will state there is not a bigger ripoff operation in this world than that by the Somoza family. There is not anything that happens in Nicaragua that that family does not have a piece of. It is one of the most disgusting, cruel and corrupt governments in the world. There is no U.S. security interest that requires us to continue to make our funds available. We are not trying to knock out economic aid to help poor people. This is military aid. They do not have a military threat.

General Fish testified last year there is not a single Latin American country that faces a cross-border threat from its neighbors.

Now, the specter of communism in Cuba has been raised. Let me state that the one sure way we can make it easy for Castro to continue to gain converts in Latin America is if we continue to support regimes of the ilk of the Somoza family. That is how we encourage the growth of communism. That

is how we discourage the growth of democracy in Latin America.

Mr. Chairman, given the speeches I have made lately about the press, I am not one, I suppose, who should quote from a newspaper editorial, but I think we ought to follow in this instance the advice of the Washington Post when they said:

"No factor of American security requires the United States to persist in military support of a regime that, we believe, scarcely a single American would willingly accept for himself."

Let me read one paragraph from the New York Times.

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

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

Mr. OBEY. Mr. Chairman, that article says in part:

"Prisoners are frequently suspended by their fingers or thumbs and beaten in the stomach or forced to swallow a button attached to a string that is then tugged violently. Those that are subsequently executed are buried in an improvised cemetery just east of Waslala."

That is routine treatment in that country. We do not have any security interest that requires that we continue to finance that kind of operation.

Mr. Somoza has shown by his past arrogance that the only way he will pay attention is if we do limit funds. We are not cutting off all funds. We are limiting 15 percent. All we are doing is hitting him on the head to get his attention.

Mr. Chairman, I submit in this one instance we ought to ignore, if you please, the late advice of the administration and remember what Assistant Secretary Benson said when she testified before the committee, that there was no damage to U.S. security by this amendment.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. OBEY) has expired.

Mrs. FENWICK. Mr. Chairman, I ask unanimous consent that the gentleman from Wisconsin (Mr. OBEY) be recognized for 1 additional minute.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New Jersey?

Mr. BAUMAN. Mr. Chairman, reserving the right to object, I do so only to ask whether the gentleman from Wisconsin voted to cut off debate a few moments ago.

Mr. OBEY. I did not ask for the extension.

Mr. BAUMAN. I understand.

Mrs. FENWICK. I ask for the extension.

Mr. BAUMAN. In deference to my colleague from New Jersey, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New Jersey?

There was no objection.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield.

Mrs. FENWICK. We have had questions as to the qualifications of witnesses on the two sides of this question. I just wanted to ask, has Amnesty International expressed any views on this?

Mr. OBEY. I yield to the gentleman from New York (Mr. KOCH) to reply to that.

Mr. KOCH. Amnesty International has expressed a point of view with respect to Nicaragua. Let me read it:

"Torture, arbitrary detention and 'disappearance' appear increasingly characteristic of the human rights situation in Nicaragua. Amnesty International is currently studying the cases of more than 100 prisoners detained in the custody of military courts under the state of siege that has been in force since December 1974. The state of siege suspends personal guarantees—including the right to *habeas corpus*—and permits indefinite administrative detention incommunicado. Many of these prisoners have alleged periods of up to four months in complete isolation. Most have allegedly suffered severe torture."

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

(Mr. RUDD asked and was given permission to revise and extend his remarks.)

Mr. RUDD. Mr. Chairman, I support this amendment to restore the $3.1 million in military assistance to the pro-American Government of Nicaragua. I suggest we do what is best for the United States of America.

Congress must not become a party to the concerted effort to single out Nicaragua for termination of U.S. assistance.

Nicaragua is an influential nation in Central America. Leftists and pro-Communist elements in Nicaragua and throughout Latin America are most anxious for an end to U.S. assistance, which is helpful to the legitimate Nicaraguan Government in defending itself and the Nicaraguan people from Communist-inspired terrorism.

Leftists have, therefore, mounted a massive propaganda campaign against Nicaragua on the human rights theme to achieve this objective.

During the committee hearings about alleged human rights violations in Nicaragua, I am not aware of a single witness who gave credible firsthand evidence of such violations.

These reports have been thirdhand accounts taken without verification from La Prensa—Nicaragua's major opposition newspaper—published by Pedro Joaquin Chamorro, leader of the opposition Democratic Liberation Union.

I have lived and traveled in Nicaragua during my many years in Latin America on diplomatic assignment.

I found that the way to learn what is going on in these countries was to get out and talk to the people—working people, shopowners, taxi drivers—not to be swayed or taken in by limiting one's information to what is written in the partisan press, or handed out by our State Department.

I have talked to the Nicaraguan people. They are free—living in a relatively free country.

They have an elected government and freedom of the press. They are not afraid to criticize their government—which is an unmistakable hallmark of freedom—and do so without reprisal.

These are not indications of a repressive government, as critics of military assistance to Nicaragua would have us believe.

There is no question about the police action to protect freedom against a Castro-supported Communist guerrilla insurgency in Nicaragua's northern jungles.

Communist revolutionaries have initiated the same kind of terrorist assault and bloodshed to intimidate the Nicaraguan people that they have initiated in other Latin American countries.

The Nicaraguan Government is responding properly to this Communist terrorism to protect the country's free institutions.

We would expect a similar response from our own Government if murderous revolutionaries attempted to overthrow the legitimate authorities by force, terror, and bloodshed.

This is a Castro-supported guerrilla operation by the Sandinista National Liberation Front, which aims to overthrow Nicaragua's free institutions and impose their own style of government.

The United States has a moral obligation to assist the friendly Nicaraguan Government with military aid, in order to maintain stability and freedom in that country—a stability desperately needed.

Nicaragua's President Anastasio Somoza is an educated man, who was trained at West Point.

He is pro-American, and stands out clearly as a man for stability and against bloodthirsty terrorists.

He deserves our Government's continued support—to protect his people and his country's free institutions from Cuban-supported revolutionary assaults.

Why unnecessarily kick a friendly government in the teeth by denying Nicaragua $3.1 million of needed military assistance?

Why needlessly deny President Carter the flexibility he needs to improve relations between our two nations?

We must preserve a friendship in Latin American not incur an unnecessary and unneeded enmity.

I urge a yes vote for this amendment.

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

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Chairman, we were discussing Matagalpa a little while ago and we were reviewing the reasons and the problems in Nicaragua and why there was violence. There were, of course, 42 people, mostly government dignitaries and their families, who had been captured by 14 terrorists. Four of them were brutally murdered. Those terrorists and their requests would empty Nicaragua's jails. Fourteen of them were flown to Cuba. One million dollars was paid out as ransom as part of the deal to retrieve the innocent hostages. And, of course, in 2 years these same terrorists infiltrated Nicaragua again. They came over the Costa Rica border and also they came over the Honduran border with forged passports. They had a retraining and rearming period in Cuba. That is the insurgency operation in Nicaragua that has been going on for years. It has been going on for years for a very simple reason.

When the United States felt that it could start its Bay of Pigs operation, it trained its force in Guatemala, moved it to Nicaragua and launched it from the beaches of Nicaragua. That made Nicaragua a target. And, to correct my colleague, the gentleman from Wisconsin, we are not worried about a border threat. We are worried about the threat of a naval invasion from Cuba.

Mr. OBEY. Mr. Chairman, will the gentleman yield at that point?

Mr. MURPHY of New York. I will yield in just a moment.

The CHAIRMAN. The gentleman from New York (Mr. BIAGGI) has the time.

Mr. MURPHY of New York. Also, to correct the gentleman from Wisconsin, I do not think any Member of this committee has visited Nicaragua. They have been to Timbuktu, they have been out to Mount Kilimanjaro. They bring along their own fly nets these days, and fans. Try going to Nicaragua, you will find you are far safer in the towns and cities in Nicaragua than you are here in Washington, D.C. The oligarchy in Nicaragua——

Mr. OBEY. Do the trains run on time?

Mr. MURPHY of New York. Happen to be the monied families. Those are the families who control the economic interests and oppose Somoza.

That happens to be a fact. We should find out who the conservative party is. I would ask my colleague to go there and get the facts for himself.

I want to give the Members 10 reasons why they should support this amendment.

The first has to do with Nicaragua's support of the United States in the United Nations and the OAS on terrorism. Nicaragua has always supported and worked hand in hand with the United States in the common

cause against international terrorism and has opposed the Soviet bloc on this issue.

Second, the expulsion of Nationalist China: Nicaragua was the only Latin American country that supported the position of the United States to avoid the expulsion of China from the United Nations. Costa Rica refused to support the United States.

Third, Israel: Whenever the United States asks Nicaragua to speak in defense of an Israel position in the United Nations—and it is usually by request of the U.S. Mission—the Nicaraguan delegation has supported Israel's position. During the last year in the General Assembly, on a vote on a draft resolution against Israel, Nicaragua joined with the United States in support of Israel's position.

Fourth, disarmament: At the request of the U.S. delegation, Nicaragua has taken the floor and argued against the U.S.S.R. and for the American position on disarmament.

Fifth, South Korea: At the request of the United States, Nicaragua cosponsored the U.S.-backed Korean peace plan.

Sixth, Puerto Rico: Whenever Cuba has presented draft resolutions in different committees and the General Assembly calling for Puerto Rican independence, Nicaragua has supported the United States.

Seventh, Cuba: Whenever the Cuban delegation has insulted the U.S. Government and its Presidents, including the last three, Nicaragua has taken the floor in defense of the United States and its several administrations.

Eighth, in the Security Council, Nicaragua has consistently supported the different motions presented by the United States.

Ninth, Nicaragua was one of two Latin American countries that supported the U.S. military base in Iceland. Costa Rica voted against it.

Tenth, Cuba: Nicaragua voted with the United States against lifting the OAS ban on Cuba. Costa Rica was in favor.

On a historical note, Nicaragua was the second country to declare war against the Axis countries in World War II and was the first Latin American country to give the United States rubber and raw materials for the war effort. Nicaragua was the No. 1 exporter of rubber to the United States in World War II.

Finally, the fact of the matter is that the Carter administration—which certainly cannot be faulted for its high standards in the international area in terms of human rights—has requested that Nicaragua not be retaliated against or punished by the Congress through the withholding of these foreign assistance funds. I would hope that the Congress would act as responsibly toward a government that has been our friend and ally and which should continue to be supported by the U.S. Government which has taken freely of that little country's friendship and support.

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

Mr. Chairman, I have spent the greater part of my adult life in America fighting for both civil and human rights. I oppose oppression anywhere in the world.

But, Mr. Chairman, I support the amendment now before us, and I support it for several reasons: First, because I object to singling out one nation under these circumstances.

There is already a provision in this bill that says this:

"Funds appropriated by this act may not be obligated or expended to provide security assistance to any country for the purpose of aiding directly or indirectly the efforts of the government of such country to repress the legitimate rights of the population of such country contrary to the Universal Declaration of Human Rights."

Mr. Chairman, I think this covers the situation. I think there is something basically and morally wrong with singling out a particular country under these circumstances, and particularly when it is being singled out by one of the countries that is itself one of the 66 countries listed by Amnesty International as being violative of human rights.

I think that some of us ought to read Amnesty International. We ought to read the part where they say Amnesty International groups are working in eight cases of American prisoners, and other cases are being investigated by its research department. They go on to say that it is impossible to estimate the number of political prisoners in the United States; then they go on to make reference to persons in the United States who are imprisoned for crime, he or she is alleged to have committed, under suspicionable circumstances.

There is something immoral to me in saying to Nicaragua that, "We are going to cut off your funds because you are more wrong than we are." There is something morally wrong with that.

Realizing the importance of this particular issue, Mr. Chairman, I was at the White House about 2 weeks ago and I asked the President what his position is with regard to Congress cutting off funds to these countries that are violative of human rights.

The President said, "I would hope that the Congress would not tie my hands. I would hope that the Congress would permit me the right to negotiate with these countries, where these violations of human rights are occurring."

The President said recently that on an issue in the United Nations that is important to the United States, only 20 percent of the nations in the world would vote with the United States.

It is to me distressing to see the President of the United States standing there grieving over the fact that 80 percent of the nations in the world vote against the United States on something that is important to this Nation.

The President reminded those of us who were there that the United States is not itself free of violations of human rights. He said:

"Under the McCarran Act, Americans couldn't even travel around the world until I became President and signed an Executive Order permitting you to travel to other countries."

Then he mentioned the fact that Paraguay had just released its political prisoners because his wife was on her way there.

The President talked of how his hands are being tied and how his position as President of the United States is being lessened in his relationship to Soviet Russia because we have taken this kind of action in the Congress.

Mr. Chairman, I happened to have worked pretty hard to see him become President of the United States. He has been President for 100 days and a little more. I happen to think that he is entitled to an opportunity to negotiate these things though with these countries, particularly in view of the strong stand he has taken in favor of human rights and against the violation of human rights.

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

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

Mr. KOCH. Mr. Chairman, what distresses me about the gentleman's position is this: The gentleman in the well never has any hesitation in asking this House to single out Rhodesia for special treatment, and I agree with him because I think the deprivation of human rights there is outrageous. I voted the same way the gentleman did on Rhodesia, and the reason was that case was made for action against that repressive government.

The gentleman is on the subcommittee, but he did not sit in on the testimony that was taken. We made out a case, an extensive case establishing repression exists in Nicaragua; and we used as evidence the pastoral letter of the Archbishop of Nicaragua.

Mr. STOKES. Mr. Chairman, I would say to the gentleman that whether he made out an extensive case or not is a matter of his own judgment.

Mr. KOCH. If the gentleman will just let me proceed for 1 minute. I reiterate the gentleman did not sit in on those hearings.

Mr. STOKES. I would say to the gentleman that he has never been to Nicaragua, either.

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

(Mr. DELLUMS asked and was given permission to revise and extend his remarks.)

Mr. DELLUMS. Mr. Chairman, I have not spoken in 2 days as we have debated this bill; but I now take the opportunity to make several comments. In a moment I will speak directly to the amendment before us, but first I would like to address a procedural issue.

Mr. Chairman, I believe that it has been shocking and appalling over the past couple of days that Members of this House who are not members of this subcommittee have, on most occasions, not had the opportunity to speak for their full 5 or more minutes under the 5-minute rule.

Mr. Chairman, this is the House of Representatives. It is not the House Subcommittee on Appropriations; it is the House of Representatives. All of us should have an opportunity to speak.

I would simply say to my distinguished colleague, the gentleman from Ohio (Mr. ASHBROOK), that I will ask him publicly now, as I ask him in private, will he reconsider his standard objection to those of us who are the garden-variety noncommittee Members of the House who end up at the conclusion of the debate speaking for 45 or 50 seconds, which I consider to be a gross embarrassment, creating an indignity for those of us who have the right to speak out as articulately and as intelligently as we can on the issues that come before this body?

Mr. Chairman, I ask him to reconsider that because it is those of us who are at the tail end who do not have enough time to make an intelligent and a cogent statement. I hope the gentleman will think about it and will reconsider it.

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

Mr. DELLUMS. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, as the gentleman knows, most of my objections have been directed toward the exact object the gentleman is talking about, about most Members not being able to get 5 minutes to speak while committee members take 10 or 15 minutes.

The gentleman does present the case very well, and I will reconsider.

Mr. DELLUMS. Mr. Chairman, I appreciate that. May I say for the record that I am totally appalled about the manner in which this debate is being conducted because it has not provided an opportunity for noncommittee members to speak out intelligently.

Mr. Chairman, how can anyone make a statement on matters as complex and as profound as human rights and dignity and freedom and world peace, our responsibility to the world and our role in the world, in 50 seconds? It is absurd, it is ridiculous, it is ludicrous, and it is tragic. Yet, that is how we end up in debate. That is why I voted not to limit the time, and I have decided that I am never going to limit the time anymore

because I think all Members of the House ought to have an opportunity to speak.

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

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

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

I think he makes an excellent point.

I do not believe we should cut off debate on the part of Members of the House because they are nonmembers of the particular committee.

I join the gentleman, Mr. Chairman. I have never voted to cut off debate on any measure or on any motion.

Mr. DELLUMS. Mr. Chairman, I thank the gentleman for his comments.

Mr. Chairman, I ask unanimous consent that I may be permited to proceed for 3 additional minutes.

The CHAIRMAN. The Chair will advise the gentleman from California that the gentleman still has one and a half minutes remaining under his original 5 minutes.

Mr. DELLUMS. Mr. Chairman, I ask unanimous consent that I may be permitted to proceed for whatever time is necessary to give me 5 full minutes to speak on the amendment.

The CHAIRMAN. Without objection, the gentleman from California will be recognized for 5 minutes at this time.

There was no objection.

Mr. DELLUMS. Mr. Chairman, there are several points that have been made during this debate that I am in total agreement with. My distinguished colleague, a member of the Congressional Black Caucus, the gentleman from Ohio (Mr. STOKES) I agree with the gentleman that the United States is a nation that in many instances has been and continues to be in gross violation of human rights. There is no question at all about that. That is not contradictable, debatable or negotiable, it is a fact. It is right. I think whatever we have to do in order to bring this country to a position where it is in total compliance with not only the letter of the law but also the concept and the spirit of human rights, human freedom and human dignity, we must try to do. I join my colleagues in this effort.

The second point on which I agree is this: The statement has been made by many of my colleagues, particularly on this side of the aisle, who tend to be labeled as right of center, that we should be consistent in our application of the code of human rights. I agree with that. I am in total agreement with that. But we have not achieved, unfortunately, an agreement upon which shall be the criteria. That is a discussion that we must have in this House. That discussion must be orderly, it must be intelligent, it must be consistent and it must make sense at the end so that we can apply it around the world.

Also, Mr. Chairman, the statement has been made as to why we are singling out Nicaragua.

In the absence of the United States being committed to human rights totally, in the absence of a code, in the absence of a consistent application of that code, I would suggest the following principle that we must be guided by because we live in a real world. We cannot close the door on that world until that magic moment when America is a great nation and the blacks, the whites, the browns, the reds, and the yellows can live together with equal human rights and freedom. However, we live in the world of 1977 so, Mr. Chairman, what shall be the criteria? I suggest this one: That knowledge brings responsibility, and we, since we are in the House of Representatives, guided by certain particular processes on how we achieve knowledge, and that is through committee hearings, testimony, printed records, et cetera, let that be the criteria of knowledge.

In this instance we are not singling out a country, because this committee processed and worked on it, in this instance, the committee held hearings on it. It did not hold hearings on Angola, it did not hold hearings on Mozambique, it did not hold hearings on Cape Verde, or Vietnam, it did not hold hearings on Cuba, it did not hold hearings on all these other countries, but it did hold hearings on this country. In the absence of other criteria, then I bring you a guide to use on this floor and that is that knowledge brings responsibility and in this instance all of us in this Chamber have knowledge that is documented through that committee process that Nicaragua is oppressing human beings. All of us on the floor of this Congress ought to be adamant in our objection to other people being able to murder, imprison, starve, harm, and maim other people on the face of this Earth.

Why are there only three democracies in the world? Maybe it is because we have not stood up as a democratic nation and said clearly and firmly that we do not just stand on the side of our friends, we stand on the side of what is right. A murderer, I do not care if he is a friend of the United States or if he is a friend of the Soviet Union, is still a murderer, I repeat, a murderer. That ought to be the position we take.

Violating human rights does not bring back life when you kill someone because they are a friend of the United States.

It would seem to me that we must be guided by this principle.

I heard many statements yesterday about Idi Amin and Uganda. I said to a Member, "Why is it that you keep bringing this up?"

The Member said, "Because he is a dictator."

When I came to the Congress in 1971, we were propping up 22 tin gods in the world, 22 military dictators, and we still are. What about Park? What about all the other people we are propping up and sending money to? The justification, it is said, is they are friends of the United States. I object to that.

We got rid of Richard Nixon because he played friendship games. We got rid of many other people because they played friendship games. Do we think violating human rights is any better because they are pro-West rather than pro-East? If someone is kicking me in my teeth, I do not care what side he is on; it still hurts.

It seems to me that if the Members of Congress stand for what is right and want the United States to play a healthy role in the world, then I stand as one person saying to my colleagues that knowledge brings responsibility. In this instance we are not singling out a country. We have worked within the framework of the process that guides the U.S. Congress—the committee process, the subcommittee process, holding hearings. A report has been developed. Hearings are held.

I applaud the gentleman from New York for the articulate nature of his presentation, for his clarity, his courage, and his integrity on the question of human rights. I appreciate the fact that he had the courage to come into this well and challenge the sentiment of this House.

Mr. Chairman, if we are to come here and debate which side of the issue we shall be on, we have to understand the world that goes on around us. For a moment we must freeze that world with the camera of our mind and evaluate it and say against those perceptions we must make decisions. I would suggest to the Members that the tragedy is that many of us have not updated the camera shot. We froze the world in tht 1950's, the days of the good guys and the bad guys, the white hats and the black hats, the anti-Communists and the pro-Communists. I ask the question, Is McCarthyism over in this country? If it is and the right of free speech prevails, then let all people speak on the issue. Let it be understood by everyone, whether a friend or foe of the United States, that we would not allow that friendship to be the umbrella under which they are supported in a rain of terror on these people.

President Carter has now opened this issue of human rights up. Maybe he did not know exactly what he was opening up. You and I do not know. We are stumbling and bumbling right here. But it is healthy that we are stumbling, and it is healthy that we are trying, but it is not healthy when we do not understand that there is a criterion that needs to be developed. But in this instance we have done it. We have proved it beyond a shadow of a doubt. That knowledge does indeed bring a responsibility to act.

Mr. Chairman, I urge all of my colleagues to strike down this amendment. It does not speak to the best that is within us but only the worst.

Mr. YOUNG of Florida. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the gentleman from California who has just spoken has raised an excellent question, and I believe the Members deserve an answer. He suggested that we are stumbling about on the question of human rights, and maybe we are. But the House has spoken very specifically on the question of human rights. I should call to the attention of all the Members what we have done.

In section 113 of this bill we cite the Universal Declaration of Human Rights. That is the guideline on human rights for this bill. I call attention to that document: The Universal Declaration of Human Rights. It is a very, very broad, generous statement on the protection of human rights.

When we go back into the House, I will ask permission to submit this Universal Declaration of Human Rights following these remarks so that all of us can see exactly what it is we are talking about when we discuss protection of human rights.

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

Mr. YOUNG of Florida. I will be happy to yield to the gentleman from Missouri.

Mr. VOLKMER. I thank the gentleman from California that if human rights are being violated in Nicaragua, and that if the Declaration of Human Rights is being violated in Nicaragua, that there should be no funds given to Nicaragua?

Mr. YOUNG of Florida. I am saying to the gentleman, as I said earlier in the debate, that I believe that standard of human rights should apply consistently across the board, to left-wing governments, to right-wing governments, or to middle-wing governments, and I believe the President of the United States should be able to apply that parameter, and that is what this language in section 113 provides.

What I am attempting to do at this point is answer the question of the gentleman from California as to what we mean by human rights. This Universal Declaration of Human Rights tells us what we mean by human rights.

Mr. Chairman, I insert the Universal Declaration of Human Rights in the RECORD at this point:

UNIVERSAL DECLARATION OF HUMAN RIGHTS

The declaration was the work of the UN Commission on Human Rights which met in January 1947 under the chairmanship of Mrs. Franklin D. Roosevelt. The Universal Declaration of Human Rights they drew up was adopted and proclaimed by the General Assembly on December 10, 1948. It was the first effort to set common standards of achievement in human rights for all peoples of all nations.

Preamble

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore,

The General Assembly

Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3

Everyone has the right to life, liberty and the security of person.

Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6

Everyone has the right to recognition everywhere as a person before the law.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

No. 2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attack upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13

1. Everyone has the right to freedom of movement and residence within the borders of each State.

2. Everyone has the right to leave any country, including his own, and to return to his country.

Article 14

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.

2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15

1. Everyone has the right to a nationality.

2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16

1. Men and women of full age, without any limitation due to race, nationality or religion have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

2. Marriage shall be entered into only with the free and full consent of the intending spouse.

3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17

1. Everyone has the right to own property alone as well as in association with others.

2. No one shall be arbitrarily deprived of his property.

Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinion without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20

1. Everyone has the right to freedom of peaceful assembly and association.

2. No one may be compelled to belong to an association.

Article 21

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

2. Everyone has the right of equal access to public service in his country.

3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

2. Everyone, without any discrimination, has the right to equal pay for equal work.

3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

4. Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

2. Education shall be directed to the full development of the human personality and to the strengthening or respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activi-

ties of the United Nations for the maintenance of peace.

3. Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.

2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

[Continuation.]

Mr. VOLKMER. Mr. Chairman, that gives us a starting point. Perhaps that should give us something from which we could start and we could develop it further. But does the gentleman agree with the statement then that whether or not the country is friendly or unfriendly does not decide the issue as to whether they should be given funds from this Government?

Mr. YOUNG of Florida. I believe I have answered that question thoroughly.

Mr. VOLKMER. I thank the gentleman.

Mr. DORNAN. Will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from California.

Mr. DORNAN. Mr. Chairman, I would like to ask the gentleman from California, if he would come back to the leadership table, perhaps the chairman on the other side would ask for more time so he might respond to my question. I believe he inadvertently just overlooked it.

I believe the statement of the gentleman from California was very eloquent and credible and I would like to associate myself with those remarks. I will get those remarks and mail them to New England to Alexandr Solzhenitsyn and have him send his comments on this problem of undercutting a military junta on the right with the sometimes sad result that we deliver the nation over to leftwing terrorists and a worse police state with all the problems the gentleman just discussed compounded to the *n*th degree.

Does the gentleman not believe the President is so sincere in his commitment to human rights that if he extend to him and our State Department this aid, in accordance with the wishes of the gentleman from Texas, that if human rights continue to be violated, that our President would not immediately come down hard upon the side of human rights in that country? I believe he would.

Mr. DELLUMS. Mr. Chairman, if the gentleman will yield, first of all I cast no aspersion on the President of the United States.

Second, I do not perceive the President as an individual I do or do not trust. I see the President as having a constitutional responsibility, whoever occupies that position.

Secondly, I would say we also have a responsibility. When I was in elementary school we were taught that there are three branches of Government, three coequal branches, and these three coequal branches have responsibilities to participate in and make policy.

I am not saying in this that I do not trust the President. I am saying, given the fact that we are coequal branches of Government, that with respect to Nicaragua we have a responsibility to investigate and to document, which we have done, and I say based on that this whole body has a responsibility and we cannot leave it to the President now because the whole mechanism has evolved.

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

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

Mr. Chairman, I will yield some of my time to the gentleman from California Mr. DELLUMS but first I would like to mention to him a discussion I have had with a South American ambassador. I believe if the gentleman from California and I were to make up a list of South American countries that are doing a fair job in respecting human rights, I think he would agree with me that the country I'm thinking about is doing as good a job as any Latin neighbor.

I will not mention the name of the South American Ambassador that I will quote, but I will tell Mr. Dellums his identity privately if he wishes. This ambassador told me that as the American Ambassador he has clout with the head of state in the host country and that he can ease some of the human rights problems with prisoners, but when our Government cuts off funds and publicly blackballs a country, then the U.S. Embassy is left without any clout at all to do what they can to help alleviate civil rights violations.

I know that the gentleman has discussed this problem before on the Jackson-Vanik amendment and how that valiant effort may have backfired and brought more suffering to people of various ethnic groups in the Soviet Union. Maybe I am singing an old song to say to these countries. "We are giving you another chance. We are going to you conditional aid. We are going to give you help so you can protect yourself from left wing terrorist bombers, but if you do not clean up your act in regard to civil rights, that is it, and if you end up behind a banana or iron or bamboo curtain, so be it."

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

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

Mr. DELLUMS. Mr. Chairman, I appreciate the comments of my distinguished colleague from California.

First of all, I would simply say we have not cut off economic aid. There is $15.9 billion in the bill for economic aid.

Point No. 2, We have not closed the door. The door is, in fact, 85 percent open, not closed. We only cut off 15 percent of the amount of aid, so we are well over 50 percent of reaching into that door to play some influential role. We are trying by this 15 percent to make a clear statement to Nicaragua and many other countries that we are associated with.

Finally, Mr. Chairman, I cannot associate myself with one of the gentleman's evaluations that Nicaragua would be ranked as one of the least repressive nations.

Mr. DORNAN. No. I was referring to another country hundreds of miles to the south of Nicaragua.

Mr. DELLUMS. Mr. Chairman, if the gentleman will yield further, that is my response to the question. The door is 85-percent open, not 85-percent closed.

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

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

Mr. KOCH. Mr. Chairman, let me say to my friend, I have a consistent record of deploring repression, whether it is left or right. The gentleman can confirm that with my good friend, the gentleman from California (Mr. ROUSSELOT).

Mr. Chairman, I want to say with respect to the particular question, it is not just the fact that we are giving this $15 million in this bill. We gave them $3 million on credit sales last year, still held by our Government because of the human rights situation, which are still available when they clean up their act.

In addition, there is $58 million that is now in the pipeline for economic aid that we have appropriated and it was not expended.

Mr. LORNAN. Mr. Chairman, if the gentleman will give me back some time, I promise to give the gentleman the last word.

Mr. Chairman, let me state that I will probably vote for the amendment of the gentleman from Texas (Mr. CHARLES WILSON).

I notice that many of the Members of our body can give an up-to-date report on Paris or London, but nobody has taken advantage of an opportunity to go to Nicaragua to get an incountry briefing there or who has any first-hand evidence to give the House.

I took note of the 33 weird votes yesterday on giving reparations to one of the most vicious, killing, repressive regimes on the face of the Earth, North Vietnam. I believe if we were to have a vote today on recognizing Cuba today and thereby giving respectability to its head of state who shot to death his opponent in a student body election in the 1930's, Fidel Castro, a first degree murderer, who executed 1,000 people in just the first 30 days of his regime for openers, that same weird 33 would vote for embracing Cuba. So I feel again we see a tragic selective morality here.

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

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

Mr. KOCH. Mr. Chairman, the gentleman is absolutely wrong. I happened to vote in support of the amendment yesterday. Before the gentleman casts any more aspersions than the gentleman has already, the gentleman should know that I consider the Soviet Union under Stalin the same way that I consider Germany under Hitler.

I consider what is happening in Nicaragua the same way that I consider it in Uruguay or any other country like that.

Mr. DORNAN. Mr. Chairman, I do know the gentleman's feelings about the Soviet Union and applaude him and I did not mean by inference to put him in that group of 33 weird pro-North Vietnam votes of yesterday.

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

(Mr. BOWEN asked and was given permission to revise and extend his remarks.)

Mr. BROWN. Mr. Chairman, I will not use the full 5 minutes.

I rise in support of this amendment. I had an opportunity to spend about a week in Nicaragua last fall, and I toured extensively throughout that country. I had a chance to travel without the accompaniment of Government officials. I had a chance to talk to opposition politicians, to opposition newspaper editors, to people who were highly critical of the Government. They told me that they were amazed at the progress that

was being made in that country, though they certainly wanted more.

Now, I read a story in the Washington Post about a week ago containing a long list of horrors recounted by a reporter who toured that country recently. To read that story, which referred to the bishops' report, one would think that all those atrocities were occurring right now. I investigated that story and found that the events that were referred to in that story all occurred more than a year ago. The bishops' pastoral letter was in mid-1976, not in 1977.

Most of these events were in the early part of 1976 when the Sandinista terrorism was at it speak. This does not mean that the Government countermeasures were good. They were bad, but they are not happening now. People I talked to indicated that the Government response was a pattern which developed because of the very atrocities imposed upon people by the terrorist themselves. I regret very deeply, as all of us do, that we have terrorism and the kind of methods used by the Sandinista front and others of that stripe. I deeply regret that it is sometimes necessary to fight violence with violence.

After spending a week in that country I found a strong spirit of dissent, the freedom to stand up and criticize the Government. Newspapers were printing editorials attacking the Government just as in this country.

I do not say that they have anything remotely approximating the freedom we have, but just because this committee devoted a great deal of time and attention to analyzing that one country, we should not single it out for discrimination. As the gentleman from California (Mr. DELLUMS) said, knowledge brings responsibility. If we want to analyze another 100 nations around in the world in the same detailed manner, we certainly could come up with many of the same conclusions.

But, Mr. Chairman, I feel there is no justification for singling out one nation which is making progress. It sets no standard for anybody, but it is making progress. So, why should we tie the hands of the President of the United States in dealing with this country? Why should we punish them when they are substantially reducing the use of force in dealing with their internal problems and showing greater respect for human rights than in recent years?

Mr. CHARLES WILSON of Texas. Mr. Chairman, will the gentleman yield?

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

Mr. CHARLES WILSON of Texas. Mr. Chairman, I thank the gentleman for his support. I think it is very significant that probably in this body the gentleman from Mississippi (Mr. BOWEN) and the gentleman from New York (Mr. MURPHY) have been the only ones who have been to that country. I would like to say to my friend that I am going over the Fourth of July recess, and I would like to have some company.

Mrs. HECKLER Mr. Chairman, will the gentleman yield?

Mr. BOWEN. I yield to the gentlewoman.

Mrs. HECKLER. Mr. Chairman, I rise in support of the amendment and agree with the decision made by my distinguished colleague. My information received from the State Department today reveals that their present assessment of the problem of human rights in Nicaragua is that there is a meaningful recognition by the Nicaraguan Government of the need that substantive steps taken to protect human rights and that there are indications that there will be a movement for change.

I would not accept an indication of a movement for social change as being adequate. I have been assured by the State Department further, which was contained in their testimony before the Committee on International Relations, that this aid would not be granted without proof acceptable to the State Department that actual change had taken place. In view of that commitment by the State Department, and in view of the fact that the gentleman in the well has witnessed himself some of the progress that Nicaragua is experiencing, I feel that our commitment to human rights can best be served by extending support on this conditional basis, which provides a reward for the fulfillment of the promise in terms of the aid which they claim to need very badly.

Thus, I support this amendment, and I feel that on a country-by-country basis, we will be less than accurate, less than just, less than informed, if we are to make broad, sweeping judgments of principle which are unrelated to the specific facts in the individual countries affected and the assessment of our own State Department and of our President.

Mr. Chairman, the relationship between our governments and the people of Nicaragua remains a warm and friendly one. For this reason, and particularly because of the assurances by the State Department that respect for human rights will be a condition of this aid, that I urge approval of this appropriation.

Mr. BOWEN. I thank the gentlewoman. I would simply conclude by saying that there is progress in Nicaragua. It might not be going on as rapidly as it should. Certainly, it is happening more rapidly than in many of the nations around the world which are receiving American assistance. There is no reason for us to single this nation out as a leper among nations for statutory punishment of this kind.

I urge the Members to support President Carter and allow him and the State Department the flexibility to make appropriate decisions in this matter. I urge you to vote for this amendment.

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

(Mr. ASHBROOK asked and was given permission to revise and extend his remarks.)

Mr. ASHBROOK. Mr. Chairman, I listened with interest to the statement of my friend and colleague, the gentleman from California, and one point he made was that knowledge should bring responsibility. I agree with that, but I wonder how much knowledge came from this particular hearing on Nicaragua. I am not a speed reader, but as I look at the hearings I find it quite interesting. If the Members will follow the text and go through it, I believe they will also wonder what kind of a hearing was conducted by the Appropriation Subcommittee.

In reading from these hearings, the gentleman from Maryland (Mr. LONG) said, "The witnesses before us today are * * *" and he names them. He then said, "We will give them 3 minutes apiece." Think of that. Can you have an in-depth probe in 3 minutes?

In the middle of almost every witness he cut them off, and he said, "I am sorry, Mr. Dubon, your time has expired." He took that much space in the record, about 2 inches.

On page 533, here is a Dr. Somarrida. He took 3 inches of type, perhaps 2 inches. Right in the middle of his statement, the gentleman from Maryland (Mr. LONG) said, "Doctor, your time has expired."

I do not think they wanted to hear him very badly.

Mr. KOCH. Mr. Chairman, if the gentleman will yield. I was at those hearings. I can tell the gentleman what took place.

Mr. ASHBROOK. At the end of the testimony of Mr. Gallo, the gentleman from Maryland (Mr. LONG) said, "I am sorry, the time has expired."

Mr. Morice spoke for a while. The gentleman from Maryland (Mr. Long) said "The time of the gentleman has expired," Mr. Morice said. "Thank you, Mr. Chairman."

The gentleman from Maryland (Mr. Long), again I read from the record, said, "We have allowed 18 minutes to the people who speak favorably on Nicaragua. Now we will hear the opponents."

I do not know why, but it seems they took little longer time in hearing the opponents. It looks to me like he got three pages. He got three pages because he was talking about Nicaragua. This is all in the hearings.

Mr. Chairman, I would like to have some justification for this. No questions appear to be asked by any Member to anybody favorable to Nicaragua, and yet there are pages and pages—the gentleman from New York (Mr. Koch) has a number of them—pages and pages asked given to opponents of Nicaragua.

Knowledge may bring responsibility, but I cannot help but wonder how much knowledge we deduce in allowing people favorable to a country to speak for 18 minutes, they are not even questioned, and the hearing is closed off within a very few minutes.

I would agree with the gentleman from California (Mr. Dellums) that something of this importance, if it is to guide the House of Representatives in its decision, ought to be a book as thick as the entire hearing, not just a few pages. Not a few pages certainly and not allotting, as the gentleman from Maryland pointed out, 18 minutes to those who spoke in favor of the situation in Nicaragua.

We have a word to describe it. That sounds a little bit like a kangaroo court. I do not want to cast any aspersions, but that is not giving a whole lot of time for people to speak for the life and death of their country. Let us be honest about this. We all know that there are differences of opinion in this body. I serve on a labor committee with my good friend, the gentleman from New Jersey (Mr. Thompson). We both look at bills. One does not have to be a Phi Beta Kappa to know that the gentleman from New Jersey (Mr. Thompson) is going to come down on one side and I am going to come down on the other side in most cases. One does not have to be a Phi Beta Kappa to know which side the gentleman from New York (Mr. Koch) is going to come down on. I think I had a pretty good idea on which side the gentleman from New York (Mr. Murphy) was going to come down on. I respect all of their opinions. But to stand up here and say that we had a hearing, to say that Nicaragua had its day in court, they were found wanting, ergo this conclusion, I cannot agree with that. My friend from California (Mr. Dellums) is right. Knowledge brings responsibility. But we did not get much knowledge from these brief hearings on Nicaragua.

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

Mr. ASHBROOK. I yield to the gentleman from New York (Mr. Koch).

Mr. KOCH. I thank the gentleman for yielding.

Mr. Chairman, I think if the gentleman looks at my record he will find that one cannot call in advance what position I take on every issue. If he looks at yesterday's voting, he will find that on several amendments he and I voted in the same way.

Mr. ASHBROOK. I will tell my friend that I have been surprised many times.

Mr. KOCH. If the gentleman will yield further, this is not a situation where he is talking to someone who condones left wing oppression or right wing oppression. I denounce both.

Let me get to the hearings. I suspect that these hearings on Nicaragua were far more extensive, and I will get to their extensiveness in a moment, than any hearings the gentleman has held on Cuba.

I would ask the gentleman if he has held hearings on Cuba. The gentleman is always introducing amendments on Cuba.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. ASHBROOK) has expired.

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

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

Mr. ASHBROOK. I will be glad to yield to the gentleman from New York.

Mr. KOCH. Mr. Chairman, I happen to vote against permitting aid to Cuba because I think it is an oppressive government and engages in repression. I believe it violates human rights.

But when the gentleman from Ohio (Mr. ASHBROOK) cites this hearing, which went on for 2 days—and I know because I was there—and when the gentleman points to a hearing record that contains for the most part the full statements of everyone who wanted to put in a statement and decrys the hearing, I think he is misleading the Members.

There was extensive questioning at the hearings. I did some of the questioning.

I asked Mr. Wilson of Nicaragua who was introduced to the committee by my colleague, the gentleman from New York (Mr. MURPHY), and who was brought into that hearing room by the same gentleman, whether or not he would describe the Catholic hierarchy in Nicaragua, consisting of the archbishop and the bishops, as radicals.

He said, "Definitely not."

This committee relied in part on the pastoral letter of the hierarchy from Nicaragua that stated there was raping and torturing of not only the civilian population but also there was torturing of the clergy in that country.

Does the gentleman have hearings comparable to that concerning Cuba?

Mr. ASHBROOK. Yes, I do.

Mr. KOCH. Did the gentleman conduct hearings on that respect on Cuba?

Mr. ASHBROOK. Well, starting in the 1960's, we did.

Mr. KOCH. That was back in the 1960's. These Nicaragua hearings were held this year.

Mr. ASHBROOK. Mr. Chairman, I would have to admit that those hearings were held by a committee with which the gentleman has not always been very friendly over the years, and perhaps the gentleman does not remember too much about it. It was the old Internal Security Committee.

If I may refer again to this volume of hearings, on page 542 I find this to be quite interesting and will repeat:

Mr. LONG. All time has expired for those who are defending the human rights situation in Nicaragua."

The total time they were allotted was approximately 18 minutes . . .

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

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

Mr. Chairman, there are a number of reasons why my area, the Greater Miami area, feels a strong friendship for Nicaragua and has a special interest in Nicaragua. The first one, I suppose, is that we have physical proximity to that territory.

Another one is because the second largest city in Dade County—Hialeah, a city of 150,000—is a sister city of the capital city of Managua, Nicaragua.

The third reason is that recently when they had a terrible earthquake in Nicaragua, our area, led by Hialeah, contributed a great deal of food and medical supplies and other aid to Nicaragua, as did the rest of Florida and many other parts of America, alleviating the awful suffering that the people of Nicaragua experienced as a result of that very disastrous earthquake.

Another reason is that there are a great many people of Cuban background in my area, some of whom hold high office, who remember that Nicaragua was the area from which they embarked upon the Bay of Pigs invasion. I had a telephone call yesterday from Mr. Manolo Rebozo, who was in the Bay of Pigs invasion launched from Nicaragua and who is now a member of the city commission of the city of Miami. Those people who are identified as being in opposition to Castro and who had some part, either sympathetically or physically, in the Bay of Pigs invasion, which embarked from Nicaragua have a very warm feeling toward the Government and the people of Nicaragua for the aid that country gave them in their efforts to wrest the freedom of that country from the tyranny which has taken it over.

Another reason is that those people with their sources of information feel that they have adequate information that Castro is very rapidly infiltrating Nicaragua with Communists, and that he is trying his best and doing everything he can to subvert that territory and convert all the territory he can in the Western Hemisphere to the philosophy and the practice of communism.

Those are things that are meaningful to me, because they come from the sentiment of my area.

I think that all of us agree that we are, of course, for the protection of human rights. But is there any Member of this House who claims that he is more zealous in the protection of human rights than President Jimmy Carter?

And yet President Carter has asked this House to support this amendment.

It was only by a vote in the committee of 21 to 20 that the prohibition against Nicaragua, against which this amendment is aimed, was inserted in this bill. The margin was one vote, not a large majority.

What we do about this matter is not a matter of our power or of our devotion to the cause of human rights; it is a matter of policy, a matter of wisdom.

The best way to achieve our objective sometimes is to make a frontal attack. Sometimes one goes around to the rear or makes a side assault. One's tactics will, perhaps, determine the course that he chooses to pursue. One's objective is not discredited because he chooses other than a frontal attack upon his objective.

Mr. Chairman, who has better information, who has better sources of information to determine the degree to which human rights are being denied by nations which seek our aid, the executive branch of this Government or this House of Representatives?

We have heard some reports here about a hearing that was had before our subcommittee. Is that superior to the information that the CIA and the FBI and all the intelligence services of the Armed Forces of our country and our U.S. Embassies and Ambassadors, and all of our executive personnel can supply to the Chief Executive?

Mr. Chairman, unless we question the sincerity of the Executive, it would seem to me that we should give him an opportunity, considering his avowed advocacy of the protection of human rights, to try to work out, in the best possible way, the achievement of that high goal.

We do not have too many friends in the world. Anybody who has ever followed a vote in the United Nations or in the Interparliamentary Union or in other organizations of worldwide character has found out that we do not have too many nations who are standing up beside us.

It happens that this government of Nicaragua is our friend. That does not excuse it for violating human rights and perpetrating wrongs upon human beings; but it should, perhaps, influence our discretion, our judgment in this House, so as to allow the Executive an opportunity, at least until his effort fails dismally, to try to work out this situation in a way that would best protect the human rights of the people of Nicaragua and the public interests of America.

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

Mr. Chairman, I would like to support the statement made by my distinguished colleague, the gentleman from Florida (Mr. PEPPER), and my good friend, the gentleman from Mississippi (Mr. BOWEN), and associate myself with those remarks.

I would like to bring a sobering note into this particularly animated discussion.

I happen to have been privileged to have visited Nicaragua. I had the opportunity to talk with the President and to visit and talk with the people of Nicaragua.

What disturbs me, Mr. Chairman, is the trend that I see emanating from this august body, and that is one of a lack of concern for human rights.

Yes, I applaud President Carter for his bold stand in rewriting history and trying to bring a morality to this world that has never been seen before. I applaud him for recognizing that there is a need for it through his program for human rights. I recognize that he would not be advocating anything that would be contrary to what he morally thinks is right.

Mr. Chairman, it is not going to be an easy job. We have a long history of prejudice and of biased opinions that have been emanating from our society simply because too frequently we do not recognize the dignity of our fellow man and fellow woman.

What disturbs me, Mr. Chairman, is that we are dealing not with a single country, Nicaragua, because of its leadership or because of its dictatorship, but, rather, we are singling out Nicaragua. I think this is a gross error on our part, and I solicit the Members' consideration of the fact that we have had to deal with heads of state at times when we do not necessarily agree with the policy of those states. However, if we are going to try to imbue within their minds the dignity of the human being and the need for civil rights, I think that the answer is not in cutting the appropriation for a single country that we have designated, Nicaragua; but rather, to show that we are broad enough to recognize that we have faith that we are going to be a part of the human rights program for the world so that we will be writing a legacy for our children and our children's children, thereby bringing love and understanding into a government as well as showing that we are able to get along with our neighbors.

Has there ever been a period in which there has been no war or no threat of war? There is discord in the Middle East. There is discord in many other sections of our world. Why do we single out Nicaragua? Why do we not single out the dictatorship that exist in Africa and in all of Latin America? I believe we are making a serious mistake if we so single out Nicaragua.

I rise in support of restoring the funds to Nicaragua and saying to not only Nicaragua but to the President that we are behind you because you are doing a decent thing and because it is the fair thing for us to do. There is no justifiable reason in my opinion for us to do otherwise.

Mr. Chairman, I would repeat that I did visit Nicaragua and I found there a very vital and clean country. Surely there is need for improvements in human rights and that is true not only in Nicaragua but we do not even have to leave the shores of these United States before we see a need for us to improve human rights.

Let us act with good judgment. Let us not single out Nicaragua.

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

(Mr. CARTER asked and was given permission to revise and extend his remarks.)

Mr. CARTER. Mr. Chairman, during World War II, it was my pleasure to have in the company I commanded three Mexican-American men, three of the nicest, pleasantest fellows one could imagine, and men who carried out the wounded under fire. One Mexican-American boy in another company of the 152d Infantry Regiment, Joe Alverado, was given a battlefield promotion to lieutenant. Just a few years ago, his son was the center of Notre Dame's football team.

It has given me great pleasure to serve with such good men as Hon. HENRY B. GONZALEZ, Hon. MANUEL LUJAN, and Hon. E. DE LA GARZA for a number of years. I know of no men I respect and admire more. Now, Mr. Chairman, over the years our country's made a sad mistake in not concentrating more on our southern neighbors in Mexico, Central America, and South America. Our children should be taught Spanish. They are our neighbors, and I trust that we shall treat them as good neighbors.

These countries have various forms of government, some are benevolent dictatorships, some are dictatorships without benevolence; but it should behoove us to do our best to be of help to all of these countries. I submit, Mr. Chairman, that we should give great flexibility to the President and to the State Department. I strongly support a good neighbor policy toward the people of Mexico, Central America, and South America, and I trust we will reflect this in what we say and in how we vote.

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

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

Mr. ECKHARDT. Mr. Chairman, I suppose that I may be the only person who came to this floor without a predetermination on how to vote on this question. But I am persuaded by arguments on the floor that the amendment offered by the gentleman from Texas (Mr. WILSON) is a proper and a good amendment, in part because of what the gentleman from Kentucky (Mr. CARTER) has said on the floor, and also in part from somewhat of a reappraisal of the extremely eloquent speech given by the gentleman from California (Mr. DELLUMS).

The one thing that the gentleman from California (Mr. DELLUMS), did not point out, I believe, is that never at any time did any committee of this House make a comprehensive study of comparative repression of human rights in various Latin American and other countries. I think this body is an excellent body with respect to investigation of the bases of legislation, but I am sometimes inclined to think that this body is not a very good inquisitor when it comes to the question of determining good or evil. I am convinced that a comparative study of the positions of various nations has not made a case against Nicaragua alone.

Mr. CARTER. I thank the distinguished gentleman for his contribution.

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

Mr. CARTER. I yield to the gentleman from Missouri.

Mr. VOLKMER. I thank the gentleman for yielding.

I just noticed something that I do not know how many other Members of the body here know—I am sure the members of the committee know—and that is that this section 505 really does not just apply to Nicaragua. We are just not saying no military aid to Nicaragua; we have got Ethiopia and Uruguay in there also. I noticed that during the debate on this a lot of the Members have said, Well, we have got this other language in the bill that prohibits human rights; we have got the President who is going to stand by the concept of human rights; why are we just picking out Nicaragua as far as the amendment is concerned?

I would like to ask the gentleman from Texas, Why do we not just say let us knock out the whole section, if we really feel the way the debate has indicated?

Mr. CARTER. I thank the distinguished gentleman for his contribution.

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

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

Mr. BIAGGI. I thank the gentleman for yielding.

I commend the gentleman for his comments. I would like to associate myself with his remarks, and with the remarks of the gentleman from Illinois (Mr. METCALFE) who preceded him. Mr. Chairman, I support the amendment.

Mr. CARTER. I thank the distinguished gentleman.

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

Mr. DE LA GARZA. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman. I will not prolong the debate much longer. I just wanted to bring out a couple of matters hat I do not think have been covered.

One point, and perhaps the most important point, is that in showing our concern over human rights, in showing our concern for the individual and for the dignity of the individual during the debate we have had in this Chamber over this amendment, I think that possibly will be one of the greater moments for this body, so that the world can see and all the countries of the world can realize our interest, our concern and our determination for the cause of universal human rights.

My concern is about the way we operate. As the gentleman preceding me mentioned briefly, it is not the most practical because we are dealing with such difficult matters. One of my colleagues takes after Argentina and another one takes after El Salvador and another one takes after Nicaragua, and we are spreading our efforts and I think not achieving our purpose. If anything comes of this matter it will be because of the debate that was held here.

As far as I am concerned I feel somewhat—not ashamed, but I feel somewhat sad that many of our colleagues from the opposition, from the minority party have had to come up here and remind us: "Support your President." They have said: "Support your President who has spoken out for human rights. Support your President who is working for human rights."

I think we should support him. The matter is moving.

Yesterday a committee of the Organization of American States adopted a resolution on human rights. This is the last hurdle for it to be adopted by the Organization of American States. That has not been mentioned here. We are moving, the message has been sent.

So we topple this Somoza. So we knock out the military in Argentina. So we knock out the military in Chile. What will take their place? Communism.

The gentleman from New York is a brilliant young dedicated American. But I am concerned that in his honest, dedicated efforts, he will, in fact, do the opposite. If we do as he says, and I say this with respect for my friend and I will yield to him momentarily, I say this because what do we substitute?

The Cubans are there. The Russians are there. We will not have any church. We will not have any bishops. We will not have any liberty. We will continue the oppression. We will continue the torture. This is historical.

We do not have a need for any hearing in any committee to accept the fact that the Communists torture, that they oppress, that they deny religious choice.

The alternative in these countries, if we just cut them off at this time and stop the dialog, is communism.

Many of us cheered. As for myself, I cheered. I said: "Batista is out. Castro, the brilliant young man with stars in his eyes, is coming in. He has toppled the dictatorship." Take a look at how many Cubans are left who were free. Take a look at those in Florida. Yes, I cheered when Castro came into power. I said: "The dictatorship is out. Freedom will once again come to Cuba. The people will once again come to Cuba. The people will be able to go to their churches. The bishops will be able to minister to their brethren." Democracy will return, free elections, our system of freedom.

Did this happened? No. And if we knock out the existing governments, right, left, dictator, or what, as the gentlemen have suggested, what will be left, my friends? Communism. We must work with the President, we must work within the established institutions. We have sent the message, we will not tolerate oppression, denial of human rights from any source. But you do not do this by striking blindly in an appropriation bill.

Mr. KOCH. Mr. Chairman, will the gentleman yield? He mentioned my name.

Mr. DE LA GARZA. I yield to the gentleman. I mentioned the gentleman's name.

Mr. KOCH. Mr. Chairman, I really regret that the gentleman made that statement. I tell the gentleman why. I happen to believe that it is when we do not denounce oppression on the right, equally with the oppression on the left, and become associated with right-wing oppression, that the people's suffering under these regimes, losing all hope for democracy, turn to the Communists.

Mr. DE LA GARZA. We have denounced them here. We are doing it. The gentleman has denounced it.

Mr. KOCH. The gentleman used my name. Will he not let me respond?

Mr. DE LA GARZA. Yes, but not for the rest of my time. I yielded to the gentleman the time that I used mentioning his name.

Mr. KOCH. I ask the gentleman to yield to me to respond.

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

(On request of Mr. KOCH, and by unanimous consent, Mr. DE LA GARZA was allowed to proceed for 1 additional minute.)

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

Mr. DE LA GARZA. I yield to the gentleman.

Mr. KOCH. Mr. Chairman, I believe it is in the national interest of the United States to make certain that we do not become identified with oppressive governments. I consider myself as anti-Communist as any Member in this Chamber. I denounce Castro's repression of the Cuban people. I denounce the Soviet Union repeatedly on this floor. But how do we defeat communism? Do we blindly support right-wing dictatorships? No. Dictators like Somoza create support for the Communists. Democratic opponents of the Somoza regime have no hope to end the dictatorship and create a real democracy if we blindly support Somoza. Must we tell the people of Nicaragua, "Sorry, you have only two choices, Somoza or the Communists." If we support Somoza by providing him with U.S. arms to repress his own people, then we become the oppressors. And that is not in our national interest.

Mr. DE LA GARZA. The gentleman has made his point and my point. We have denounced communism. We have denounced the oppression. We have denounced the lack of human rights. This has been done. That is what I said in the beginning. The best thing

we could have done was to debate this issue. We do not support these actions, but now I give the Members the alternative.

If the gentleman prevails, what replaces that? Communism. That is the answer. It will not be democracy, I would say, I wish it were, and we need to work toward that end for all peoples of the world, but if we look at history, at the countries involved, I am afraid we risk more than we gain. We must continue to work with the President, within the norms available for effective action and send the message, as we have done, to all the world. Not by individual action, for individual personal reasons, but because we are all committed to that end as a country and as a people.

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

The proposed amendment would prohibit the use of funds appropriated in the fiscal year 1978 Foreign Assistance Appropriations Act for bank lending for palm oil, sugar, and citrus. The provision would in effect require that the United States condition its contributions and subscriptions to the international development banks on a requirement that these funds not be used to finance loans for such commodities.

Specifying that U.S. funds could not be used for these commodities would in all probability make it impossible for these institutions to accept U.S. funds and would jeopardize continued U.S. participation in the banks.

The terms and conditions on which the U.S. contribution and the contributions of all other countries are made available to the international development banks are laid down in their articles of agreement and in the replenishment resolutions of the Boards of Governors of these institutions. Neither the charter nor such resolutions contain provisions permitting the banks to agree to receive funds subject to a unilaterally imposed restriction that the funds not be used for certain commodities. In fact, any decision with respect to particular loans, must be made in accordance with the multilateral decision-making process and the criteria for making loans established in the charter.

In 1975, the Inter-American Development Bank refused to accept contributions earmarked for a specific purpose from the United States. The funds were accepted only after the earmarking requirement was repealed in subsequent legislation.

A requirement that contributions from a member cannot be used to lend for certain commodities would be totally inconsistent with the multilateral framework within which these institutions operate.

Such earmarking would set a bad precedent. If the United States were to earmark funds, other countries would undoubtedly follow the same practice. This would eventually lead to a complete breakdown of the international cooperative character of the development banks.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. WILSON).

The question was taken; and on a division (demanded by Mr. KOCH) there were— ayes 66, noes 28.

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 225, noes 180, answered "present" 1, not voting 27, as follows:

STATEMENT OF THE HONORABLE JOHN W. MURPHY ON HUMAN RIGHTS AND NICARAGUA, JUNE 21, 1977

(Mr. MURPHY of New York asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MURPHY of New York. Mr. Speaker, there has been a tragic error made in the decision to delete foreign assistance appropriations to Nicaragua in the amount of $3.1 million. By a single vote margin of 22 to 21, we have meted out a severe punishment to the strongest ally and supporter the United States has in Latin America. This unconscionable tragedy is geometrically compounded by the fact that the punishment is based totally on unfounded allegations, baseless innuendo, and guilt by declaration.

What compounds the error even further is the fact that all the charges are made by sworn enemies of the elected government. Some of these enemies have themselves attempted assasinations, committed kidnapings and murders of representatives of the Government of Nicaragua and the people of Nicaragua.

And the final blow is that all of these charges have been uncritically, unquestioningly accepted by some Members of Congress who are apparently unaware that they have been duped by those opposed to the Government of Nicaragua, including an organization known as the Washington Office on Latin America. It is a group which is well known for its solicitation and aggressive funneling of antagonistic witnesses against the Government of Nicaragua into congressional hearings and meetings. I will document for you their techniques of channeling witnesses' testimony into Congress. Both terrorists and known Communists have been their "witnesses."

I will outline for Members: First, the nature of the opposition to the Government of Nicaragua; second, the facts—the true facts—as obtained by our own State Department and intelligence agencies; third, the relationship between the United States and the Government of Nicaragua, and fourth, the position of the administration and of those of us in Congress who have made an effort to look past the anti-U.S. pressure groups to determine what the true facts really are.

THE NATURE OF THE OPPOSITION TO THE GOVERNMENT OF NICARAGUA

First let us know with whom we are dealing. Opposition to the Government of Nicaragua is not exactly a benevolent or objective consortium. Nor is there necessarily a cohesion and unity of purpose binding the opposition into a reasonable political force. Most of the information foisted off as fact consists of second and third hand stories, seldom substantiated by any fact-finding efforts or credible support. Much of the so-called evidence is in the form of simple letters signed by persons, including clergymen, whose credibility and backgrounds are less than outstanding. And of the alleged atrocities and crimes blamed upon the existing Government which may have occurred, there is displayed compelling evidence that they were instead committed by the opposition for the sole purpose of discrediting the Government.

And finally, defenders of the opposition point at newspaper headlines which claim an ever-rising repression by the Government. Since La Prensa is the loudest voice of dissent, let me first address myself to the publisher's credentials:

Dr. Pedro Joaquin Chamorro is the owner and publisher of La Prensa, which he inherited from his father in 1948, rather than by any record of journalistic excellence. In the years since then, Dr. Chamorro has proven himself to be of wide-ranging interests beyond a journalistic search for truth:

He has organized an armed invasion of Nicaragua;

He was convicted of conspiracy in the assassination of the former President of Nicaragua;

He met with Fidel Castro and Che Guevara to seek support for an armed revolution against the Nicaraguan Government;

He conducted a second armed invasion;

He led public riots in the streets of Managua;

He has been banished from Nicaragua twice for such activities as these;

He has openly advocated defiance of the Nicaraguan constitution—which requires citizens to vote—he called for abstention;

He became head of the UDEL—Union for Democratic Liberation—party board of directors, a coalition of small parties, in the main made up of Communists;

And not last in importance to today's discussion, he has become well known as being blindly obsessed with the notion of himself becoming President of Nicaragua.

It is small wonder that such a man as this would do everything in his power to discredit the legitimate government. Yet he lives in total freedom in Managua where he runs a rather prosperous opposition newspaper and oversees his other financial interests. That is not a sign of a government which opposses those not in accord with its views.

Father Miguel D'Escoto is a Nicaraguan Maryknoll missionary, publisher of Orbis Books and the Maryknoll magazine, and the chairman of the board of Fundeci, a closed corporation set up with members of his own family, to take advantage of $7 million in private American sources for a "low-cost housing project." In one of his books, he is the creator of a concept of a "new noncapitalistic" system for Nicaragua which requires "the relinquishing of possessions and privileges." Failure to bring this about peacefully will justify, according to Father D'Escoto, and I quote him, "The use of violence and guerrilla warfare." I find it difficult to imagine where such a unique doctrine of creative government fits in with the responsible positions of the Catholic Church. Father D'Escoto is simply a political activist in sheep's clothing, closely associated with an organization calling itself Nonintervention in Nicaragua, with the support of the North American Congress on Latin America—a well-known Marxist organization. His letter and lobbying campaigns have advocated precisely what this Congress has done—cut off aid to Nicaragua.

Father Fernando Cardenal is a Nicaraguan Jesuit priest who was removed from his position as dean of student affairs at the Universidad Centroamericana for promoting political unrest among the students and advocating open subversion. He has testified at length before this Congress in opposition to the Government of Nicaragua. Yet he lives in complete freedom in Nicaragua, travels abroad at will, as does his brother, the Marxist poet Father Ernesto Cardenal. Again, hardly the kind of unbiased testimony upon which to base the decimation of relationships between two major nations of the Western Hemisphere.

And finally, one more group, known as the Washington Office on Latin America, co-directed by Messrs. William Brown and Jose Eldridge. WOLA is a militant group which lobbys extensively against right wing Latin countries. Mr. Brown is considered to be an anti-American radical, while Mr. Eldridge is known as a leftist pro-Allende Chilean supporter. That they were instrumental in organizing negative presentations to congressional hearings is without question; as a matter of fact, I have before you today a document from them which very specifically instructs witnesses in the fine art of biased testimony, unfounded facts and erroneous statements. In the document Mr. Bill Brown, discusses his plans to visit Central America to dig up witnesses to participate in hearings and coach them in the form and even the substance of their testimony.

The WOLA document contains six quoted paragraphs that constitute part of the text of the original proposal for congressional hearings, presumably the source being the

international organizations subcommittee. They outline the "nature and scope of the proceedings" and indicate some of the "distinguished representatives" who will testify, including Pedro Joaquin Chamorro from Nicaragua—the aforementioned leader of two armed invasions.

The document, including the above-mentioned quoted paragraphs, is couched in some of the most pejorative language I have ever seen used to prepare for an "open and frank discussion" before a congressional committee. For example, Mr. Brown admonishes witnesses on page 3 of his instructions that it is "imperative that testimony be sharp, penetrating and critical of U.S. involvements wherever necessary." And the document leaves no doubt that the author considers this "necessary". I think a person of even limited perception can determine the motivation of the author, the thrust of any testimony resulting from the document, and the totally biased, anti-United States—and in this case, anti-Nicaraguan Government leanings of the Washington Office on Latin America.

Other portions of the memo are even more pejorative in their blatant, distorted and frequent misstatement of alleged conditions in the country I am most familiar with, Nicaragua. One is led to ask why hearings were held at all. The author of these paragraphs has already made up his mind.

These gentlemen organize and coach witnesses before this Congress, draft and edit the prepared statements of various opposition leaders to present a consistently biased, incomplete and erroneous point of view, and continually issue reports and statements seeking to discredit legitimate Nicaraguan Government programs such as the aid-assisted invierno program to upgrade the standard of living of the rural poor.

I have no basic conceptual problem with the rights of any of these gentlemen, under our American system of government, to exercise their freedoms of press, speech, and assembly to advocate a change in the government. But they have chosen to do so through violence, deceit, stealth, murder, lies, distortions, armed revolt, and a multitude of similar approaches to forced change which is abhorrent to any democratic government on the face of the Earth—including our own. And the most distressing of all is the fact that it is these people who the Congress has chosen to believe in our misguided and erroneous action to cut off aid to Nicaragua, our closest Latin ally.

THE FACTS ON HUMAN RIGHTS IN NICARAGUA

The facts of current conditions in Nicaragua must be looked at in light of an atrocity perpetrated by Communist terrorists in Nicaragua during Christmas week in 1974. This event shocked almost all civilized people—except of course those who would destroy United States-Nicaragua relations.

I point out that since the 1974 atrocity, a "state of seige" has been imposed which is within the constitutional provisions—article 195—of Nicaragua. This means that certain preliminary due process constitutional guarantees have been temporarily suspended. This has meant that detention—which is loosely similar to our grand jury investigations and oddly enough adopted and based on procedures established by the U.S. Armed Forces—has been extended for some periods. But once the accused is charged publicly, he is afforded all of the rights of due process.

Let me briefly explain the reasons for these minimal and temporary losses of due process. The Government of Nicaragua, and in turn the United States, was severely jolted by a terrorist attack on December 27, 1974.

A private party of Nicaraguans were giving a farewell dinner for the then American Ambassador. Subsequent to his leaving the home of the host, the former minister of agriculture, with three protective aides, the premises were invaded by more than a dozen FSLN thugs with machine guns, carbines, and pistols. They terrorized 30 guests and attendants, shot and killed three guards and the host, Mr. Castillo. Taking hostages, these criminals made four demands on President Somoza: First, the release of 14 convicted criminals who also happened to be members of the FSLN; second, a sizable ransom now known to be $1 million; third, the broadcast and publishing of their "manifesto"; and fourth, safe passage to Cuba. President Somoza, to save lives, submitted to all of these demands and arranged the terrorists' passage while substituting as hostages for the innocent, the Archbishop of Managua Monsignor Miguel Obando y Bravo and the Ambassadors of Spain and Mexico, Jose Garcia-Banon and Joaquin Mercado.

Here are four killings—that are a matter of record—by a political terrorist group supported by Fidel Castro—that is also a matter of record. There have been no deaths in this vein that can be found perpetrated by the Government of Nicaragua.

The enemies of United States-Nicaragua relations shed crocodile tears over alleged and unproven abuses, yet ignore such an atrocity.

Where is their lament for the innocent dead in this case?

Aside from this incident, let me make one final comment on the meaning of this case. The FSLN activitists travel back and forth to Cuba where they receive ideological and paramilitary training, which is proof Cuba is giving moral and indirect support to a revolutionary organization. There would even be financial and weapons support by Castro if, in the words of our intelligence people, the "FSLN mounted an effective campaign" against Nicaragua. We know that Castro entertains a special hostility toward President Somoza and Nicaragua. President Somoza is acutely aware of this and is being forced to take what I consider minimum steps to protect his country.

His concern over Cuban intervention is, in my judgment, not exaggerated.

The Castro regime has taken dead aim at Nicaragua since 1962 and is bent on turning it from a strong U.S. ally into a pro-Communist satellite in the Caribbean. I am joined in this assessment by our intelligence people who state, and I quote from our people on the scene, that our "country Nicaragua team is unanimous in believing that possibility is genuine."

And so, the Government of Nicaragua, in protecting its country from subversion by the Communists have made it possible for the Communists to harp on these protective measures as "abuses". In the words of our State Department:

"The anti-guerrilla campaign has generated numerous "stories" of repression and abuse against the rural population by the national guard. Most of these appear to have been exaggerated or unfounded, however, and a concerted pattern of strong repression by the government has not emerged so far."

And this is why we have, incredibly, punished our strongest ally in Latin America. We have listened to "stories" that are based on hearsay, unfounded and put forth by persons who are enemies of the Government of Nicaragua—and the United States. One day of hearings were held for witnesses in support of the Government of Nicaragua. They were protesting the lies perpetrated by anti-Government witnesses on April 5, 1977, before a House committee. I would quote here the testimony of an American businessman with extensive experience in Nicaragua and with the areas where the alleged atrocities took place. He testified:

"EXCERPT FROM A STATEMENT BY RAYMOND MOLINA, VICE PRESIDENT OF LATIN AMERICA AFFAIRS, PETERSEN ENTERPRISES, INC., ORLANDO, FLA.

"I would like to express my appreciation to the honorable chairman and members of this distinguished Subcommittee on Foreign Operations of the House Appropriations Committee for the opportunity to submit this written statement relative to the hearing which took place on Nicaragua on April 5, 1977.

"My name is Raymond Molina and I am Vice President of Latin American affairs of Petersen Enterprises, Inc. of Orlando, Florida.

* * * * *

"As regards Nicaragua, I feel the hearing overlooked many aspects which are enormously important. As an American businessman with many years of residence in Nicaragua, I have traveled all over the country in the course of my business which is directly involved in helping with the development of the country's human resources through vocational training. I have personally visited those areas mentioned in this hearing where human rights violations are supposed to have taken place and I know the mood of the people. I am, therefore, a first-hand witness of conditions in the country and my personal experience and findings are not at all in accord with the testimonies I heard from those basing their allegations on second and third party testimonies.

"Nicaragua enjoys every known freedom including the freedom of worship, travel, political suffrage, work, ownership of property and all others. As a businessman, I know there is a valid free enterprise system in the country. The only restraint of freedom is confined to those persons who through acts of lawlessness, transgress the freedoms and rights of others under the law.

* * * * *

"I am not saying that there have not been any violations of human rights in Nicaragua. Even we, in the United States, do not have an unblemished record in this area either today or in the past. But it is entirely wrong to exaggerate conditions in Nicaragua. Some of the statements made by the church and other sources which I heard at the hearing were grossly misquoted or misrepresented by other witnesses.

* * * * *

"A case in point is the almost obsessive rashness to rely on press reports. In one glaring case, used frequently in the hearing, great reliance and believability was placed in a pastoral letter by Nicaraguan bishops which was said to have made reference to a purported massacre of 44 men, women and children in the village of Varilla. This is entirely false. A simple reading of this pastoral letter will show the church made no reference to this purported incident, which has since been unequivocally denied by the Nicaraguan Government."

Mr. Speaker, the facts regarding the charges that there is absolute supression of political expression and the functioning of all democratic processes in Nicaragua and that there have been terrorist activities on the part of the national guard are as follows: Our intelligence evaluation and my own personal knowledge based on frequent visits to Nicaragua indicate conditions regarding the above were excellent until the outrage of Christmas week 1974. Official documents from our State Department indicate the situation regarding political expression was "good," and our intelligence sources indicate that the "Government of Nicaragua performance in this field is substantially better" than anti-Nicaraguan propagandists and detractors would have the world believe. In terms of freedom of expression, since December of 1974 there has been a silencing of La Prensa and its guiding light, the upper class terrorist Pedro Joaquin Chamorro whom the Washington Office on Latin America promoted as the witness to testify before the Congress on conditions in Nicaragua. This firebrand whom our own State Department and others claim has been allowed to "run

amuck" and "run wild" with the press—La Presna—since 1948 is a living testament to the freedom of political expression during 27 erratic years in the newspaper business in Nicaragua. To return to the charge of "suppression of political expression" our U.S. in-country team in Nicaragua states "freedom of expression exists—in Nicaragua—and is utilized fully in private and public meetings."

The facts regarding the allegations that there are wholesale violations of human rights in Nicaragua are totally false. While there may be isolated instances of such violations—as can be found in even the most advanced of societies—the U.S. team, including the State Department, have found not a shred of evidence to support such charges. To the contrary, they have found no "consistent pattern of gross abuse of human rights," and certainly no Government policy advocating such abuse and nothing that would remotely put Nicaragua in violation of 502(b) of the Foreign Assistance Act.

I quote a document supplied to me by the State Department entitled "Human Rights Report—Nicaragua".

III. Official attitudes toward and actual observance of internationally recognized human rights and freedoms.

"A. Integrity of the person.

"It has been widely alleged in Nicaragua during the past year that the national guard has restored to arbitrary arrest and physical abuse of detainees on a large scale in its efforts to uncover and disrupt the Sandinista organization. The available evidence indicates that several thousand persons have been questioned by the guard, and an undetermined number of these may have been subjected to a degree of physical and psychological harassment. A smaller number of suspects have also been detained for up to 8 weeks during the investigation, and a relatively few cases have been referred to a military court for trial on charges of terrorism. Most of these detained in the anti-Sandinista campaign have been released and all detainees have been accounted for. Less frequent allegations have also been noted of more methodial physical abuse and torture in a few cases. Such extreme violations, however, appear to reflect isolated lapses rather than any official policy to employ such methods systematically. No cases of unlawful killing have been documented.

"With the exception of the anti-guerrilla campaign, the Nicaraguan Government has been relatively conscientious in respecting personal rights in this category, even under the state of siege. A few cases were reported druing the previous decade of arbitrary arrest and prolonged detention without charges, all involving members of the Nicaraguan Socialist Party, a Soviet-support Communist organization. Prior to the Sandinista attack in 1974, the Nicaraguan judiciary had developed a fairly good reputation for independence and integrity.

"B. Other important freedoms.

"Strict media censorship is the single major violation of other human freedoms imposed under the state of siege. The opposition press had been permitted a free rein for many years prior to 1975. Freedom of movement, religion, assembly, and association have been generally respected also. The Government has permitted the UDEL opposition movement to conduct organizational activities and large rallies with no more than sporadic, low-level harassment. Political exiles have been permitted to return and live normally so long as they abstain from covert political activity against the regime. Prominent opposition figures have occasionally been harassed or restricted in their efforts to travel abroad, and 27 members of UDEL had their civil rights suspended for six months in 1974 for having advocated abstention in that year's presidential election. Such advocacy is prohibited by the constitution. No violations or religious freedoms have been reported. Active trade union movements not controlled by the Government have been subjected to occasional harassment by security officials and the labor ministry.

"Another State Department analysis supplied to me states:

"'While constitutional guarantees have technically been suspended, daily life and most institutions have continued with only limited disruption.'"

Mr. Speaker, the charge of the WOLA, that is the most vicious, is that in Nicaragua:

"In spite of many years of repression, strong and potentially viable political coalitions survive, and continue to strive for meaningful democratic expression . . . but are robbed at the polls . . . and in these efforts political leaders daily face death, torture, 'disappearance' . . . and the threat of exile."

The facts according to our own intelligence sources are that the political opponents of the Government of Nicaragua according to the U.S. Government's own evaluation "remain relatively ineffective and without a wide, solid popular base." Even though they organized a murderously successful criminal act in December 1974, the FSLN cannot do on the large scale what they achieved on the small. For example, our intelligence tells me the FSLN was promised financial aid and an armed action campaign by Castro if they could get their act together, but they are so disorganized they could not achieve any effective campaign.

As to the allegations of political prisoners, torture, "disappearance" and the threat of exile, our intelligence sources can confirm—

No political prisoners;
No executions;
No torture, and
No disappearances.

The so-called disappearances refer to certain suspected terrorists detained for interrogation such as the 13 members of the December terror squad who were arrested. But there is no record within the U.S. Government of anyone permanently disappearing from the streets of Managua or anywhere else in the country.

President Somoza, according to our analysts, "takes great pride in the fact" that there are no political prisoners in Nicaragua, and the State Department, based on our intelligence reports, confirmed to me that an impressive and virtually ironclad case can be made to substantiate this.

In addition to the refutation of charges of human rights violations by Raymond Molina, other reputable citizens of Nicaragua claimed the testimony of Bill Brown's WOLA group was untrue. In terms of due process, torture, ill-treatment, disappearances, political activity and religious freedom. I quote excerpts from the testimony of people who should know—the people of Nicaragua.

Dr. Aristidis Somarriba, lawyer, testified:

"At all times, prisoners investigated by the military tribunals have enjoyed all the rights of due process of law. In accordance with Nicaraguan law, as in the case with other Latin American courts whose legal tradition goes back to Roman law, fugitives are cited and if they do not present themselves, a defense attorney is appointed for them. Consequently, no law or right has been violated as was stated at these hearings on April 5 by William Brown.

"Reference also was made at that hearing to Miss Liana Benavides, a Costa Rican national. It is natural that congressmen of the Costa Rican Assembly should take an interest in her case, but there has been no evidence whatsoever that she was tortured or ill-treated in any way. During her detention she was visited by members of her family, high officials of the Costa Rican Government and the International Red Cross, whose statements support what I have just said."

Prof. Gustavo Wilson, director, Colegio Bautista, testified:

"Those of us who, however, modestly, are spiritual leaders of the Evangelical Protestant tradition, are deeply concerned over any form of human rights violations. However, it is important that we should not be mislead by oversimplistic charges of human rights transgressions. All too frequently the charges are not substantiated by any real first-hand evidence.

* * * * *

"Let me be specific: We have heard a great deal about the disappearances of peasants and the arbitrary detention of individuals. On the other hand, no mention has been made of the fact that these disappearances have occurred in rural areas of the country where terrorists are operating with the full support of another country. These terrorists have coerced the peaceful peasantry and have murdered a number of them in cold blood. In addition, this small band has even murdered their own companions.

"These actions—repugnant to any decent person—have been fully documented as part of the legal proceedings taken against the terrorists. They have openly admitted these crimes and accepted full responsibility for them."

Prof. Norberto Herrara, rector, Polytechnic University, testified:

"I would like to stress to this distinguished subcommittee that Nicaragua is a country which has every known freedom. We have the right to work, to travel to worship, and political suffrage. If indeed we have any genuine infringements on our rights, they are to be found among those natural conditions of a growing and developing society which relate to poverty, disease and the lack of knowledge. It is, however, precisely these areas that are the utmost concern to the Government of Nicaragua and where most of the programs being undertaken are being carried out to eliminate these deficiencies."

Mr. Dennis Gallo, businessman, testified:

"Here, before this subcommittee, it has been alleged that the Government of Nicaragua violates human rights. Credence has been given to malicious press reports and testimonies have been heard from persons and institutions which have distorted the image of the Government of Nicaragua. However, no one has come forward to explain that groups of terrorists have brought intranquility to my country and have forced the government to take extraordinary measures to protect the institutions and the internal order within the constitutional order of things."

Mr. William Dona Morice, business administrator fellow, testified:

"Therefore ,when the issue of human rights is discussed in terms of Nicaragua, it should not be forgotten that the conditions which are creating the risk of human rights violations is not only foreign sponsored but the work of a very small minority working outside the law and totally against the wishes of 2.3 million inhabitants. I have traveled all over my country and I found very little evidence of the alleged human rights violations which I have read about in the international press. It has to be a matter of concern to every law-abiding Nicaraguan that the image which is being projected abroad by unrepresentative militant political activists is a completely distorted picture of the real situation within the country.

* * * * *

"In conclusion, I would like to emphasize the importance of understanding the situation of Nicaragua in its proper perspective. The real and permanent solution to any form of human rights violations lies precisely along the road which the government is currently following and which is based on respect by all of our constitutional laws and the implementation of programs designed to

raise the quality of life of even the most humble Nicaraguan."

Twenty-eight Catholic priests testified:

"STATEMENT BY CATHOLIC PRIESTS IN NICARAGUA (TRANSLATION)

"In common accord we state that in Nicaragua there is ample and unrestricted freedom of worship; that the Catholic Church has been able as we can vouch for, to carry out its Apostolic message in all freedom and even more so with the efficient support of the State. Relations between the Catholic Church and the State have always been broad and understanding and full of profound respect and sincere appreciation towards the Church and its ministers.

"We also state that for some time the Church has been working in the country among the peasants and lowest income sectors of the cities, with freedom and help of the authorities.

"Signed:

"Leon Pallais G., Jacobo Ortegaray, Monsenor Francisco Aranda, Fray, Domingo Del P. Fernandez, Pbro. Jose Carlos Jiron B., Monsenor Victor Manuel De Jesus Soto Gutterrz, Pbro. Donaldo Garcia, Monsenor Roberto Belamatamoros, Fray Rafael Herranz, Carlos Caballero S.J., Monsenor Noel Agusto Buitraga B., Canonigo Jose Del Carmen Quintana, Presbitero Pedro Gonzalez R., Presbitero Santiago Perez Davila.

"Etanislao Zabala, Monsenor Noel Bultrago B., Pbro Jose F. Gomez S., Monsenor Jose Suazo R., Pbro Benito Pititto L., Monsenor Miguel A. Guevara B., Fray Jesus Abad R., Monsenor Felix A. Andino C., Monsenor Juan B., Fray Juan Jose Uroz, P. Barnardino Formiconi, Canonigo Agustin Hernandez Bornos, Canonigo Francisco Salazar Aguado, Presbitero Haroldo Machado S."

RELATIONS BETWEEN UNITED STATES AND NICARAGUA

Mr. Speaker, I can best sum up United States-Nicaragua relationship by citing our long history of friendship, mutual support and defense, and trade.

I urge Members to look at the facts as they exist, and not at fabrications by those who would destroy an ally.

We have a strong friend in Nicaragua in a part of the world where we desparately need them.

Uncritical acceptance of unjust accusations and their dissemination would constitute not only a denigration of the U.S. Congress, but an injustice of great magnitude and inestimable harm to a country, a people, and a government that are a strong friend to the United States.

Again, referring to the State Department assessment of our relations I quote:

"U.S. RELATIONSHIP AND U.S. INTERESTS

"Relations with the U.S. have traditionally been cooperative and friendly. There are no bilateral issues in dispute. Nicaragua tends to support U.S. positions in international FORA and to follow our lead on significant issues. Our own interest in Nicaragua focuses on our desire to retain this support and to assist the Government of Nicaragua in its program of reconstruction and rural development. U.S. investment in the country is in the vicinity of $75 million."

The strong identity of the United States with Nicaragua is characterized in a State Department report on political issues.

"Nicaraguan foreign policy stresses the maintenance of the closest possible ties with the United States. Nicaragua voted with the U.S. in the last U.N. General Assembly on the anti-Zionism resolution, on Korea, and on the decolonization resolutions. The GON is increasingly nervous about a potential threat from Cuba, particularly after Angola, and this reinforced the impulse to identify with the U.S."

Mr. Speaker, I ask Members to look at the support Nicaragua has given us in the United Nations—especially when compared to Communist-dominated Costa Rica. A partial listing of the vital issues in which that nation supported us will give an indication of the kind of courage this government of only 2.3 million people has.

First. Terrorism: Nicaragua has always supported and worked hand in hand with the United States in the common cause against international terrorism and has opposed the Soviet bloc on this issue.

Second. The expulsion of Nationalist China: Nicaragua was the only Latin American country that supported the position of the United States to avoid the expulsion of China from the United Nations. Costa Rica refused to support the United States.

Third. Israel: When the United States asks Nicaragua to speak in defense of an Israel position in the United Nations—and it is usually by request of the U.S. mission—the Nicaraguan delegation has supported Israel's position. During the last year in the General Assembly, on a vote on a draft resolution against Israel, Nicaragua joined with the United States in support of Israel's position.

Fourth. Disarmament: At the request of the U.S. delegation, Nicaragua has taken the floor and argued against the U.S.S.R. and for the American position on disarmament.

Fifth. South Korea: At the request of the United States—Nicaragua co-sponsored the U.S.-backed Korean peace plan.

Sixth. Puerto Rico: Whenever Cuba has presented draft resolutions in different committees and the General Assembly calling for Puerto Rican independence, Nicaragua has supported the United States.

Seventh. Cuba: Whenever the Cuban delegation has insulted the U.S. Government and/or their President, for example, Eisenhower, Kennedy, Nixon, Nicaragua has taken the door in defense of the United States and its several administrations.

Eighth. In the Security Council, Nicaragua has consistently supported the different motions presented by the United States.

Ninth. Nicaragua was one of two Latin American countries that supported the U.S. military base in Iceland. Costa Rica voted against it.

Tenth. Cuba: Nicaragua voted with the United States against lifting the O.A.S. ban on Cuba. Costa Rica was in favor.

On a historical note, Nicaragua was the second country to declare war on the Axis countries in World War II and was the first Latin American country to give the United States rubber and raw materials for the war effort. Nicaragua was the No. 1 exporter of rubber to the United States in World War II.

Testimony by the State Department as recently as April 1977 indicated an increasing concern on the part of the State Department based mainly on allegations contained in articles in the New York Times and Time magazine and a pastoral letter issued by Nicaraguan bishops in early February. These reports appear, again, to be based mainly on hearsay and have been proven to be unfounded or not credible. Allegations of misuse of aid funds, another favorite charge of anti-Nicaraguan groups—but in this case more subject to verification—proved to be totally unfounded. I am sure that in the long term the allegations of ill-treatment will also prove to be—in the main—propaganda.

Mr. Speaker, the fact of the matter is that the Carter administration—which certainly cannot be faulted for its high standards in the international area in terms of human rights—has requested that Nicaragua not be retaliated against or punished by the Congress through the withholding of these foreign assistance funds. I would hope that the Congress would act as responsibly toward a government that has been our friend and ally and which should continue to be supported by the U.S. Government which has taken freely of that little country's friendship and support.

APPENDIX D

[WETA-TV PBS Network, Washington, D.C., Sept. 19, 1978]

THE MACNEIL/LEHRER REPORT

INTERVIEW WITH PRESIDENT ANASTASIO SOMOZA

ROBERT MACNEIL. Nicaraguan National Guardsmen appeard today to be preparing a final assault to wipe out the guerrilla forces attempting to overthrow the Somoza regime. One-by-one, cities occupied earlier this month by opposition forces have fallen in the past week to the 7500-man force controlled by the 52-year-old General and President. The cities of Masaya, Leon, and Chinandega fell in heavy fighting in which the Somoza forces attacked with artillery and aircraft.

Today, according to the Associated Press, the town of Esteli remains the last rebel stronghold. And Somoza troops have flown north of the city, to the town of Somoto, in a flanking movement for an attack.

But even if he defeats this latest uprising, can General Somoza survive the growing opposition from inside and outside Nicaragua? In a few moments, we'll hear his views.

JIM LEHRER. Robin, the roots of the unrest in Nicaragua are deep and go back many stormy months and years. But the current fighting began just 10 days ago. It followed the successful takeover of the National Palace on August 22nd by leftist Sandinista guerrillas. The guerrillas held 1500 people hostage, releasing them only after getting the release of 59 political prisoners, $500,000 in cash, and safe passage out of the country to Panama.

Apparently heartened by the guerrilla's success, other opponents of the Somoza government called a general strike.

Then came September 9th, and the guerrillas armed attacks on National Guard posts in most major cities. Assisted by sympathizers, the rebels gained control of several cities and towns, most of which, as Robin said, have now been won back by the National Guard.

The Red Cross estimates that at least 500 people have died in the fighting, another 3000 or more wounded. Those are only rough estimates and do not include any casualties suffered by the National Guard.

The guerrillas and their sympathizers, which now include some moderate and conservative businessmen and some members of the Catholic clergy, say their goal is to force President Somoza from office. President Somoza has steadfastly refused to step down. He has also thus far rejected suggestions from the United States and others that the conflict be submitted to mediation.

MACNEIL. President Anastasio Somoza, a West Point graduate, is the third member of a family dynasty that has personally ruled Nicaragua since the early '30s. Succeeding his father and elder brother, General Astasio was elected President in 1967 and reelected in 1974 on a constitution of his devising.

Like his predecessors, the General-President draws his power from the National Guard, or army. For years he also enjoyed warm relations and aid from Washington. But on human-rights grounds, the State Department has cooled its enthusiasm for his anti-communism; and military aid has been cut off.

General Somoza, Mr. President, thank you for joining us this evening.

Can you—I've just been quoting American wire service reports. Can you tell us, from your point of view, how much of the country do your forces now control?

President ANASTASIO SOMOZA. Yes. First let me say this: We have been, for quite some time, harassed by guerrillas outside in the

bush. These guerrillas have been backed by Cuba, and therefore we've had to fight them, to the point that last year we practically neutralized them, and we have no more guerrilla in the bush. They've moved into the city.

As of today, Nicaragua is at peace, with the exception of a very small pocket in the city of Esteli. This is the situation of the country.

MACNEIL. Are you, in fact, as reported, preparing an attack to remove the guerrillas from that city?

President SOMOZA. We're not preparing an attack. We're engaged into a cleaning-up operation in the city of Esteli. And I think this afternoon we should finish the last pocket of people who were resisting it.

MACNEIL. The fighting was quite heavy, as we understood it, in some of the other cities, like Leon, involving artillery and aircraft. Is the fighting as heavy in Esteli?

President SOMOZA. Yes, because the insurgents made up barricades which obstructed the foot soldier to go into his areas. Therefore we've had to blast the barricades out of the way of the streets in order for our vehicles and people to penetrate the areas that they control.

MACNEIL. I see.

Do you expect the loss of life there to be similar to that reported from the other cities?

President SOMOZA. I don't think it's going to be as large, because those people had many days for the civilian population to move out of the way, unless the guerrillas have held the civilian population as hostages.

MACNEIL. I see.

Can you tell us—we've had no estimate of what losses your forces have suffered. What have they been?

President SOMOZA. Up to today, we have had 40 dead, between officers and enlisted men, and about 140 wounded.

MACNEIL. There are reports, Mr. President, that hundreds, perhaps thousands of Nicaraguans opposed to you are joining the Sandinista guerrillas. Is that true?

President SOMOZA. If that were true, we would have a very large corps of people out in the forest constituted as a force. There's no such thing. These people who were in the city have evacuated and have moved toward the frontier to get safe haven, either in Honduras or in Costa Rica.

MACNEIL. Are you still determined, in view of all the bitterness and the bloodshed of the past two weeks, to remain in power through your full term, which ends in 1981?

President SOMOZA. It is not a thing of a personal choice; it's a thing of constitutional abidement. Our constitution—which I heard you say that I made it. I'd like to take an exception to that. The constitution of Nicaragua was rewritten in 1973, with the help of the Conservative Party of Nicaragua. Between the Liberal Nationalist Party and the Conservative Party, we make about 95 percent of the Nicaraguan opinion. So the constitution is not of my making; it's the making of both of the largest parties there are in Nicaragua.

So, what I am doing, and I am telling the Nicaraguans, is that I will serve out my term because the country needs some time to organize itself to go to the election, it needs also to debate the electoral law, and it needs many things that have to be put in objective for the next election, for me to hand the presidency to an organized group of people who might win the election.

MACNEIL. Does it occur to you that if you remain to fill out your term, that, in view of all the fighting, that you may have to hold power simply by force for the remainder of that term?

President SOMOZA. Well, this is a good question, but I don't think so. The Nicaraguan people are a peaceful people, and this incident has shown that the great majority have not wanted to take part in this insurrection, and especially all the people who live out in the farmland. All the farming people are at peace. There has been no sign whatsoever of rebellion. It's been exclusive cities, that they have been worked up by the opposition and the guerrillas, with a very limited number of people who have had—who had the guns in their hand.

MACNEIL. Thank you.

LEHRER. Mr. President, the Organization of American States, the OAS, has called a foreign ministers meeting for Thursday, as I'm sure you know, to discuss the proposal for meditating the dispute in your country. Would you agree to OAS mediation?

President SOMOZA. Nicaragua is a member of the Organization of American States. Therefore, we are bound to take the decisions of such a supranational body in the way that it can be helpful to Nicaragua. I don't think mediation is contemplated within the Organization of American States.

LEHRER. What is contemplated? Do you know, Mr. President?

President SOMOZA. The OAS has contemplated to settle disputes between states. It is not contemplated to settle disputes within a state, because then we would have this suprastate interfering into the internal affairs of anyone whenever there was any kind of strife. Say, like in the 1960s, you had strife in the cities in the United States. The OAS could have gotten together to intervene into your internal affairs.

So, it's a very touch and delicate situation.

LEHRER. I take it, then, by your answer, Mr. President, what you're saying is that you would not agree to an OAS proposal for mediation. Is that correct?

President SOMOZA. I would not be the first Latin President to accept intervention from a supranatural—from a supranatural [sic] orgainzation. I would not be the first one to agree to that. Because it's a terrible precedence, in the face of the history of interventions in the Americas.

LEHRER. What about the mediation of an individual country—say, Mexico, which has been suggested by some. Would you agree to that, Sir?

President SOMOZA. One has to accept mediation when you are dealing with equals. Here, the state is dealing with his opposition. This is not a court of law. This is a constitutional, elective government that has to deal with subversive people. And therefore we're not dealing with another state.

LEHRER. So, in other words, you will not agree to mediation by any third party. Is that correct? Is that the way I read you, Sir, correct?

President SOMOZA. In the past, when we've had differences in Nicaragua, we have had people to be the intermediary and more or less the mediator between factions. But they are Nicaraguans; they were not foreigners. In the history of Nicaragua, I have the reputation of dealing and talking with the opposition, and then arriving at a solution that has made bearable for them and live bearable for the people that I represent.

So, we are not against any kind of a bridge or any kind of a good, shall we say, fellow who can put us together. We're not against that. We are against a mediator, because a mediator pretends the power to put any of the parts in its place by force. So, we are not allowing any force to come into Nicaragua. We do things here on the goodwill that we all have to keep the peace and the welfare of the Nicaraguans.

LEHRER. Are attempts being made now, Mr. President, to form that bridge between you and those opposed to you, within the country?

President SOMOZA. I think so. And since the day of the rebellion, in the past, I've talked my face blue to tell the opposition that we should discuss this. But, apparently, they had this rebellion in hand. They were deadly sure that they would defeat me, so they never wanted to talk with me.

LEHRER. Yes.

The reports we get here in the United States, Mr. President, from the opposition says that they do not want to talk as long as you're the President. Is that what you have been told, as well?

President SOMOZA. That is correct. They are afraid to talk with me, probably because I have been an able negotiator in the past.

LEHRER. The United States has officially urged you to agree to mediation. Is that correct?

President SOMOZA. They have told me that it would be a good idea to have a ceasefire in order to let the people leave the communities. I have heard them, and we've been contemplating that. It takes a little time for us to make up our mind.

LEHRER. Let me make sure I understand. The United States has asked for a cease—asked for a ceasefire—is that right?—and then mediation; and you are contemplating the ceasefire aspect. Is that correct?

President SOMOZA. Yes. I have not been told in writing anything of what you said. It's been verbally suggested that there be a ceasefire to give the people a chance to get out of affected areas. And I have said I've listened to them and I'm going to answer them.

LEHRER. And this information was transmitted to you verbally by an official of the United States Government?

President SOMOZA. Yes, by the Ambassador.

LEHRER. I see.

MACNEIL. Mr. President, does the fact that you are, as you put it, doing a mopping-up operation in Esteli mean that you've decided to complete removing the guerrillas, or the rebels, from the cities before you contemplate a ceasefire?

President SOMOZA. No. It was a situation that we were already in the stage of removing them when we were asked to contemplate a ceasefire, which would put my people in a disadvantage.

MACNEIL. I see. So, in other words, you will complete the removing of the rebels before you contemplate a ceasefire. Is that it?

President SOMOZA. There wouldn't be any ceasefire necessary.

MACNEIL. There would be a de facto ceasefire.

President SOMOZA. That's right.

MACNEIL. Do you feel abandoned by the United States now, Mr. President? They used . . .

President SOMOZA. No.

MACNEIL. No?

President SOMOZA. No, I don't. On the contrary. The United States has always been a country that has looked for the good auspices of the Nicaraguans, whether they are Somozistas or not. However, the Administration has taken different attitudes, which people take as being adverse to my government. It might be. But I also have a lot of friends in the United States, within and outside of the Administration.

MACNEIL. You were quoted in an American newspaper interview recently as saying that U.S., recent U.S. policy had triggered the current wave of violence. How did you mean that?

President SOMOZA. I have stated time and time ago [sic] that the human-rights policy of this Administration has given the opposition in many countries the idea that they can overthrow the governments by force. And the Nicaraguans, very sorry for me to say, were elated by this policy, and they took on to make public demonstrations in the street, provoke the authority, and finally deliver an armed attack against my government, things that have been very difficult for me because we've been at this for months, with a great deal of temperance and a great deal of patience.

MACNEIL. Does that mean you hold Presi-

dent Carter responsible for your present troubles?

President SOMOZA. Not entirely, and I wouldn't even hold him responsible. We're all responsible people in this. We have opposition. We recognize that.

But since the Nicaraguans have been so close to the United States, it means a great deal, of the attitudes of the Administration. Let's not get away from that. All of the Nicaraguans—the great majority are friends of the United States.

MACNEIL. I see.

Where are you getting arms and military assistance from, now, Mr. President, that American military aid has been cut off?

President SOMOZA. The United States' supplying of arms was not really supplying any arms for us. They were credits given for us to buy armaments in the United States. So, since President Carter took office, the export of arms was cut off to Nicaragua. So, since then, we have purchased our arms in the worldwide market.

MACNEIL. Who are your principal suppliers?

President SOMOZA. I'd rather not say.

MACNEIL. I see.

There are also reports that some American citizens have been recruited to support your National Guard effort. Is that correct?

President SOMOZA. Partially. We have three people who were teaching karate to our recruits, and that's all we have as recruited people. We have not recruited any other people.

MACNEIL. I see. Thank you.

LEHRER. Mr. President, news reports say that the fighting has slowly but surely destroyed many of the towns, villages, and cities of your country. How extensive is the damage?

President SOMOZA. Let me explain. In the city of Masaya, Leon, Chinandega, and Esteli, the insurgents closed into the police precincts, took some of them over, and finally came to the headquarters of the police. Then they held these headquarters at bay for one, two, three, four, five days and up to now. During that time, the insurgents decided to burn the establishment of the poor people in the market. And after that, they called the people to loot it. So, in the process of burning the markets or those places and looting the merchants' place, they have caused a tremendous amount of destruction, a destruction that I think you are aware of if you take, as an example, the Stuyvesant area of New York and the Bronx after the blackout. You didn't fire one shell, and the destruction was there. I remember seeing the photographs. Something similar like that.

In order for us to establish order into the city, we've had to fire into the barricades to open up the barricade and also to neutralize individual snipers. We have not caused the destruction that you would see in a World War II bombing, because we don't have that many bombs and the towns have not been subject to, perhaps, 50 or 60 shots from small, 37-millimeter cannons.

But the destruction was done by the fact that these people burned the marketplace and then looted and burnt the small merchant's places around the marketplace.

LEHRER. One of the news, American news magazines came out today and suggested that in the process of controlling the insurgency, that the country is on the verge of being destroyed; and when it's all over, you may have very little to govern.

Is there any possibility of that? Is the damage that extensive?

President SOMOZA. Absolutely not. The damage is only limited to the places where the small merchants sell their fruits and the small merchants sell wares. The rest of the infrastructure of the country is in complete sustainment.

LEHRER. There have also been reports, Mr. President, including some eyewitness accounts by U.S. reporters, of government troops killing innocent civilians. The Catholic Church issued a statement saying that there had been indiscriminate machinegunning of civilians. There also have been charges of the National Guard rounding up teenagers by indiscriminate means.

Have you—are these charges true? Are you investigating them? Or what is your feeling about them?

President SOMOZA. In any civil strife, in any country, when the lines are not drawn and you have to go after insurgents, some people get hurt without cause.

As far as recruiting, we don't recruit anybody in Nicaragua, because there's no draft here. The National Guard is composed of voluntary service. So that is a lie.

LEHRER. Well, I mis—I spoke incorrectly. I didn't mean to imply that. That they were rounding up teenagers, thinking that they might be insurgents, not that they were rounding them up to put them in the National Guard. I'm sorry. I didn't mean that.

President SOMOZA. Yeah. But, no, we haven't done that. We don't have a massive-arrest policy.

LEHRER. Are you satisfied that your troops are conducting themselves properly, under the circumstances?

President SOMOZA. Yes.

MACNEIL. Mr. President, you've repeatedly accused your opposition of being Marxist- or Communist-inspired. I wonder how you maintain that when so many leaders of the Roman Catholic Church and business leaders in Nicaragua and wealthy Nicaraguan families now demand your resignation and have joined forces with the opposition, at least in spirit.

President SOMOZA. I would qualify them as democratic opposition.

MACNEIL. And to what extent do you still maintain that the people fighting you are Communist-inspired?

President SOMOZA. To the extent of the organization that they have. You see, the right and the left have made an alliance here; and the left is the one that has the organization and the guts to fight.

MACNEIL. Does that not send you a message, that the right and left have combined against you?

President SOMOZA. Surely. So we do have a Liberal Party who has a right and a left, too.

MACNEIL. I saw the Secretary of the National Institute of Development in Nicaragua, Mr. Bayez (?), quoted as saying that you, President Somoza, yourself foment Communism by merely remaining in power.

What is your comment on that?

President SOMOZA. I think that's a pretty good cliche for a young man like him to say that. If he knew how much I and my administration have done to upraise the standard of living of the poor Nicaraguans, he certainly would retract.

MACNEIL. Other people have wondered whether the longer you remain in power, in the face of this seeming increasing opposition, the more likely any successor to you will be—would have to be very radical. In other words, the longer you stay, the more radical the successor.

What is your comment on that? Along the Cuban model, in other words.

President SOMOZA. Well, there are two possibilities in Nicaragua. One is that I hand over the government to a duly elected man, whether he be pro-Somoza or against Somoza, on the basis of my democratic ideals. And the other one would be if I chickened out and ran out and left a power vacuum in the face of an opposition that has no leadership, it has no organization, and certainly has no control over its forces. For if I were the leader of this coup and I had control of the forces, I would certainly have told my people to start fighting because this is a lost cause. On the contrary. They have left these people fight without any instructions or without any guidance from the leadership of the opposition.

Now, can you imagine a country left without any leadership, in the hands of an army without a leader? It will be chaos.

I have a moral responsibility to all the people who follow me, and even the people who adverse me. That is why I'm sticking around here until we can devise an election and hand over the power to the man who wins.

MACNEIL. If that could be devised before 1981, would you agree to it?

President SOMOZA. If you can find a way to reform the constitution without violating it, I would.

MACNEIL. All right. Thank you, Sir.

LEHRER. How are you holding up personally through all of this, Mr. President?

President SOMOZA. I would say that I've been very preoccupied. I've had a lot of worries and sleepless nights. But, thank goodness to the program that I have had after my heart attack, I feel very well.

LEHRER. I understand that you spend most of your time in a well-guarded headquarters building within the National Guard compound. Is that correct?

President SOMOZA. If you want to call the presidential office the well-guarded headquarters, yes.

LEHRER. I see. I see.

Do you feel free to move around within the country now, or you've just got a lot to do right there in your office?

President SOMOZA. As a matter of fact, two days ago I went out to the airport to take a look at all of Nicaragua by air. I made an air inspection of Leon, Chinandega, and Estell. I came back. I've gone around the city. I have no inhibitions to go outside of my office.

LEHRER. Looking back to 11 years ago, when you became President, General Somoza, what were your hopes and goals then for your country? What did you want to accomplish? And what do you feel—where do you feel you are now, 11 years later?

President SOMOZA. What I wanted to accomplish was to raise the standard of living of the small people in Nicaragua. I have done partly that, and I have left the institutional organizations of Nicaragua for these people to obtain their better standard of living. I have made political progress by making laws which give the opposition parties the right to political defention [sic], because we had a very powerful Liberal Party that was like a steamroller. And Nicaragua needs political defention against this powerful party because we need the opposition to be defended.

I am now running this country because of the earthquake. I had no idea to run in 1974, but there was no one capable—or no one out in the forefront with enough popular backing to run in 1974, so I ran again.

LEHRER. All right. I have to leave it there.

Thank you, Mr. President.

MACNEIL. Thank you very much, Mr. President.

APPENDIX E

INVASIONS AND ACTS OF MURDER AND TERRORISM BY FSLN

With the coming to power in 1959 of the Castro regime in Cuba, Nicaragua has been subjected to a continuous campaign of subversion by Cuban-trained and sponsored terrorists.

The training in guerrilla warfare, weapons and subversion, financial support and sanctuary given these terrorists by Castro Cuba was revealed in the testimonies of the Frente Sandinista de Liberacion Nacional (FSLN) terrorists at their open trial which ended on February 25, 1977.

Following is a chronology of earlier invasion attempts, a partial listing of acts of terrorism which resulted in the murder of innocent citizens and others.

These crimes were confessed to by the terrorists and described by self-confessed murderer and terrorist, Tomas Borge Martinez, as "acts of war" and "acts of economic recovery."

MAY 1959

The invasion of Olama y Mollejones takes place led by Dr. Pedro Joaquin Chamorro, following a visit to Cuba to seek the support of Fidel Castro. Despite his direct involvement in this invasion attempt and in subsequent subversion and illegal political acts against the constitutional governments of Nicaragua, Dr. Chamorro continues today to enjoy all the rights and freedoms accorded every citizen under existing laws.

JUNE 24, 1959

"El Grupo del Chaparral" made up of Cubans and Nicaraguans invade the country, suffering 7 dead and 17 wounded. The remaining 27 give themselves up to the Honduran authorities.

OCTOBER 20, 1959

Mr. Jack Kishner, American citizen, is kidnapped by the "El Chaparral" group in Susucayan, Department of Segovia. The group is made up of Cuban mercenaries and other nationalities, led by Julio Alonso Leclair.

In a confrontation with the Nicaraguan Guardia Nacional, Gregorio Iglesias (Cuban) and another individual only known as "El Mejicano" (the Mexican) are killed. Also killed are Salvador Castro (Salvadorean) and Jose Santos Rodriguez (Honduran). Cuban Lorenzo Puncet Vincet is wounded but escapes. Three other Cubans, Ricardo Mendoza Bello, Sergio Martinez Montepiere and Alberto Blanco Gomariz, the latter a captain in Fidel Castro's armed forces, are captured. Cuban Omar Fernandez is also known to have participated in the action.

DECEMBER 1959

A subversive group under the leadership of Indalecio Pastora is trained and prepared for the invasion of Nicaragua from Costa Rican territory. The group operates out of three camps located at Orosi, Rio Colon and La Mecha. The plan is sponsored by Enrique Lacayo Farfan and the reknown communist Edelberto Torres. The group is broken up by the Costa Rican National Guard.

JANUARY 1960

The "Juventud Patriotica Nicaraguense" is created forerunner of the Frente Nacional de Liberacion Nacional (FSLN), under the sponsorship of Quintin Pino Machado, Cuban Ambassador to Nicaragua, Pino Machado is subsequently declared persona non grata and recalled to Havana.

JANUARY 4, 1960

A group under the leadership of Heriberto Reyes, former lieutenant of rebel Augusto Sandino, enters Nicaragua from Honduras. The foray fails and the Nicaraguan Guardia Nacional captures Carlos Castro Desayes and Julio Peralta Sanabria out of the fourteen terrorists taking part, among who are Cubans and Venezuelans. In their flight, the terrorists kill two farmers, brothers, and Sr. José Rafael Quinones.

1960

The "Frente Unitario Nicaraguense" is founded in Venezuela with military materiel and economic help from Cuba. Training includes the use of arms, explosives and guerrilla warfare tactics.

FEBRUARY 25, 1960

A group of mercenaries led by Alejandro Martinez Saenz entered Nicaragua at El Rosario, region of El Dorado in the north of the country. Forced to flee to Honduras they return to Cuba.

FEBRUARY 5, 1960

Another group under the leadership of Julio Alonso Leclair invades Nicaragua and are killed in action by the Nicaraguan Guardia Nacional.

SEPTEMBER 23, 1960

Banco Nacional de Nicaragua, Oriental bank branch. (Hold-up)

Participating: Jacinto Baca Jerez, Lenin Cerda, Regis Mairena Toruño or René Madariaga.

JUNE 1961

"Nueva Nicaragua" is formed by Carlos Fonseca Amador, German Gaitan Mora and Julio Jerez Suarez which unites all the Socialist organizations in Nicaragua. The new organization sets up and operates through cells in every Department in the country and also opens two training schools for subversion, one in Esteli and the other in "Casa Colorada" in the Department of Managua.

The general plan for "Nueva Nicaragua" has been prepared in Cuba by F.U.N. (Frente Unitario Nicaraguense). Tomás Borge Martinez, Noel Guerrero Santiago, Silvio Mayorga Delgado and Carlos Fonseca Amador are founding members.

Acting as instructors are Denis Barquero Fernandez, Luis Fisher Perez, Modesto Duarte, Rolando Rosales, José Francisco Escorcia Urbina, Bayardo Altamirano and others, all of whom have undergone training in guerrilla warfare and Marxism-Leninism in Cuba for a period of 15 months, at La Cabana (Fifth District) in Havana.

APRIL 13, 1962

Carlos Fonseca Amador travels to Costa Rica (March 1962) to meet with members of F.U.N. (Frente Unificado Nicaraguense) to organize armed operations against border towns. On April 17, the invasion takes place, fails and sixteen members of the invading force are captured.

1963

Honduras is selected by Fidel Castro and "Che" Guevara as the beach-head for the operations of a new group known as Frente de Liberacion Nacional (F.L.N.). This group operated in Honduras for two years.

Later this group reorganizes and becomes the Frente Sandinista de Liberacion Nacional (FSLN) and from 1963 to 1970, its members are sent to Cuba for military training and political indoctrination.

Commencing in 1960, the FSLN carry out a series of killings, bank hold-ups, kidnappings and extortions for profit:

MARCH 20, 1963

Radio Mundial (Hold-up)

Participating: Leopoldo Rivas Alfaro, Alejandro Gutierrez Mayorga, Igor Ubeda Herrera and others.

MAY 31, 1963

Banco de America—El Carmen bank branch. (Hold-up) C$50,000.00

Participating: Sergio Narvaez Guerrero, Augusto Tercero Mora, Jose A. Mora Rivera, Guillermo Mejia Cardenal, Edmundo Narvaez Sanchez, Sergio Gardia Baldelomar, Ernesto Guerrero Montoya and others.

JANUARY 13, 1964

Banco de America—Diriamba bank branch. (Hold-up) C$60,000.00

Participating: José Santos Jarquin Flores, Francisco Rodriguez and others.

SEPTEMBER 24, 1966

Supermarket "La Criolla". (Hold-up)

JANUARY 20, 1967

Banco de America—San Sebastian bank branch. (Hold-up)

MARCH 10, 1967

Sorbeteria Lacmiel—business establishment. (Hold-up)

MAY 19, 1967

Banco Nicaraguense armored truck hold-up outside Fabrica Eskimo (business establishment). Driver Jose Antonio Espinoza Gonzalez is killed.

JUNE 21, 1967

Banco de Londres—Kennedy bank branch. (Hold-up) C$275,000.00

AUGUST 6, 1967

Lecheria "La Perfecta" (business establishment).

Attempted hold-up is impeded. Two guards employed by the business are seriously wounded and terrorist Selin Chibles Sandoval is killed.

OCTOBER 23, 1967

Sergeant Gonzalo Lacayo Murillo. (Murdered outside his home).

Participating: terrorist Jose Benito Escobar and others.

SEPTEMBER 18, 1968

Banco de America—Buenos Aires bank branch. (Hold-up) C$73,000.00

Policeman Pablo Ochoa Polanco is killed.

MAY 22, 1969

Banco de America—Centroamerica bank branch. (Hold-up)

NOVEMBER 4, 1969

Banco Nicaraguense—Leon bank branch. (Hold-up) C$66,000.00.

DECEMBER 17, 1969

Licorera Santa Cecilia—business establishment (hold-up).

JANUARY 9, 1970

Banco Nacional de Nicaragua—Boer bank branch. (Hold-up)

APRIL 2, 1970

Lieutenant Ernesto Abaunza Wilthford—City of Leon. (Murdered)

MAY 13, 1970

Banco Nacional de Nicaragua—La Palmera bank branch. (Attempted hold-up) Policeman Francisco Chavez Trana, wounded. Participating: terrorist Igor Ubeda Herrera is killed.

AUGUST 4, 1970

Alfredo Pellas Chamorro—Business leader and conservative (opposition party). (Attempted kidnapping)

DECEMBER 19, 1972

Neptune Gold Company—U.S. business establishment. (Attempted hold-up)

JUNE 22, 1973

Bananera El Hular—business establishment, Chinandega (Hold-up) Policeman Abelino Maldonado and executive Ing. Carlos Vigil Zeledon were killed.

FEBRUARY 2, 1974

Dr. Gustavo Blandon and wife—town of Jinotega. (Kidnapping and hold-up)

DECEMBER 18, 1974

Banco Nacional de Nicaragua—Hacienda La Sorpresa bank branch—Jinotega (Hold-up) C$41,972.00.

DECEMBER 27, 1974

Dr. Jose Maria Castillo Quant—private residence, Managua. (Murder, kidnapping, robbery and extortion and damage to private property).

Murdered: Dr. José Maria Castillo Quant, Mr. Lazaro Muñiz Tapia and policeman Rolando Espinoza Garcia.

Forty-one hostages, including women and children are taken. Following over 60 hours of negotiations, the 13-man terrorist group gain the release of 14 fellow terrorists from prison, a one million dollar ransom and a plane to fly them to sanctuary in Cuba.

JULY 1975

Commissary at Kuskawas (hold-up).

AUGUST 1975

Commissary at Yaosca, below Sergio Suarez (hold-up).

AUGUST 1975

Commissary at Yaosca, above Cesar Molinares (hold-up).

AUGUST 8, 1975

Radio Corporación—Managua (temporary take-over of radio station). Participating: Tomás Borge Martinez, Edgard Lang Sacasa and Charlot Baltodano.

APPENDIX F

[From the Richmond Times-Dispatch, Sept. 19, 1978]

ON THE REVOLUTIONARY LEFT, A DIFFERENT KIND OF CORRUPTION

(By Patrick J. Buchanan)

WASHINGTON.—As with Chiang Kaishek, President Diem, President Thieu and Lon Nol, the skids are being greased under President Anastasio Somoza of Nicaragua. He will likely become the next of this nation's friends to learn what it means to fall into terminal disfavor with the left.

The moral ground upon which we will stand to justify our desertion is all too familiar: Like all the rest, Somoza's regime is irredeemably "dictatorial and corrupt." Few even raise the question of whether the people of Nicaragua will be better off under the Somozas or under the Sandinista guerrillas who will likely replace them.

Using the same argument, we have deserted one friend after another in 35 years of cold war. The inevitable consequence: A flawed ring-wing authoritarian government is supplanted by a revolutionary regime that steals not a man's purse, but his freedom and his life.

We dumped Chiang and got the roots of madness of Mao's China. We dumped Diem and deserted Thieu, and South Vietnam is now a vast provincial prison camp of Hanoi. Three years after deploring the "corrupt Lon Nol regime" in Cambodia, Sen. George McGovern agonizes publicly over the genocide which the peace movement did so much to bring about, and which it does so little to protest.

This is what one finds so olfactory about the American left. Again and again and again, it beats the drums for formal abandonment of some right-wing dictator and then washes its hands of moral responsibility for the rivers of blood that flow directly from the policies it recommended we pursue.

No wonder the far right, watching one friend after another overthrown and a communist dictatorship rise from the ashes, has come to reject the claim of invincible ignorance—for the charge of conscious conspiracy.

How refute the accusation? How explain why journalists and politicians supposedly sickened over the repressions of Diem and Thieu can be photographed smiling in the presence of Fidel Castro?

The corruption of the authoritarian right is often the corruption of nepotism and graft—corruptions not unknown in the great cities of this country, or even in Congress. But the corruption of communism is of a different magnitude. It is a corruption of the spirit that comes of treating other human beings as objects, chattel.

Remember how we read daily of the censorship of the press in Saigon, the repression of the Buddhists, the corruption of the generals, the "tiger cages." How little we read or hear now of the economic desolation, the eradication of religious, political and press freedom, the nationwide system of concentration camps that pockmark the new Vietnam.

This is no special brief for President Somoza. But his regime's record on human rights is surely superior to that of Fidel Castro. And Nicaragua is not 18th-century New England. There is validity in the observation that bananas and self-government cannot be grown on the same piece of ground.

And for all their faults, the Somozas have been friends of the United States. They did not allow their country to be used for the installation of strategic missiles targeted against American cities. When Kennedy and Eisenhower, in turn, sought secret bases for staging assaults on communist Guatemala and communist Cuba, the Somozas, at risk to themselves, provided those bases.

All the excesses of Nicaragua's national guard are held up to daily inspection by our national press. Yet, the terrorist seizure of the national assembly, the threat to execute in cold blood its captured members are portrayed as bold and daring in the same journals.

Imagine the outrage had Somoza lined up his communist captives and threatened to shoot 10 a day until the Sandinistas turned in their weapons.

The sins of the right are never to be forgiven or forgotten. The atrocities of the left, however, are all washed away in the redeeming blood of the "revolution."

APPENDIX G

CASTRO'S EFFORTS TO DESTABILIZE NICARAGUA

Nicaraguan President Anastasio Somoza is clearly in trouble. Business, church and labor groups have joined in a general strike to oust him from office, while rebel youths have been battling government forces in Matagalpa Province. Hundreds of persons—including members of the military—have been arrested by the government and dozens have died in armed clashes with Somoza's troops.

Somoza may be on his last legs—his family has ruled this Central American country for more than 40 years—but if he topples, the main credit should go to Fidel Castro and his Marxist allies in Nicaragua.

What directly triggered the latest unrest was the August 22 assault on the National Palace by 25 guerrillas of the Sandinist National Liberation Front (FSLN), who held hostage members of the Nicaraguan legislature for 48 hours. After the guerrillas threatened to murder their captives one by one, at half-hour intervals, the government accepted, in modified form, the major demands of the revolutionaries. In exchange for the release of the hostages, Somoza let loose 53 members of the guerrilla movement he had previously imprisoned, paid the invaders $500,000 (they had asked for $10 million) and then allowed his foes safe passage to Panama.

The rebels had planned their attack over a six-month period. Mainly armed with German G-3 submachine guns, they struck at the very time they knew the Chamber of Deputies would be in session to approve a new loan from the United States. As a focal point of opposition to Somoza, the Sandinistas have touched a responsive chord among many Nicaraguans. But the gang who raided the Palace has no intention of expanding democracy and broadening justice, as many Somoza enemies are demanding. Make no mistake: the Sandinistas are Marxist revolutionaries whose favorite politician is Fidel Castro. This revolutionary terrorist outfit would eradicate virtually all forms of democratic dissent.

Whatever Somoza's failings, he allows fierce opposition—including a major opposition party (the Conservatives) and a vigorous anti-Somoza daily, La Prensa, published in Managua, the capital. But the Sandinistas have made it clear that they would crush anyone opposed to their way of thinking.

Indeed, a "communiqué" issued by the Sandinistas after they had seized the Palace laid down the line that business—should it join the battle against Somoza—would be forbidden to impose conditions for his departure and that "all maneuvers to dialogue with Somoza or his representatives" over his leaving would be treated as a crime of "high treason." Somoza's resignation cannot be negotiated, said the communiqué, because he shall be "condemned to die. . . ." In short, the Sandinistas threaten to execute those who may feel compromise with Somoza is on order.

The Marxist nature of these revolutionaries is beyond dispute. On August 29 at the Hay Adams Hotel in Washington, Human Events interviewed the guerrillas' chief hostage, Luis Pallais, who was instructed to relay the various demands of the insurgents to President Somoza.

Vice President of the Chamber of Deputies, editor of the newspaper, Novedades, and a first cousin to the President, Pallais was still showing signs of a slight scalp burn he had received from a grazing bullet when the guerrillas had burst into the Palace with guns blazing. Pallais was presiding over the Chamber of Deputies at the moment they began their assault. "I am convinced," he told us, "that they are complete Marxist fanatics." All the leaders, he said, spoke glowingly about Fidel Castro.

The guerrilla leaders were ranked according to their number, with the lowest number indicating the highest rank. Thus the head of the operation was "Commander Zero," while the second in command was "No. 1," the third "No. 2" and so forth. Commander Zero (Eden Pastora) admitted in talks with Pallais that he favored Marxism and that his main goal was to take over the Army.

No. 1 (Hugo Torrez) also informed Pallais: "Our goal is to eliminate the Nicaraguan Army and supplant it with the Army of the People of the Sandinista." No. 2 (Dora Maria Tellez Arguello), a 22-year-old woman who had a long discussion with Pallais about ideology, said the guerrillas don't care about elections or political parties but that their chief aim is to control the military. When Pallais asked why, she said that the guerrillas had learned from "the experience in Chile." Chile's Marxist President Salvador Allende, she maintained, had everything but the army, and was ousted because he couldn't control it.

Why asked Pallais, won't you submit to the elections, which are scheduled for 1980? "She said 'never' to that," he told us. The extreme leftist character of the revolutionaries is not only the assertion of Pallais, a member of Somoza's Liberal party. Reporter Ted Szulc, who interviewed the guerrillas after they flew to Panama, came to the same conclusion.

Said Szulc in his report to the Washington Post: "If they come to power, they said, they would establish a revolutionary state . . . that would expropriate all Somoza property, nationalize natural resources and implant social justice along with the establishment of a 'popular and Democratic army.'

"The guerrillas left no doubt about their admiration for the Cuban revolution, whose influence is powerful within the movement, and their bitterness toward the United States for its long-standing backing of Gen. Somoza. . . ."

The Cuban connection is overpowering. No. 1 (Hugo Torrez), who helped lead the raid on the National Palace, had previously been in Cuba, according to Pallais. Of the 59 members of the guerrilla movement Somoza released, 22 went directly to Cuba from Panama.

One of the prisoners, Tomas Borge Martinez, has emerged, in the words of Szulc (who interviewed him), "as the political and ideological leader" of the FSLN. Borge's Cuban links are also well established. During his 1977 trial in Nicaragua, Borge, who admitted to his membership in the FSLN and his role in the terrorist campaign against Nicaragua, said he had spent several months in Cuba in 1960 receiving military training at the hands of the Cuban army. In 1967, he returned to Cuba with more than 15 terrorists for additional military training. "This group," said Borge, "received the standard guerrilla course and certain special courses in communications, military sanitation, explosives and training in arms such as bazookas. . . ." Borge also said that the FSLN had received help from the Communist parties in Colombia and Peru.

When the rebels seized the Palace, they

indicated the blow was being struck on behalf of the late FSLN founder, Carlos Fonseca Amador. On finishing his secondary studies in Nicaragua, Fonseca traveled to Eastern Europe and enrolled in Patrice Lumumba University—Moscow's terrorist training school. Arrested in 1964 for subversive activities, he spent considerable time in Cuba organizing FSLN activities, according to the Nicaraguans.

Interestingly enough, the August 22 capture of the Palace wasn't the first time the FSLN had engaged in a sucessful effort to shake down the Somoza government in exchange for hostages.

Eduardo Contreras Escobar, for instance, was a leader of a 13-man assault group on the residence of Dr. Jose Maria Castillo Quant in Managua on Dec. 27, 1974. Following the attack, Contreras and his fellow Sandinistas took 41 hostages attending a party there, including some top Nicaraguan officials.

After negotiations were opened to save the lives of the hostages, the Nicaraguan government gave the terrorists $1 million in U.S. money, released 14 imprisoned terrorists and then provided them all with a plane to leave the country. They all made a bee-line for Cuba. Once there, the terrorists were interviewed by Radio Havana, where Contreras was introduced as the man who "one day would impose a Communist regime in Nicaragua." (Unfortunately for Contreras, he was later killed by the Nicaraguan National Guard.)

Even the U.S. State Department backs the claim that Cuban support has been the key reason for the longevity and vibrancy of the FSLN. In a letter dated April 19, 1977, Michel› M. Bova, director, Central American Affairs, for the department, sent a memorandum-on the FSLN to then Rep. E. Koch (D-N.Y.), now Gotham's mayor. The memo pointed out that the FLN, the forerunner of the FSLN, was actually born in Havana. As the memo states in part:

The National Liberation Front (FLN) "was founded in Havana in September 1962 by a group of leftist extremists who had been active for some years in revolutionary causes in Nicaragua. Carlos Fonseca Amador, perhaps their most significant leader, was a proponent of Marxist-Leninist theory who had closely followed the Castro revolution in Cuba and whose attachment to the Cuban revolutionary model strongly influenced the FLN's early strategy and tactics. (Fonseca was killed in a shootout with the Nicaraguan National Guard in November 1976.)

"The FLN's primary objectives, declared in 1963, were:

"To fight against the economic exploitation and political domination of the United States;

"To fight against the Somoza regime;

"To institute agrarian reforms; and

"To seize power in Nicaragua and establish a government of national liberation.

"The FLN believed that the only effective means to achieve these goals were through warfare and terrorism.

"By 1964, the FLN had added the name of Sandino to its title, in honor of Gen. Augusto Sandino, the Nicaraguan guerrilla leader who had battled U.S. Marines in Nicaragua from 1923 until shortly before his death. . . .

"The FSLN's support appears to have come largely, but not solely, from within Nicaragua, and the FSLN itself has attempted to forge links with anti-Somoza elements of various political persuasions. It has benefited from the collaboration of front organizations among leftist student groups and while there has been some contact between the FSLN and the Nicaraguan Socialist party (PSN), there does not appear to have been close cooperation between them.

"External support has also come from Nicaraguans living abroad, but probably the most important source of external support has been Cuba. Cuban support appears to have been greatest during the early 1960s, when the Castro regime provided the FSLN with:

"Guerrilla warfare training in Cuba;

"Money for the purchase of arms, munitions, food and clothing; and

"Payment for propaganda material.

changes in Cuban policy and partly because

"By the early 1970s, partly as a result of changes in Cuban policy and partly because the FSLN had not been able to consolidate its position, Cuban support diminished. Nevertheless, the Cubans continued to provide a safe haven for FSLN members, some training for recruits, and contacts for the FSLN with extremist groups in Latin America and elsewhere. Perhaps not least among Cuba's contributions was the psychological boost to FSLN morale.

"That some revolutionary guerrilla organization or organizations akin to the FSLN would have existed in Nicaragua during this period, even without Cuban support, seems certain. Such groups had operated in the late 1950s, and, periodically, throughout Nicaraguan history. Whether they would have remained as active, long-lived or determined as the FSLN over its 15-year history without Cuba's material and moral support is doubtful."

APPENDIX H

[NANA, September 8, 1978]

SAY IT STRAIGHT! NICARAGUA NOT AS BAD AS SANDINISTAS WOULD MAKE IT

(By Victor Lasky)

WASHINGTON.—Sitting next to Luis Pallais at dinner the other night, it was difficult to imagine that this soft-spoken Nicaraguan was one of those chosen for execution by the Marxist guerrillas who had seized control of his country's Congress late in August.

Pallais, 48, vice chairman of the Chamber of Deputies and a cousin of President Anastasio Somoza Debayle, was one of 2,000 hostages captured by the so-called Sandinistas who, disguised as national guardsmen and armed with Soviet-bloc weapons, invaded the National Palace.

It was a successful attack, one that forced President Somoza to capitulate to the guerrillas. The price he paid for the release of hundreds of hostages was the release of numerous imprisoned terrorists and a sum believed to be $500,000. The Sandinistas had originally demanded $10 million.

According to Pallais, whose life was spared in the bargain, Somoza had no alternative but to make the deal. Otherwise, dozens of hostages would have been executed. Had only a handful of people been taken, himself included, Pallais thinks Somoza would not have negotiated.

"Anyway, I'm glad to be alive," said Pallais, a leading editor and publisher in the capital city of Managua.

Pallais was in Washington to "straighten out" misconceptions over what actually is taking place in his homeland. He believes leftist propagandists have given the American people a distorted picture of Nicaragua as a "police state ruled over by a tyrant."

His cousin Somoza, he insists, is no such thing. Pallais points out that Somoza, whose family has ruled the Central American nation with U.S. support for 50 years, has promised to retire after new elections are held in 1980.

Also, and there can be little argument about it, Nicaragua is far more democratic than many other third-world nations ruled by "presidents for life." There is comparatively free press; there is an opposition represented in the legislature; and the police trappings are far less in evidence than elsewhere in Latin America.

Even President Carter, who bitterly opposes transgressions on human rights, was moved recently to send a letter to Somoza, praising the Nicaraguan leader for his continuing efforts to democratize his country.

Which is not to say that full freedoms have been achieved there. Far from it. But, as Pallais insists, "Ours is the Latin American version of democracy, one that needs advancement every day."

The alternative, he says, is communism.

"Make no mistake about it," he told me. "The Sandinistas do not intend to bring freedom to Nicaragua. They themselves told me, as they held a gun to my head, that they will institute a one-party, Marxist regime when they come to power."

In terms of U.S. interests, that would truly be a disaster. For all of Central America, the unstable regimes in neighboring El Salvador, Honduras and Guatemala, would inevitably be vulnerable to a communist thrust from Nicaragua.

The Sandinistas, named after Auguso Sandino, who was killed in 1934 after fighting against U.S. occupation, are closely allied with Fidel Castro. But not so well known is the fact that they are also connected with the Palestine Liberation Organization.

In a joint communique, broadcast by Radio Havana early this year, the Sandinistas and the PLO attacked the "racist state of Israel" for its reported military sales to anticommunist Latin American countries.

The communique pledge the destruction of the Jewish state.

APPENDIX I

[From Human Events, Apr. 22, 1978]

NICARAGUA AN EXAMPLE—WHY MUST U.S. MAKE ENEMIES OF ITS FRIENDS?

(By M. Stanton Evans)

It was Dr. Walter Judd, I think, who coined the phrase about making enemies of our friends by trying to make friends out of our enemies.

Whatever its origin, that phrase is an apt description of current U.S. policy in Latin America. The Carter Administration has been trying hard in recent months to give the Panama Canal to Omar Torrijos and to "normalize" relations with the Cuba of Fidel Castro. All of this despite the fact that both these governments are in the Marxist camp, antagonistic to the United States.

Latin regimes that are anti-Communist, however, receive an entirely different sort of treatment. Chile is the obvious example, but Argentina, Brazil and most recently Nicaragua provide additional instances. These nations are generally anti-Communist and pro-American in their posture. Yet despite this—or apparently because of it—they are constant targets of abuse in the United States.

Consider the case of Nicaragua. This is the largest of the Central American states in terms of land area, though its 2.3 million inhabitants make it the least densely populated. It has a strong and growing economy, oriented toward free enterprise. In foreign policy, it has long displayed a pro-American tilt. And on top of all this, it is also the most eligible site for a new canal between the Atlantic and Pacific theaters should anything occur to close the waterway at Panama.

In obedience to the rule described by Dr. Judd, these characteristics have seemingly earned for Nicaragua the undying hatred of elements in the U.S. media and government. A constant campaign has been waged against the current regime by spokesmen in our national press, and repeated moves have been made in Congress to discredit the Nicaraguan

government and cut off the flow of U.S. military and economic aid.

As usually occurs in such campaigns, the attacks are launched in the name of "human rights," and on the pretext that the regime of Anastasio Somoza is a dictatorship. Such assertions stem from the fact that Somoza imposed a state of siege in 1974 to crack down on the Castroite terrorists who have killed more than 100 people in recent years. This state of siege was lifted in September, and by the assessment of even the most hostile observers the range of civil liberties in Nicaragua compares quite favorably with other places in Latin America.

One need only note in this respect that President Somoza was elected to his post—which cannot be said of Castro or Torrijos, both of whom are military dictators. Nicaragua has regular elections, and while the opposition party has not been very successful or effective, at least there is an opposition party. There is also vigorous dissent from Somoza's policies in the press, the church, and elsewhere in the political process—which, indeed, is a major source of his present troubles.

These and other facets of the current debate are examined in a recent study called *Nicaragua—An Ally Under Siege*, published by the Council on American Affairs.

Among the subjects covered in this volume are the political and economic history of Nicaragua, the background on the recent campaign of terror, and the state of civil liberties under Somoza. Editor Belden Bell provides some useful data about the so-called Sandinist National Liberation Front, which is the focus of armed rebellion against Somoza's government.

". . . the guerrilla organization," Bell observes, "sent cadres to Cuba throughout the 1963-70 period. Castro's main contribution to the FSLN at that time was guerrilla warfare training, money for buying arms, munitions, food and clothing, and payments for propaganda materials.

"By the 1970s, Cuban support became limited to providing a safe haven for FSLN terrorists, some training, and providing contact with other terrorist groups in Latin America and elsewhere. Daily Radio Havana broadcasts throughout this period openly confirm over Cuban support and assistance. . . ."

It was an FSLN attack against a reception for the U.S. ambassador in Nicaragua, killing four people and seizing 41 more and holding them for ransom, that prompted the recently lifted state of siege. Yet despite such acts of terror and the attempted crackdown against them, the discussion by Bell, columnist Jeffrey St. John and others suggests that civil liberties have survived far better in Nicaragua than in many other Latin nations such a Panama and Cuba.

After interviews with opposition figures in Panama, Bell concludes that while they are disorganized and not especially strong, and while they have faced official harassments of various kinds, nonetheless "the opposition is vocal, accessible, unafraid to voice its opinions and strong condemnation of the regime which it insists permits no such criticism."

The fact that civil liberties are better protected in Nicaragua than in Panama or Cuba is confirmed not only by the contributors to this study, but also by the nonpartisan researchers of Freedom House. According to this agency, Nicaragua merits a "partially free" rating, while Panama and Cuba are classed "not free."

Yet despite all this the Carter Administration and the national media are clamoring to give the Panama Canal plus other lavish benefits to Torrijos, while heaping obloquy on Nicaragua. How come? Those who seek an answer to that paradox will find it in the rule of thumb discerned for us by Dr. Judd.

APPENDIX J

[From Human Events, Sept. 23, 1978]

IT'S NICARAGUA'S TURN FOR ATTACKS BY U.S. MEDIA

(By Reed Irvine, Chairman, Accuracy In Media, Inc.)

It seems that the major media in the United States have a knack for aiding Communist attacks on governments that are friendly to us. They did it in China in the late 1940s, in Cuba in the 1950s, in Vietnam, Cambodia and Laos in the early 1970s. There is solid evidence that our news media played an important role in the triumph of communism in all of these countries. The pattern was remarkably similar in each case. The pro-American government was pictured as tyrannical and corrupt, unworthy of American support. The opposition was always portrayed as honest, democratic and heroic. Their triumph would usher in a better life for most.

On the eve of the Communist takeover in Cambodia, the New York *Times* ran a big headline over a story from Phnom Penh that read: "Indochina Without Americans: Life Will Be Better for Most." Since then perhaps two million Cambodian lives have been snuffed out, and life is so bad for the survivors that even Sen. George McGovern is upset.

The latest media target is Nicaragua and its president, Anastasio Somoza, who is a graduate of West Point and a long-time friend of the U.S. Nicaragua provided the base for the ill-fated Bay of Pigs invasion of Cuba in 1961. Nicaragua offered troops to help the U.S. in both Korea and Vietnam. It has been a staunch supporter of U.S. positions in the United Nations and international conference. And Nicaragua offers the one feasible site for a trans-isthmus canal outside of Panama.

This has been a big year for the critics of Nicaragua and its president. In January, Pedro Chamorro, publisher of Nicaragua's largest newspaper and an outspoken political opponent of President Somoza, was killed by gunmen. The killers were promptly caught and jailed. They said they had been hired by a Cuban-American who lives in Miami but who runs a blood bank in Nicaragua that had been under attack by Chamorro's paper. This revelation was virtually ignored by the American media, and both the Washington *Post* and the Washington *Star* have recently referred to the killing as "unsolved." The *Post* gratuitously added that while there was no "substantial" evidence that Somoza ordered the killing, "most Nicaraguans seem to feel he was responsible."

Our media regularly refer to Somoza as a "dictator." Time magazine on September 4 called him "Latin America's most notorious strongman," somehow overlooking Fidel Castro, to mention but one of a number of Latin American strongmen who have never stood for election, permit no opposition parties, and don't bother with a legislature.

Nicaragua's legislature came in for a little attention recently when the building in which it was meeting was occupied by two dozen Communist terrorists, who made hostages of the entire Chamber of Deputies and many employes and visitors to the building. The readers might have been surprised to learn that the opposition party holds 40 per cent of the seats in that legislature. That is the minimum that they are guaranteed by the constitution even if they don't win that many seats in the elections. Our own minority party might envy such a generous arrangement. The Republicans hold only a third of the seats in the House of Representatives.

Last January, our big newspapers did not bother to explain how Somoza could be such a tyrant while permitting Pedro Chamorro's newspaper, the largest in the country, to attack him mercilessly and regularly. In August, in reporting the seizure of the Nicaraguan legislature, our media barely mentioned this body, noting only that it was in session. It would have spoiled the picture to have explained that unlike two real dictators, Castro in Cuba and Torrijos in Panama, Somoza actually permits a vigorous opposition party which holds two-fifths of the seats in the legislature.

It would also have spoiled the picture to have pointed out that Somoza heads a strongly organized political party, the Liberals, which has some similarity to the Daley machine in Chicago in its ability to turn out the vote. No competent reporter would have suggested that Daley's grip on Chicago was in doubt when several thousand "New Left" radicals rioted in the city at the time of the 1968 Democratic National Convention. But Americans understand Chicago. All they know about Nicaragua is what the media tell them.

APPENDIX K

[From the Arizona Republic, Sept. 12, 1978]

ANOTHER CUBA?

It's no longer necessary to speculate on what kind of government Nicaragua will have if the Somoza dictatorship collapses.

The Sandanista guerrillas, who startled the world by seizing the National Palace in Managua and holding 1,500 persons there as hostage until their demands were met, make no bones about it.

Their goal is a Communist dictatorship, modeled on Cuba's. And, since they will be the only armed force in Nicaragua if Gen. Anastasio Somoza goes, they will have the power to achieve it.

Tad Szulc, a longtime correspondent in Latin America, recently interviewed the leaders of the Sandanista movement in Panama City, where they were flown after Somoza met their demands, which included the release of 58 imprisoned comrades. Among those he spoke to were Eden Pastora Gomez, better known as "Commander Zero," who led the raid on the palace, and Tomas Borge Martinez, the political and ideological leader of the movement.

In a dispatch to *The Washington Post*, Szulc reported:

If they come to power, they said, they would establish a revolutionary state—'Commander Zero' exclaimed at one point that 'there are only two solutions in Nicaragua: the revolutionary way and the counter-revolutionary way'—that would expropriate all Somoza property, nationalize natural resources, and implant social justice along with the establishment of a 'popular and democratic army.'

"The guerrillas left no doubt about their admiration for the Cuban revolution, whose influence is powerful within the movement, and their bitterness toward the United States for its long-standing backing of Gen. Somoza, whose father was installed in the 1920s with instrumental American support."

A Communist Nicaragua would be far more dangerous to U.S. interests than a Communist Cuba because of its geographical position.

It would quickly infect all Central America. Rebel movements with Sandanista ties already exist in El Savador, Guatemala and Honduras, Costa Rica, the most democratic country in Latin America, has no army, merely a national police force, which would be hard put to cope with a guerrilla force.

If Central America goes Communist, the U.S. can expect trouble in Mexico, where there has long been a good deal of unrest because of mounting unemployment.

It's not a pretty picture.

APPENDIX L

[From the Indianapolis Star, Mar 28, 1978]

NICARAGUA: RED ALERT

A replay of the Cuban scenario of 20 years ago that brought Fidel Castro to power is being lined up for Nicaragua, says a report in National Review.

"The replay is being arranged in Nicaragua with Anastasio Somoza in the role of Batista and the Sandinist Liberation Front taking the part of Castro's forces."

"In fact, they are Castro's forces, having been trained and financed by Cuba," says the magazine's Mexican correspondent.

"It seems plain that the overthrow of Somoza would create a power vacuum into which only the Sandinista troops are ready to rush. Democratic forces in Nicaragua have no armed forces, just as democratic forces in Cuba had none," the correspondent reports.

The Kremlin's interest in events in Nicaragua was expressed in a recent article in Pravda saying that the Union for the Democratic Liberation of Nicaragua, a group of seven political parties—including the Nicaraguan Socialist Party (which is what the communist party calls itself)—and two labor organizations, issued a call for the end of the four-decade-old Somoza family dictatorship.

Nicaragua, which is bounded on the north by Honduras and the south by Costa Rica, has a population of 2.1 million and is the largest of the Central American states.

In communist hands it could become a staging area for further Soviet-Cuban military thrusts aimed first at the conquest of its neighbors and then of other Latin American states including Panama.

It should be remembered that 20 years ago Castro posed as a "democrat" and was portrayed as such while he was undermining the regime of Fulgencio Batista. Castro appointed a non-communist, Dr. Manuel Urrutia Lleo, provisional president. Urrutia soon learned that the communists were plotting treason and he resigned.

Castro quickly turned the government into a full-fledged communist totalitarian dictatorship, ousted moderates, executed hundreds of dissidents and jailed thousands of others. More than 650,000 Cubans, nearly one-fifteenth of the population, went into exile.

Thanks in large part to U.S. fumbling, bungling and policies that could not have been much different if the product of outright treachery, Cuba wound up with a worse dictatorship than that of Batista and moreover one that is hostile to the United States, a constant subverter of hemispheric security and a willful violator of international peace.

It would be one thing for the United States to encourage better government in Nicaragua. But it would be a vicious betrayal of the American people and the national interest to connive at establishing a communist dictatorship there.

APPENDIX M

[From the Phoenix Gazette, May 10, 1978]

NICARAGUA A TARGET OF THE FAR LEFT

(By Allan C. Brownfield)

MANAGUA, NICARAGUA.—In recent days, Nicaragua has been the subject of almost extraordinary attention, particularly in the U.S.

Congressional hearings have dealt with its human rights policies. Newspaper editorials have criticized its president. Lobbying groups have called for an end to all U.S. aid.

This small Central American country, with a population of 2.3 million and a long history of friendly relations with the U.S., has slowly moved into the spotlight in Washington. The obvious question is: Why?

In order to examine this situation, I traveled to Nicaragua, and spoke with both supporters and opponents of the Nicaraguan government. The situation seems far different than the one which has been portrayed.

In how many of the world's "dictatorships," for example, is there a thriving and free opposition press? In how many "dictatorships" is there a flourishing opposition party? In how many brutal societies are individuals prepared to criticize the government—and the president—by name, with little evident fear of retribution?

In Panama, which I visited just prior to arriving in Nicaragua, few individuals were willing to be quoted by name in criticism of General Omar Torrijos, who has been referred to as a "good dictator" by President Carter. Almost every Panamanian who criticized Torrijos asked that his or her name not be used.

In Nicaragua, there was little hesitation to criticize President Somoza, and little fear expressed of any penalties to be inflicted for doing so.

Xavier Chamorro, editor of the opposition newspaper, *La Presna*, and brother of the slain publisher, Pedro Chamorro, said; "The economy is deteriorating very fast. Inflation and poverty are growing. The National Guard is corrupt. It is time for Somoza to leave office."

Each day, *La Prensa* criticizes President Somoza in the harshest language. The paper is widely read, and the government accepts the fact that in a society with a free press, such criticism is likely to continue.

The opposition Conservative Party has an office in a large building on the same street as the government information office. Rene Sandino Arguello, the leader, is outspoken in his opposition to the government, but he places that opposition in a somewhat different perspective from that expressed by those in the U.S. who have been most vocal with regard to Nicaragua.

Sandino says, "Mexico is a partial dictatorship. Venezuela, Colombia and Costa Rica are democracies. All the rest of the countries in this part of the world are military governments. Nicaragua is in no way the exception. This is not a total dictatorship. We do have have some freedoms. Of course, we would like more."

President Somoza argues that Nicaragua has been one of Castro's major targets in Central America since the Communists came to power in Cuba.

Castro's first rather naive efforts at exporting revolution in 1959 were directed against Nicaragua, the Dominican Republic and Haiti. The Nicaraguan guerrilla group, the Sandinist Front of National Liberation (FSLN) grew out of the guerrilla struggles beginning in 1958. It was from Havana in 1967 that FSLN leader Carlos Fonseca Amador "declared war" on the Nicaraguan government.

Nicaragua's leading critics in the U.S.—those who are brought to Washington to testify before the Congress by far-left groups such as the Washington Office on Latin America and the Institute for Policy Studies—are the radical priests Ernesto Cardenal and Miguel d'Escoto.

Cardenal, while in Havana, proclaimed "A single revolution is under way in America and Cuba is at the vanguard."

Although calling himself a "democrat" during his appearances before Congress, while in Havana, Cardenal, most recently in Februrary, 1978, proclaimed "Cuba is a model for all revolutionary Christians in our America." Similarly, d'Escoto urges a "non-capitalist" system for Nicaragua, along the Cuban model.

Informed sources in Managua, both American and Nicaraguan, argue that President Somoza now faces a concerted effort to drive him from office by Castro and his far-left supporters in the U.S. and throughout the Hemisphere not because he is brutal—but because he is vulnerable. The evidence certainly seems to point to this conclusion.

APPENDIX N

[From the Richmond (Va.) Times-Dispatch, Sept. 13, 1978]

BELEAGUERED ALLIES

Both Iran and Nicaragua are ruled by dynasties and both nations are on the verge of civil war, if indeed such has not already begun, because of challenges to the rulers by discontents. There most of the similarities end. Iran, astride the Persian Gulf, is the world's second largest exporter of oil, that most lucrative of natural resources. Nicaragua is a Central American banana republic.

Additionally, the two countries are poles apart in religious orientation. Iran's population is 96 percent Moslem, mostly of the Shi'ite sect. Nicaragua is about 95 percent Roman Catholic. Although many church leaders oppose President Anastasio Somoza's rule, Nicaragua's battle is not mainly about religion. By contrast, in Iran, Shi'ite militants are out to topple Shah Mohammed Reza Pahlavi because they believe his push to modernize ancient Persia defiles Islamic purity.

But for Americans who read of the mounting tragedies in these two countries nearly half a world apart from each other, there is one binding factor of transcendent importance: Both are currently ruled by men who have consistently sided with the United States and opposed Soviet-led communism. Neither the shah nor President Somoza are Jeffersonian democrats, but any national foreign policymaker in Washington ought to ask the question: If they are forced out, won't the alternative be much worse? The alternative, in each case, would most likely be an East-tilting leftist dictatorship hostile to American interests.

President Carter has not been consistent in this regard. He has cooled his human-rights crusading when dealing with the shah. Last Sunday he telephoned the shah from Camp David to express regret at the outbreak of violence and hope for further liberalization in that country. However, the main point of his call was to reaffirm the importance of Iran's alliance with the West. That was a realistic recognition that Iran, as an OPEC member and a neighbor of the Soviet Union, is indeed important to Washington strategically and economically. As for Nicaragua, however, Mr. Carter has not hesitated to lean hard on the Somoza regime for liberalization of its domestic policies. Such pressure may have contributed to a weakening of public support for the regime in its fight against the Marxist rebels of the Sandinista National Liberation Front.

Aside from raising a question whether the Carter administration has one set of human rights standards for allies that are rich and strong and quite another for allies that are poor and weak, the president's approach may underestimate Nicaragua's importance. If that nation fell to a communist-backed gang and became "another Cuba," the Red contagion could spread throughout Central and South America, where previous Castro-led revolutionary forays have pretty much been blunted.

If official Washington is to join the "Somoza must go" cabal, it ought at least to

have a plan to assist non-communist moderates in bringing one of their own to power. There is no evidence that the administration is anywhere near that organized, however.

APPENDIX O

[From the Washington Star, Aug. 1, 1978]

CARTER IGNORES STATE OBJECTION, PRAISES SOMOZA

President Carter has overriden objections from the State Department and sent a complimentary personal letter to Nicaraguan President Anastasio Somoza, informed sources say.

Carter expressed appreciation in the letter for Somoza's decision to allow an investigation by the Inter-American Human Rights Commission, according to sources who asked not to be identified.

State Department officials, who have been pressing Somoza to improve his record on human rights, objected to Carter's sending the letter, the sources said.

One source said the Carter letter did not constitute general approval of Somoza's human rights record, but rather was limited to the question of the investigation by the human rights commission.

The Carter administration is attempting to use the commission as a principal agent in its program for furthering human rights in Latin America.

The deputy White House press secretary today confirmed that the president's letter to Somoza had been delayed a week. But he said that was because the State Department recommended the delay, since Somoza was not expected to be at his capital at the time and State officials wanted to discuss the situation further with the Inter-American Commission on Human Rights.

"It appears to be clearly a case of someone leaking a story at the lower level without knowing what the recommendation of their department was," Rex Granum said of the report.

He said Somoza apparently has not answered the president's letter.

Granum described it as "a private letter, not intended for public discussion. Obviously, the story today changes that."

He said the president's letter had been prompted by remarks the Nicaraguan president made at a press conference in June indicating a willingness to discuss a number of issues with the Inter-American Commission on Human Rights, including amnesty for political exiles.

Several countries, including Venezuela and the United States, have been calling for an investigation of Somoza's regime since the assassination of an opposition newspaper editor, Pedro Joaquin Chamorro, on the streets of Managua in January.

Somoza, who previously had been a close ally of the United States, became a target of the Carter administration's human rights offensive almost as soon as Carter took office.

Somoza has been seeking a rapprochement with Carter. Twice in the last few months he has visited the United States and let it be known that he would be interested in meeting Carter at the White House.

Both times, chiefly because of State Department influence, he received no invitation.

Last week Somoza warned Nicaraguans to get used to "a certain level of violence" for the next three years because he will not resign before his term ends in 1981, as his opposition has been demanding. He insists that the opposition "hasn't shown yet that they represent the majority."

He added, "All those people said they wanted me to get out. But I looked around and said, 'Who is ready to take the cake?'"

APPENDIX P

[From the Washington Post, Aug. 1, 1978]

CARTER LETTER TO SOMOZA STIRS HUMAN-RIGHTS ROW

(By John M. Goshko)

President Carter, overriding State Department objections, has sent a personal letter congratulating Nicaraguan President Anastasio Somoza for promises to improve the human-rights situation in his country.

Reliable sources said yesterday the letter has caused deep concern within the State Department because it was sent at a time when, despite Somoza's promises, the department has been receiving reports of increased rights violations by the Nicaraguan National Guard.

The reports, which involve charges of renewed crackdowns against anti-Somoza forces in rural areas of the tiny Central American country, are expected to trigger new protests from liberal democratic governments in Latin America and human-rights activists in the United States.

For that reason, according to State Department sources who declined to allow use of their names, many department officials regard the timing of Carter's letter as a case of sending Somoza the wrong signal at the wrong time. State Department officials are concerned that revelation of the letter, which was supposed to be secret, will raise questions about the credibility and sincerity of the administration's human-rights policy.

As a result, the sources said, the department ordered the U.S. embassy in Managua to delay delivering the letter to Somoza for several days while it tried to press these arguments at the White House. The White House refused to reconsider, and the letter was transmitted to Somoza in mid-July.

The incident could have repercussions in Congress this week when the House votes on the administration's fiscal 1979 foreign aid package, which totals about $8 billion.

The request includes a $150,000 military training grant for the Nicaraguan National Guard, and there is a possibility that some liberal House members will seek to delete those funds on grounds that Nicaragua is guilty of extensive rights violations.

That, in turn, could endanger the already tenuous position of the entire aid package, because congressional supporters of Somoza have threatened to retaliate by introducing amendments to cut funds for other countries with poor rights records.

Administration sources who defended the letter called it an attempt to encourage Somoza to take positive steps toward relaxing his dictatorial rule, and thus not inconsistent with administration policy. These sources, while conceding that the letter had elicited objections from the State Department, insisted that the department never actually recommended against sending it.

These differences within the administration are important because Nicaragua, which has been run by the Somoza family as a personal fiefdom for almost four decades, has assumed great symbolic status in the controversy over human-rights policy.

Since the beginning of this year, the country has been gripped with tension that has exploded into frequent violence. Rights activisits within and without the United States have called repeatedy for the Carter administration to take a tough line with Somoza, while his friends have charged Washington with selectively picking on Nicaragua while ignoring rights violations in more strategically important countries.

In the face of these conflicting pressures, the administration frequently has seemed to veer back and forth, drawing charges from both sides that its policy toward Somoza is confusing, inconsistent and ineffective.

The Carter letter is likely to add to these charges. As pieced together from various sources it appears to have come about in this way:

In mid-June, Somoza announced at a press conference that he planned to take several rights-improvements steps, including amnesty for some prisoners, allowing some exiles to return and inviting a visit by the Organization of American States Human Rights Commission.

That gave rise to a plan, apparently originating with the staff of the National Security Council, to give Somoza an encouraging pat on the back in the form of a letter from Carter. The letter was to be regarded as a persona' communication to be treated by Somoza as confidential and not leaked to the press or used for political purposes.

A draft of the letter prepared by the NSC was forwarded to State for comment. David Newsom, undersecretary for political affairs, replied that State had several reservations and objections.

A second draft done at the White House was pronounced an improvement by State, but the department made clear it still had reservations about the idea. In the meantime, the letter had been sent to Mauricio Solaun, U.S. ambassador in Managua, with instructions from State to delay giving it to Somoza until the White House had a chance to reconsider the matter.

Solaun held up the letter for more than a week. In the end, though, State was unable to get White House authorization to pull the letter back, and Solaun was instructed to transmit it to Somoza in a private audience.

APPENDIX Q

[From the Richmond (Va.) Times-Dispatch, Aug. 3, 1978]

LATIN EMBARRASSMENTS

President Carter's penchant for public comment about the condition of human rights and political liberty has recently caused the United States considerable embarrassment in Latin America.

Tiny Nicaragua in Central America is one nation that the White House seemingly has picked out to make an example of. While abuses of a much wider scale are ignored in nations that are considered politically or strategically important, such as China, Washington issues reams of detailed reports on the unsavory aspects of one-man rule by Anastasio Somoza, whose family has controlled Nicaragua for four decades.

Recently Mr. Carter decided to take a more positive tact by sending President Somoza a personal letter of congratulations for his promise to improve the "rights" situation by such steps as releasing some political prisoners and permitting some political exiles to return. But according to published reports, human-rights activists in the State Department opposed Mr. Carter's gesture, pointing out in not-for-attribution comments to the Washington press that despite his promises, Mr. Somoza is currently using his National Guard to crack down even harder on his opponents. Officially State Department and White House spokesmen deny any disagreement.

The upshot of this little two-step by the administration is that certain liberal members of Congress are poised to delete funds for Nicaragua from the administration's proposed 1979 foreign-aid package. In retaliation, congressional supporters of Mr. Somoza threaten to take a hatchet after aid allotted to other countries that have poor rights records. If the president and his men wish to salvage the concept of foreign aid, they are being remarkably clumsy in pursuing that aim.

In South America, landlocked and impoverished Bolivia has been another special tar-

get for the rights-conscious White House. The administration pushed hard for the presidential election that was held there last month, the first in 12 years. Of course, the election turned into a farce and ended in yet another coup by Bolivian generals. Because the Bolivians so rudely failed to shape themselves into the American image, the red-faced Carter administration is now considering cutting off relations with and/or aid to that hapless country.

It requires a special kind of naivete to look at the political history of Bolivia—189 changes of government, mostly by coup d'etat, in 153 years of independence—and think that one is going to alter its whole course by bombast and bluster. But naivete is one quality much in evidence among those who now conduct this nation's relations with other nations. And ineptness is another.

APPENDIX R

[From United Press International, Aug. 1, 1978]

CARTER-SOMOZA

WASHINGTON.—State Department officials said today Nicaragua's human rights situation "is improving," but acknowledged to differences with the White House over President Carter's decision to send a personal letter to President Anastasio Somoza commending those improvements.

The officials said that a Washington Post report on Carter's letter, including some State Department misgivings about signaling Somoza in this way, "is apparently fairly accurate."

The officials acknowledged there was "some discussions" over the letter within the State Department. "There were those who would rather it had not happened or that the signals be sent in other ways," the officials said.

In his mid-July letter, drafted at the White House, Carter congratulated Somoza for promising to improve human rights in his country, particularly his decision to invite the Inter-American Human Rights Commission.

The State Department officials said "there is still some serious concern" about the human rights climate in Nicaragua. "But the fact that Somoza did invite the commission was a positive step and that is better than it was before."

"He (Somoza) seems to be making steps in that direction . . . and the situation is improving," according to the officials.

Deputy Press Secretary Rex Granum told reporters that Carter sent the letter to Somoza because Carter "prefers positive reinforcement rather than punitive measures, and this was a good opportunity to do so."

Granum also said Carter, the National Security Council and the State Department worked "in concert" on the letter. The spokesman denied that the Department disagreed with the sending of the letter.

In reciting the background for the letter, Granum said, Somoza told a news conference in mid-June that he would cooperate with the Inter-American Commission on Human Rights, would consider amnesty for 12 political opponents and would open up the political process for free elections.

Granum said Carter decided to send a letter to Somoza "to encourage him to implement those decisions."

"The State Department recommended that the letter be delayed for a week to permit the Inter-American Commission on Human Rights to discuss problems with Nicaragua and to permit the return of Somoza to Managua," Granum said.

He said that the request for a one-week delay was accepted by Carter.

"It appears to be a case of someone leaking the story at a lower level who did not know the facts," Granum added.

"The President prefers positive reinforcement rather than punitive action," he said.

Granum said Carter had not received a reply, but added the President's letter had not been for public consumption.

As to whether the Somoza regime is being monitored for compliance with the human rights pledges, he said "I'm certain we are."

APPENDIX S

[From the Jewish Advocate, July 13, 1978]

VIEWS—S. A. FRIEND

(By Joseph G. Weisberg)

Israel, the lone scarred state, can count her firm and constant friends on less than the stripes of her flag. Apart from the United States, mostly unknown are other committed supporters.

It will therefore be a revelation to many who read the recent book, For Jerusalem—A Life By Teddy Kollek with his son, Amos Kollek, to see the printed praise given the South American country of Nicaragua and its President 'Taco' Somoza.

Teddy Kollek recalls the UN vote of 1947 giving statehood to the Jewish People in then Palestine administered by the British under the League of Nations Mandate. But knowing of the intense Arab objection, the most important objective of the fledgling nation was to be thoroughly armed on its first day of independence or face total destruction by the well-organized Arab armies on the day of its birth.

Kollek, who at the time was on a mission to New York to collect arms, writes: "We had to find a country that would purchase arms for us in its own name but with our money and run the British blockade to Palestine. We were looking for a Latin American country, and one of the Zionist leaders in New York knew a man in Nicaragua who was a close friend of its dictator chief, General Somoza. So I was elected to fly to Nicaragua.

"Somoza, as well as the foreign minister," continues Kollek, "cooperated because of their strong basic sympathy with our cause. Our agreement included the understanding that Nicaragua would vote for Israel in the United Nations whenever the occasion arose, a point to which they pledged themselves out of genuine conviction (and indeed, Nicaragua has remained a true friend of Israel over the years)."

There were not only diplomatic ties set up for later implementation when Israel should become a sovereign state, but 8 million dollars in machinery and military equipment, a large amount at that time, was committed by Nicaragua.

Nicaragua has remained true to its word. It has never failed to support Israel in international forums. On a draft resolution against Israel in the UN last year, only Nicaragua and the U.S. supported the Jewish State in the General Assembly.

This loyal relationship to Israel could well be a factor in the announcement several months ago of the joining of forces of the Palestine Liberation Organization (PLO) with the Marxist Frene Sandinista de Liberacion Nacional (FSLN) of Nicaragua to wage war on U.S. imperialism, the "racist" State of Israel and the Somoza Government.

The two terrorist organizations have also formed common cause in the fight against the governments of El Salvador, Guatamala and other anti-Communist regimes in Latin America.

Jews of the world are well aware of who are the enemies of Israel. It is equally important that they should know who are her friends.

APPENDIX T

[From the Jewish Week, Washington, D.C., Aug. 31–Sept. 6, 1978]

NICARAGUA REBELS ARE PLO'S LATIN CONNECTION

The Sandinista guerrillas who seized Nicaragua's presidential palace last week are recent volunteers for the transnational terrorist war against Israel.

The Sandinistas emerged early in 1978 as the "Latin American connection" for radical anti-Israel activity, making a series of announcements aligning themselves with the Palestine Liberation Organization and other Palestinian groups committed to eliminating Israel.

Little known outside Nicaragua until last week, the Sandinistas attracted world attention by capturing more than 1,500 hostages in the presidential palace and trading them for 58 political prisoners, $500,000 and safe passage to asylum in Panama.

The official name of the group is the Sandinista Front for the Liberation of Nicaragua (FSLN). The group takes its name from Augusto Cesar Sandino, a guerrilla leader killed fighting against the U.S. Marines who occupied Nicaragua and put the Somoza family in power in 1937.

The PLO link to the Sandinistas is one of many contacts between Palestinian groups and members of the transnational terrorist and revolutionary movement. Other such groups include the Japanese Red Army, which carried out the Lod airport massacre; the German Baader-Meinhoff group, which helped the PLO in 1972 Munich massacre; and the Czech secret police, which helped the PLO assassinate Jewish leader Charles Jordan in Prague in 1967.

On Feb. 5, 1978 the PLO and the Sandinistas released a "joint communique" in Mexico City, which, according to Radio Havana, was to "emphasize the bonds of solidarity which exist between the two revolutionary organizations." This communique attacked the "racist state of Israel" for its reported military sales to anti-communist Latin American countries, for serving as an enclave of North American imperialism" in the Middle East, and particularly for alleged Israeli economic and military aid to Nicaragua.

MOSCOW GATHERING

This communique was released at a major Moscow-front gathering called the Continental Conference of Latin America and the Caribbean for Peace, Sovereignty and Economic Independence. The conference was sponsored by Moscow's international "peace and disarmament" organ, the World Peace Council, an organization reportedly run by the Central Committee of the Communist Party and the KGB. The communique was signed by the PLO representative for Latin America, Issam Sali, and by Jose Benito Escobar, a member of the Sandinista national board.

A few days later, on Feb. 10, the Guatemalan newspaper *La Nacion* reported that "Palestinian elements have offered to fight at the side of Nicaraguan guerrillas against the Anastasio Somoza regime." This reported offer came at a time of internal turmoil in Nicaragua following the assassination of opposition leader Dr. Pedro Joaquin Chamorro, which in turn was followed by FSLN terrorism.

According to *La Nacion*, a clandestine FSLN communique stated that "just as Somoza hired mercenaries (Green Berets), the FSLN guerrillas have offers from the Palestine Liberation front." No other details were available.

On March 6, the Sandinistas and the Popular Democratic Front for the Liberation of Palestine (DFLP), led by Nayed Hawatmeh, issued a similar joint communique datelined Havana, declaring war on "U.S. imperialism" as the common enemy of both groups, against the "racist regime of Israel" and against "the dictatorship of Anastasio Somoza in Nicaragua."

THE PLO CONNECTION

This newly emphasized tie-in between Israel and Nicaragua by the PLO and the Sandinistas is a result of several trends in international affairs. Israel has reportedly been selling military arms to Latin American

governments who have been cut off from U.S. supplies as well as carrying on economic relations and limited aid programs.

Nicaragua has been a consistent supporter of both the U.S. and Israel in the United Nations, and was one of a handful of nations voting against the resolution which condemned "Zionism" as a form of "racism". Just as Israel is a key geographic point in the Middle East, so is Nicaragua in Central America.

There is at least one direct connection between the PLO and the FSLN in the past and it concerned a Sandinista leader, Pedro Arauz Palacios, a convicted murderer, kidnapper, and robber. Palacios was given intensive guerrilla warfare training in Cuba after hijacking a Nicaraguan airliner in November, 1969. According to the Nicaraguan Government Information Service, "he traveled to the Arab countries and underwent further guerrilla warfare training at the hands of Al-Fatah," after leaving Cuba in May 1970. Some of the information about Palacios was obtained from the courtroom testimony of captured FSLN terrorists.

On May 10, 1978, Colombian terrorists from the Marxist "M-19 Movement" kidnapped the Nicaraguan ambassador in Bogota and held him for several hours as an act "in solidarity with the Sandinist group." This may be the first inter-American act of "transnational terrorism" concerning Nicaragua and its parallels in theme the gist of the joint PLO–FSLN and FDLP-FSLN communiques of earlier this year.

COORDINATED EFFORT SEEN

Colombian Communist members have played a major support role for the Communist terrorist and PFLP (Popular Front for the Liberation of Palestine) agent, "Carlos the Jackal".

These recent developments concerning Nicaragua and the PLO involvement point to significant change in the PLO range of. While the Western Hemisphere has had isolated PLO operations in the past, the possibility now exists of a more sophisticated and coordinated effort by the PLO and its "Latin American Connection" supporters to expand the terrorist war against Israel.

APPENDIX U

[From the Miami Herald, Sept. 14, 1978]

"DIE SOMOZA, DIE GRINGO": AMERICAN CAUGHT IN MIDDLE

(By Morris S. Thompson)

For four years, Lester Lesavoy had a pleasant working relationship with Nicaragua. He made blue jeans in his textile factory. Politics wasn't his business.

Then, last Saturday, driving home from work in Managua, Lesavoy learned first-hand about an uprising he had done his best to ignore. The lesson nearly killed him.

"I couldn't believe it was happening," he said Wednesday from his bed in Miami's Jackson Memorial Hospital. "It didn't seem close to reality. It was remote, like you're in Miami and hear about an explosion in Louisiana."

Lesavoy, 31, became the first U.S. civilian casualty of Nicaraguan trauma because of a law-abiding blunder. He stopped for what he thought was a routine check.

"I saw two National Guard guys ahead of me, at a stopped car. As I pulled up behind, I saw them firing into the car with machine guns.

"That's when I saw that they were just dressed like the Guardia: They were wearing the red-and-black masks of the Sandinista guerrillas."

The guerrillas shot out his tires. They ordered him from the car, hands above his head.

"They told me to start running toward some houses. I did. They started firing. I felt my whole leg shatter and I fell into a ditch.

"They came over and pointed the guns at my head and I thought it was all over," Lesavoy said. "They shouted, 'Die Somoza! Die Gringo!' "

Lesavoy said his life was saved when real National Guardsmen arrived and engaged the guerrillas. While bullets whirled above his head, Lesavoy—only 10 feet away from the combatants—tied his shirt around his leg as a tourniquet.

"I lay in that ditch about an hour and a half. I thought I was going to bleed to death. My leg was flopping around—I found out later that both bones in my lower leg were shattered."

"I was only six feet from these houses and I was yelling for help," he said. "These people wouldn't come out and it really freaked me out. Every once in a while, the Sandinistas would look over at me, and I was afraid that they were going to come over to finish me off."

"The terrorists were calmly lighting these Molotov cocktails and tossing them out in the streets. At the same time, I saw this terrorist running by with an armful of food.

"It was really funny to me: Here they were running up and down the streets of this barrio shooting into these people's houses and one of them was tossing bread in through windows at the same time, like they were helping the people."

Eventually—it seemed an eternity—Lesavoy heard someone shouting "There's a wounded man in there." Then came Red Cross medics, waving a white flag and carrying a stretcher.

For nearly six hours, Lesavoy lay in Managua's Occidental Hospital while doctors first cared for those with more serious wounds. About 3 a.m. Sunday, surgeons removed two bullets from Lesavoy's right leg.

Later that day, Lesavoy's brother, Malcolm, a plastic surgeon in Los Angeles, arranged for a jet ambulance to Miami. Jackson surgeons removed two more bullets.

Lesavoy moved to Nicaragua from Costa Rica four years ago to get closer to the source of the denim fabric his factory uses. He has 300 employees, whom he said he pays an average wage of $40 to $50 a week, about 2½ times the Nicaraguan minimum wage. He said his workers were happy and so was he.

He said he and his workers didn't pay much attention to the developing storm against President Anastasio Somoza and didn't realize the extent of the terrorist organization, or its professionalism.

Lesavoy concluded that the guerrillas who shot him were trained professionals.

"I've been in the service, and I know. They were trying to get kids to come out and fight with them, to make it look like a children's army. But it isn't."

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

Mr. MURPHY of New York. I yield to the gentleman from New York.

Mr. SCHEUER. I thank the gentleman for yielding.

In connection with the gentleman's remark about the training of terrorists in Cuba, we have heard reports that the Sandinista National Liberation Front is in fact supported by Cuba and that it is allied with the Palestinian Liberation Organization, the PLO, and it is led by foreigners who are attempting to establish their version of a Marxist state in Nicaragua. Can the gentleman elaborate on these reports we have all been reading?

Mr. MURPHY of New York. The Sandinista National Liberation Front is supported by Cuba. The best known Sandinista leaders are Costa Ricans and Mexican and not Nicaraguan. We know they have been trained in Cuba. It has been documented. The recent attacks launched from abroad were orchestrated immediately after the Communist's World Youth Festival in Havana last month. The PLO and the Sandinistas signed a mutual assistance pact, and in a communique issued at that time the Sandinistas joined the PLO in denouncing the racist state of Israel, which was condemned as an enclave of North American imperialism in the Middle East.

Mr. SCHEUER. If the gentleman will yield further, I remember in the early days of the Castro regime many so-called liberals, myself included, I am embarrassed to say, considered Castro a sort of an agrarian socialist and felt that he would have sort of a liberal democratic socialist regime. Is this true of the Sandinistas or is there evidence that they really are a hard-core Marxist group and that they will continue their terrorist attacks until they have established in effect Marxist government?

Mr. MURPHY of New York. The Sandinista leaders have clearly demonstrated that they are intent upon taking away any democratic or constitutional guarantees to Nicaraguan people, that they are definitely Marxist alined and Marxist oriented and that, No. 1, what they want to do initially is to get rid of the Guardia Nationale of Nicaragua and in that way they become the military force. And once they become the military force, of course, the political problem is secondary. But they then say they want to take away the private property rights of not only President Somoza but other Nicaraguans. And it is clearly this philosophy that dominates the Sandinistas.

Mr. SCHEUER. In this connection, the Sandinistas, whom the gentleman has described, have attacked Nicaragua from sanctuaries in Costa Rica.

Costa Rica, we read, claims it is powerless to stop these attacks, yet it protests that its borders are being violated.

Costa Rica has accepted sort of tacit military help from Nicaragua and Panama. Does this have in it the seeds of a conflagration which will envelop all of Central America in something pretty close to a widespread war?

Mr. MURPHY of New York. It is clearly documented, with the attacks on Nicaraguan customs outposts on the Nicaraguan side of the Costa Rica-Nicaragua border, that the attacks have emanated directly from Costa Rica, from bases in Costa Rica clearly established, that the Costa Rican Government has neither the will nor the ability to contest the Sandinistas that are using the bases in Costa Rica.

Let me remind you that this border in Central America is not a white line on the ground.

Just as soon the Nicaraguan plane went over a theoretical line and Nicaraguan troops were pursuing their attacks, Venezuela immediately sent aircraft to Costa Rica, Panama sent helicopters, and Costa Rica said they would then resist this intrusion of their borders. This, of course, smacks of the famous Parrot's Beak that pointed at

America's troops and caused so many thousands of casualties among American troops in Vietnam. We understand the double standard that we are dealing with in this regard.

There is nothing more that the Sandinistas would like than to involve all of South America in a conflagration of this type so that they could take over that Government of Nicaragua.

Mr. SCHEUER. Tell me then, we have heard reports that the International Monetary Fund, the IMF, with tacit support and encouragement from our country, is withholding interim financial support from Nicaragua. What is the significance of this, and what is the significance of what seems to be the United States official policy of hands off the whole Nicaraguan situation?

Mr. MURPHY of New York. The United States policy of hands off, of silence, of staying out of this situation, is tantamount to intervention. The fact that we deny our strongest ally in the United Nations, our strongest ally in the Organization of American States, our strongest ally in all of our international affairs is a precedent that ought to alarm free people everywhere.

The Government of Nicaragua was elected with international observers present during the voting. Having failed to win at the polls, the opposition turned to violence. The terrorists have been striking from abroad, with financing from abroad, at a time when the legally constituted Government needs all the support it can get.

The IMF is giving what amounts to support to the enemies of democracy. Not long ago, according to our polls, 30 percent of the American people disapproved of how our President was doing his job. If he slips that low again, perhaps the IMF will withdraw its support of the United States. That is the problem of these polls and the IMF's triple standards.

Mr. SCHEUER. Can the gentleman elaborate some on his passing comment about Nicaraguan support of the United States in the United Nations and in the Organization for American States? What exactly did the gentleman mean?

Mr. MURPHY of New York. A year ago, in a carefully documented debate on the floor of this House when we were discussing economic and military aid to Nicaragua, I clearly delineated and will submit as part of the RECORD here, the United States and how it has been supported by the Republic of Nicaragua from World War II through the Korean war, through the Vietnam war, and through, of course, all of the difficulties that have existed. It will be part of this RECORD. It will document clearly those votes both in the OAS and in the United Nations when Nicaragua has been the sole supporter of United States policy in international affairs, where we have been opposed by Group 77, opposed particularly by the Soviet Union, opposed at the instigation of Cuba.

Mr. SCHEUER. I thank my colleague.

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

Mr. MURPHY of New York. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, I do not want to upset the script here, but I found this a very interesting discussion. I would like to ask the gentleman if it is his position that the only choice in Nicaragua is between the Sandinistas and the left wing guerrillas, and the Somoza dictatorship. Let us not kid ourselves; it is by no means comparable to the Presidency of the United States, which was installed by an election that was honest and open and democratic. In the Somoza regime, one family has been running Nicaragua for 40-some years.

Is there not a middle ground? Is it not true that the business community down there has practically boycotted the regime? Is it not true that the professional groups have boycotted it? Should we not talk about the possibility that maybe if Mr. Somoza would get out we could save the Guardia Nationale, and we could have a truly representative regime down there and put down the extremists of both ends? I would like to hear the gentleman discourse on this angle.

Mr. MURPHY of New York. There was a middle ground. The middle ground was a conservative party in the Republic of Nicaragua.

The party that supported President Somoza was the liberal party. The conservative party of course by constitution had 40 percent of the seats in the National Assembly and the Senate and 40 percent of the civil service positions—and I will bring that out as I go into the further discussions here.

I went to the State Department personally in August. I went to the CIA in August. I went to the White House in August. I said that if the United States does not make a statement that it deplores violence in this country, there will be violence—and there was violence.

And that violence has destroyed the middle ground that the gentleman is looking for. The Sandinistas and the Marxists have done this. They have threatened every middle ground person that if they open their stores, their stores will be bombed—and I will document that from stories from Norris S. Thompson in the Miami Herald, a responsible journalist on the scene who documents that.

The middle ground has been intimidated out of the political scene, and the United States has caused this by its failure to say one thing: Let us have peace instead of bloodshed in this country. If we had said this, it would have been a break on the extremists in that country. The extremists have attacked the middle ground, which has disappeared today as it did in Vietnam and as it did in every country where the left wing with its violence and its murderous tactics and disregard for human values has now destroyed any semblance of middle ground.

The United States has its Ambassadors—where? They are running around through Latin America trying to find somebody to bring together a middle ground. What does this speak of? This speaks of intervention in the internal affairs of a sovereign state.

That is what has happened in Nicaragua.

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

Mr. MURPHY of New York. Sure, I will be happy to yield further to the gentleman from Ohio.

Mr. SEIBERLING. Of course the instigation or rather the excuse that the Sandinistas and others accompanying them used to foment their violence was the refusal of the Somoza regime to restore democratic institutions. Is it not true that the Somoza regime was conducting an impressive vendetta against the press and against the middle ground itself?

Mr. MURPHY of New York. It is not true.

Mr. SEIBERLING. The gentleman from New York must not read the same papers I do.

Mr. MURPHY of New York. That is not true, and I will give the gentleman the facts right here and he can check it with his State Department and with the responsible American journalists. One would get the impression from casually reading some of the media in this country that this was a repressive regime. But when we go to the international organizations that happen to rate what is a rightwing and what is a dictatorship, Nicaragua comes out pretty good because there has always been freedom of the press, freedom for La Prensa to print, freedom for the radio stations to criticize and excoriate the government of the Somozas.

And the leader of the conservative party, as the gentleman may recall, was Pedro Joaguin Chamorro, publisher of La Prensa, who was part of the cabal that assassinated another President Somoza in 1956, and he was permitted to come back into the country with that record of terrorism, that record of violence in his own country, and permitted to print La Prensa, and La Prensa printed uninhibited until of course there was a state of seizure for about a year, which was lifted a year and a half ago.

There is freedom of the press. There is freedom of the radio. There is freedom for the people to criticize. That is why we hear this excoriation of the legitimate, constitutionally elected regime that is there today. That is why we hear it. That is why we see it.

The American press are moving throughout Nicaragua today and reporting to the Washington Post and to the Washington Star and to the press throughout the country as to what is taking place on freedom of speech and press.

Go to Panama and you will find that there is no freedom to print and that there is no freedom to broadcast.

Mr. SEIBERLING. I suggest that one need not hold any brief for Panama because obviously the actions of the Somoza regime, which I do not think can be deemed a regime that achieved power in a really, truly legitimate way sure, the forms were observed, but it strikes me that the very type of regime, and the oppressiveness of that regime, is the kind of thing that feeds the fires of violent reaction on the part of left wing groups, which then can obtain a

lot of support among the general populace, because of what has happened in the Cuban revulsion against the acts of the existing regime.

In what way is the process that is going on in Nicaragua any different from what happened in Cuba as a result of the oppression of the Batista regime?

Mr. MURPHY of New York. It is totally different, totally different. It has been documented in this House today and I will document it again tonight. The Somoza regime is a constitutional regime. President Somoza was elected in free and open elections with international observers present throughout, myself included. I can say to the gentleman that it was a free and open election.

The problem that created the 40 percent rule that the minorty party would have 40 percent of the seats in their legislature—incidentally, 7 percent more than the minority in this chamber—was a fact to try and build a creative and moderate middle ground in that country, because President Somoza is a very sophisticated gentleman who, by the constitution, cannot succeed himself in 1981, wanted to have a viable minority so that the two parties would have a colloquy. He did so because he realized that if he did not have a viable minority the opposition in that country would be extremists and Marxist. He tried to create it.

I would commend the gentleman to read the Miami Herald and some of the Houston and daily papers from cities that are very closely allied and attuned to the happenings in Latin America, rather than some of our very esoteric and sophisticated journals in this city that, perhaps, do not have the same responsive attitude that they do. Read the Miami Herald, you will find that perhaps the one-sided impression that you have been reading is not the case.

Mr. SEIBERLING. I thank the gentleman, then I will read the gentleman's further remarks with great interest because he does have the advantage of having been down there and observing the elections, which I certainly have not and most of us have not.

So I commend the gentleman for bringing out this subject before us tonight. I think we all ought to read and listen to his words.

Mr. MURPHY of New York. I thank my colleague, the gentleman from Ohio (Mr. SEIBERLING).

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

Mr. MURPHY of New York. I will be happy to yield to the gentleman from Mississippi (Mr. BOWEN).

Mr. BOWEN. Mr. Speaker, I rise here tonight, not as an apologist for General Somoza or the National Guard. I think we can all agree that there have been atrocities on both sides during the recent fighting and certainly none more severely than that on the part of the National Guard.

I had the opportunity to visit extensively in Nicaragua a few years ago. I am not an expert on the country but I think I have seen enough of it to be able to make some judgments at this point that might be of some value to my colleagues.

I am concerned that we have allowed the situation to drift in that area to the point at which a violent uprising in that country has taken place. The question is: What can we do to put the pieces back together again? I certainly want to urge our State Department and our executive branch to exert more aggressive leadership in Nicaragua.

I think a leadership role on the part of this country can go far toward resolving this conflict into a stable democratic government. Frankly I believe that General Somoza is even prepared to accelerate the timetable which he has presented to the world in terms of the transition in 1981. I think with the right kind of mediation and leadership on the part of this country that that could well be worked out. I mentioned meditation. Who is to do the mediating? Why must it be the United States?

Let us see who is around to do it other than the United States. We have, of course, neighbors like Guatemala, El Salvador, and Honduras, which I think, frankly, would not be acceptable to any of the supporters of the leftwing forces in Nicaragua.

We have other countries such as Venezuela, Costa Rica, Panama, and Mexico, frankly, who are hostile to Somoza for one reason or another, in most cases because of active involvement indirectly or directly in hostilities.

Let us look at some of those countries. General Torrijos, of course, finds, I think, that he can placate some of the leftwing forces in Panama by supporting the Sandinista. His country, of course, serves as a conduit between Havana, Cuba, and Nicaragua as a haven for terrorists. Costa Rica, also hostile to Nicaragua, is a protective refuge for terrorists.

Mr. Speaker, very sadly, I must inform the House that the President of Venezuela, President Carlos Andres Perez, met on August 28, at the Miraflores Palace, the Presidential Palace in Caracas, with the two top leaders of the Sandinista, Commandante Zero and Numero Dos—Commander Zero and Number Two—the two chief leaders of the Sandinista.

Mr. Speaker, the Members might want to compare the date of that meeting with the events which followed. We have efforts underway in that area to try to put the pieces back together again. Ambassador Bill Jorden is down there visiting a number of countries, trying to find a third party to visit with. I know Ambassador Jorden. He is a good man. I visited with him in Panama when he was there. Assistant Secretary Viron Vaky is also a good man, and I think Secretary Vance is a good man. However, somehow or other, I just do not feel that we are going to find a third party which can take care of the matter, for a number of reasons which I mentioned before. I think it is going to take active American involvement. I think that if we do go in with something other than a negative attitude toward the Somoza regime, something other than just a view that anything that Somoza does is going to be good—the idea we have, unfortunately exhibited toward other countries in the world—an explosion will likely take place, but then we will think that somehow after the smoke blows away, whatever remains probably will be very decent. Unfortunately, it may not be very decent. If we allow things to continue going in the direction in which they have been going, it might well be that a Marxist, bitterly anti-American regime will take over.

Mr. Speaker, I just do not think that it is in the interests of the United States for us to allow this to happen.

For that reason, I want to urge the executive branch and I want to urge my colleagues in the House and in the Congress as a whole to do all that we can to exert a leadership role on the part of this country, working with conservatives in Nicaragua, working with other splinter parties, working with those who unfortunately have fought behind the Sandinista, because they have now picked up the sword and moved forward because our Government failed to protest the violence which the gentleman from New York (Mr. MURPHY) mentioned.

There are many persons in the country who are there to be organized, to be mobilized, to form the foundation of a democracy, which is clearly a commitment of President Somoza.

Therefore, I would like to urge our Government to take that active role of leadership. We must. I know of no other nation which can do so. Failure to act in this manner or a negative approach toward Nicaragua simply will result in chaos. It will result in a situation which I think no American wants to see develop in Central America.

Mr. MURPHY of New York. I thank my colleague, the gentleman from Mississippi (Mr. BOWEN).

I might point out at this time that Commander Zero and Numero Dos several weeks later were the leaders of a force which hit the national palace and captured 60 members of the assembly and 100 other people, held them hostage, demanded a half million dollars in ransom, demanded that 59 terrorists in jail be released, and then were flown to Panama and Venezuela in two separate aircraft.

Mr. Speaker, that is why I will return to Venezuela at this point. Of course, it is one of the leading members of OPEC, the Organization of Petroleum Exporting Countries, an organization made up of many members who openly support the Palestinian Liberation Organization, who, in turn, rely quite heavily on the Soviet Union for support.

The PLO and the Sandinista, according to Radio Havana, issued a joint communique in Mexico City to "emphasize the bonds of solidarity" which exist between the two revolutionary organizations.

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

Mr. MURPHY of New York. I am happy to yield to my colleague, the gentleman from Georgia.

Mr. McDONALD. Mr. Speaker, the people of Nicaragua have been resisting a Soviet and Cuban-sponsored terrorist group for 20 years. In the past, each time the terrorists have returned from

their training centers in Cuba and mounted an armed incursion from remote areas of Costa Rica and Honduras, the Nicaraguan National Guard was able to defeat them and drive them out to lick their wounds in Havana.

The present severe disturbances in Nicaragua are being spearheaded by that same terrorist group which has been able to take advantage of the lack of U.S. commitment toward the Government of Nicaragua to encourage totally untrained young teenagers to help them in city disorders. These naive youths are playing at being "noble guerrillas," but in fact are working with a terrorist cadre spawned in Moscow and fostered in Havana. Those in this country and in Nicaragua who are urging that our Government support formation of a coalition government in Nicaragua that would include the FSLN terrorists have been trying to cover up the Communist origins of the FSLN and for the influence of the Nicaraguan Communist Party—Partido Socialista de Nicaragua—in the so-called Third Force opposition.

The present terrorist threat in Nicaragua is posed by the Frente Sandinista de Liberacion Nacional (FSLN) whose members were recruited in the late 1950's and early 1960's by Carlos Fonseca Amador, a Nicaraguan who was educated in Moscow at Friendship University, now called Lumumba University, which is the Soviet Union's principal center for recruitment and indoctrination of Third World revolutionaries.

Somewhat parenthetically, Lumumba-Friendship University has produced an even more notorious terrorist than Carlos Fonseca, and that is Ilich Ramirez Sanchez, the Venezuelan killer known as "Carlos the Jackel." Those of my colleagues who may be particularly interested in the use of this Moscow institution for recruitment of terrorists may wish to read the account of the KGB's stage management of the formation of the Mexican terrorist Revolutionary Action Movement (MAR) in John Barron's book, "KGB: The Secret Work of Soviet Secret Agents."

According to Tomas Borge Martinez, characterized by writer Tad Szulc as "the political and ideological leader" of the FSLN and a member of its "national directorate" of politburo, Fonseca returned to Central America in the late 1950's and commenced organizing a Marxist revolutionary movement among leftist Nicaraguan university students in Costa Rica and Venezuela. One of his earliest recruits was Tomas Borge.

In his efforts, Fonseca had the assistance of Cuban and Soviet officials. Cuban Communist backing for armed violence in Nicaragua began in 1959, shortly after Castro took power, when a Cuban Air Force plane flew a small guerrilla nucleus to a neighboring country. This nucleus was to try to invade Nicaragua and take over the leadership of anti-government groups. In June 1960, the Nicaraguan Government expelled Cuban Ambassador Quintin Pino Machada and all of his Embassy personnel in Managua because of their involvement in the program of subversion and terrorism then underway.

According to the statements of Tomas Borge made to a Nicaraguan court in 1976 in which he boasted of the international solidarity and support of the Cubans for his FSLN, in 1960, Fonseca and other early recruits received terrorist training during 1960 in Havana. Of the initial group of 60 recruits at a secret terrorist base in Honduras, "most had received small (short) guerrilla courses in Cuba," stated Borge.

In April 1977, U.S. State Department Central American Affairs Director Michele M. Bova provided the following information on the Cuban origins of the FSLN to Representative Edward I. Koch that the FSLN, first called the National Liberation Front or FLN,

was founded in Havana in September 1962 by a group of leftist extremists who had been active for some years in revolutionary causes in Nicaragua. Carlos Fonseca Amador, perhaps their most significant leader, was a proponent of Marxist-Leninist theory who has closely followed the Castro revolution in Cuba and whose attachment to the Cuban revolutionary model strongly influenced the FLN's early strategy and tactics. (Fonseca was killed in a shootout with the Nicaraguan National Guard in November 1976).

The FLN's primary objectives, declared in 1963, were:

To fight against the economic exploitation and political domination of the United States;

To fight against the Somoza regime;

To institute agrarian reforms; and

To seize power in Nicaragua and establish a government of national liberation.

The FSLN believed that the only effective means to achieve these goals were through warfare and terrorism.

As the U.S. State Department informed Representative Koch, in order to capitalize on traditional anti-U.S. sentiment,

By 1964, the FLN had added the name of Sandino to its title, in honor of Gen. Augusto Sandino, the Nicaraguan guerrilla leader who had battled U.S. Marines in Nicaragua from 1928 until shortly before his death.

Sandino has always been a particular hero to the Communists in Latin America. From the time Sandino began his attacks on the U.S. military presence in Nicaragua in 1927, he received wide support from the Communists and was closely alined with them. His brother, Socrates Sandino, was a member of the Communist Party, U.S.A. and was assigned by the Comintern to organize international support for the armed struggle in Nicaragua.

According to the minutes of the Political Committee of the Communist Party, U.S.A. (CPUSA) (Meeting No. 40, June 15, 1928), attended by Benjamin Gitlow, James Cannon, William Z. Foster, Robert Minor and others:

Comrade Gomez reported on the request of Munzenberg to have Socrates Sandino make a tour of the European cities, and he recommended that permission be granted provided that the fare would be paid.

The proposal received unanimous approval. It is noted that Gomez was in charge of Latin American work for the CPUSA and that Willi Munzenberg was responsible for organizing and controlling the international fronts of the Communist International in Moscow. One of these, the International Anti-Imperialist League was used to organize Socrates Sandino's trip, clearly placing him under the control of the Communist International.

The success of Communist agent Socrates Sandino is indicated by the fact that the 1928 Sixth Congress of the Communist International (Comintern) in Moscow adopted a resolution proposed jointly by the Communist Parties of the United States and Mexico which sent,

Fraternal greetings to the * * * heroic army of national emancipation of General Sandino, which is carrying on a brave, determined struggle with the imperialism of the United States.

It should be noted that General Sandino's private secretary and adviser was the Salvadorean Communist leader, Augustin Marti. Although the Communists criticized Sandino for abandoning the armed struggle in 1933, after his death in 1934 he was placed in the revolutionary pantheon.

In 1963, as Tomas Borge has related, the FSLN contingent based in Honduras illegally crossed the border and set up a base in Nicaragua in an area where the Nicaraguan citizens are primarily Indians. The Indian farmers gave no support to the university-educated Marxist guerrillas who attacked their small towns, robbed them of food and supplies, and fought with the National Guard only when cornered. Driven back into Honduras, the Honduran Army eventually rounded up surviving terrorists.

This set the pattern for FSLN revivals in 1965, 1967 and 1969. In each case, the small, but well-trained Nicaraguan National Guard, which has received training in counter-insurgency methods from the United States, was able to locate and defeat the FSLN groups before they were able to establish themselves in the remote rural areas.

Again and again, the captured or killed FSLN cadre have been identified as having received training in terrorism and guerrilla warface tactics in Cuba and other Communist countries. As the House Committee on Foreign Affairs, Subcommittee on Inter-American Affairs reported in 1968:

In mid-1967, a band of young men, most of them members of the Frente Sandinista de Liberacion Nacional (FSLN), went to the mountains of north-central Nicaragua and began to train, gather ammunition, and cache food. A small contingent of well-trained Nicaraguan National Guard troops caught up with the guerrillas and killed fifteen. Of the dead, ten were identified as active members of the FSLN. Some of them had been trained in Cuba, others in Eastern Europe.

Subsequently, there was an outbreak of Communist terrorism in Nicaragua's cities.

The current resurgence of FSLN activity dates to 1974 when a series of severe earthquakes not only virtually leveled Managua, the capital, but caused major landslides that severely disrupted roads in the remote rural areas where the FSLN had consistently tried to set up a land base.

On December 27, 1974, nine FSLN terrorists raided a private house in Managua, killing 3 persons and holding 17 persons hostage for 3 days. According to one of the FSLN members, the terrorists had waited outside the house until the U.S. Ambassa-

dor to Nicaragua had left so that there would be no immediate reason for U.S. intervention against the FSLN. Finally, the FSLN group, joined by 14 FSLN members released from jail by the Government and with a cash ransom of $1 million, the terrorists flew to Havana accompanied voluntarily by the Spanish and Mexican Ambassadors. The Spanish Ambassador had previously demonstrated such hostility to the Nicaraguan Government and people that he refused to allow a shipment of relief aid by the Spanish Red Cross following the great earthquake.

Reports in the Cuban Communist Party Central Committee newspaper, Granma, showed the FSLN receiving a hero's welcome in Havana. And when the Cuban officials introduced the leader of that FSLN operation, Eduardo Contreras, on a Havana Radio broadcast, they described him as the man who "one day would impose a Communist regime in Nicaragua." Contrereas did not live so long as to attain that goal. He and Fonseca were killed in separate shootouts with the Nicaraguan National Guard in November 1977.

The FSLN has undergone a number of modifications since its initial concentration on protracted rural guerrilla warfare and terrorism in the early 1960's. It has been collaborating with the Communist PSN since 1967 when the old-line PSN leadership was removed in order to facilitate both closer alinement with the FSLN and expanded efforts to build a "popular front" of all political opponents to the Nicaraguan Government.

During 1977, a three-way split appeared in the FSLN following the deaths of Fonseca and Contreras. One group of old-time FSLN cadre recommended sticking to a "prolonged people's war" in the rural areas, a tactic that has so far been notably unsuccessful. A second group, the "proletarian faction," wants to do more organizing "mass support" among the urban working class and some "peasant sectors" while also continuing the terrorist attacks; and finally the new majority group, the "terceristas," opted for a combination of urban terrorism and collaboration with the PSN's UDEL and Broad Opposition Front coalitions.

The hand of the Cuban Government in maintaining the FSLN is scarcely concealed. Throughout the 1960's, defeated FSLN leaders and new recruits went to Havana for refuge, training and preparation for the next assault on the Nicaraguan people.

Radio Havana has kept up running commentaries on the "new advances" of the FSLN. For example, the February 1977 "Nicaraguan Solidarity Week" in Havana included a lecture by FSLN member Jacinto Suarez who had "expressed gratitude for the support and solidarity of the Cuban people for the Nicaraguan people;" a broadcast interview by the chief FSLN representative in Havana, Jose Benito Escobar, who reported that the Nicaraguan revolutionaries had developed "the necessary organization and experience to carry out the final struggle." He boasted:

> The development of the labor and mass movements is considerable when compared to those in the days of Sandino. * * * We have military experience and an embryonic people's army.

And on February 21, the anniversary of Sandino's death, the Cuban regime staged a public rally at a sugar mill named after Sandino. Among those speaking at the rally were Jose Escobar of the FSLN; Rene Rodriguez, president of the Cuban Institute for Friendship with Peoples (ICAP), named repeatedly in Congressional hearings as a "cover" organization for Cuba's secret police and espionage agency, the General Directorate of Intelligence (DIG), which is subservient to the Soviet KGB; and Cuba's veteran chief of subversive and terrorist operations in the Western Hemisphere, Manuel Piniero Losada, head of the Americas Department of the Cuban Communist Party Central Committee. Piniero was head of the DGI until 1970, when Castro made him head of the Directorate of National Liberation, responsible for coordination of all Castro's subversive, revolutionary and terrorist endeavors in the Western Hemisphere.

Cuba has again made a public demonstration of support for the FSLN. On August 31, 1978, 22 of the FSLN members released from Nicaraguan jails as demanded by a group of their fellow terrorists who captured the National Palace in Managua arrived at Havana airport in a Panamanian Air Force plane. The FSLN members were greeted by top Cuban officials including Piniero's deputy head of the Americas Department of the Cuban Communist Party Central Committee, Ulises Estrada; Lt. Col. Justo Hernandez of the Cuban Interior Ministry which supervises the DGI; and Miguel Brugueras, the Cuban Ambassador to Panama.

On their arrival, the FSLN members gave interviews to the Cuban media. They reported that Alejandro Padilla was happy to be in Cuba "to see the revolution which is an example for all revolutionaries of Nicaragua and Latin America as a whole." Rene Nunez Tellez stated that the FSLN's "anti-imperialist" struggle relied on "the solidarity of the peoples of the world, especially of Cuba." And Margine Guterrez said:

> My ideological principles are based on Marxism-Leninism. We owe ourselves to this ideology and we of the Sandinista National Liberation Front will put it into practice constantly.

It should be pointed out that contrary to the claims of its supporters and apologists, the FSLN is not a guerrilla organization engaging only the Nicaraguan National Guard. Throughout its history, the FSLN's main victims have been Nicaraguan civilians. I provided the House with documentation of the FSLN's terorist record in many reports including those of May 25, 1977, 16732; June 22, 1977, 20454; June 23, 1977, 20696; July 13, 1977, 22809 and following; September 16, 1977, 29752; October 21, 1977, 34822; in my statement to the House Subcommittee on International Organizations on February 16, 1978.

Terrorism is violence directed against the civilian sector in order to demoralize people, extort their cooperation with the terrorists, and attain a political or military objective. Generally, terrorism is designed to end not only the active cooperation of civilians with their government, but to so intimidate them that even passive resistance to the terrorists is crushed.

By this standard, the FSLN is a terrorist organization. And indeed, the most notorious international terrorist organization, the Palestine Liberation Organization (PLO), has recognized its kinship with the FSLN. The PLO has operational links with a number of other terrorist groups and with the secret police of a number of Communist countries that have assisted the PLO carry out acts of terrorism. These include the East German secret police who aided members of the Marxist-Leninist Popular Democratic Front for the Liberation of Palestine (PDFLP), led by Nayif Hwatmeh, attempt to enter West Berlin armed with hand grenades and other weapons; the Japanese Red Army which performed the Lod Airport massacre for another Marxist-Leninist PLO member, the Popular Front for the Liberation of Palestine (PFLP) headed by George Habbash; the West German Baader-Meinhof gang which provided the logistical support for the Black September commando of Al Fatah at the 1972 Munich massacre; and the Czech secret police which assisted the PLO assassination of Jewish leader Charles Jordan in 1967 in Prague.

As I first reported in my statement to the Subcommittee on International Organizations on February 16, 1978, the bonds of international solidarity between the FSLN and the PLO were demonstrated on February 5, 1978, when Havana Radio announced that the PLO and FSLN, meeting in Mexico City, had signed a joint communique in which they emphasize the bonds of solidarity which exist between the two organizations.

The joint FSLN–PLO statement was released at a Mexico City meeting of the World Peace Council (WPC), an important international Communist front run by the International Department of the Central Committee of the Communist Party of the Soviet Union and by the KGB, held in Mexico City. The WPC's conference was called the Continental Conference of Latin America and the Caribbean for Peace, Sovereignty and Economic Independence. It followed by a few days the first World Peace Council meeting in the United States, held here in Washington just off Capitol Hill, which was attended by a number of congressional staff members and other U.S. persons.

The communique was signed for the FSLN by its Havana representative, Jose Benito Escobar, and by the PLO chief for Latin America, Issam Sali. This was followed by reports in the Guatemalan press that the PLO had offered to send the FSLN some volunteers who would fight at the side of the Nicaraguan guerrillas.

This event was followed the next month with a similar joint communique with the PDFLP, Hwatmeh's group that murdered more than two dozen Israeli

schoolchildren at Maalot in May 1974. Recently Havana Radio has been broadcasting attacks on Israel for providing military equipment to the Government of Nicaragua.

As the Washington Post's editorialists noted earlier this year:

The Sandinistas, Castroite in inspiration, are playing down their Marxism and winning acceptance from professional persons and non-Somoza capitalists.

Of course the Communists are down playing their ideology. They need the acquiescence, if not active support, of larger numbers if they are to take over Nicaragua. The scenario is the old one from Cuba; and the FSLN goal is the same as Castro's—to take state power and institute a Communist dictatorship.

The FSLN's supporters in the United States have been very frank about FSLN aims in private discussions with other Marxist revolutionary groups. Recently a Los Angeles activist with La Raza Unida, Pedro Arias, who has been acting as the press representative for a Sandinista support group called the Broad Anti-Somoza Front—Frente Amplio Antisomocista de Los Angeles (FAALA)—wrote a letter to another Marxist-Leninist group enclosing copies of FSLN communiques which he said:

show we are not only trying to overthrow the Somoza dictatorship (though this is our first objective), but that we will also make many changes when we form the future Popular Democratic Government with the glorious and heroic FSLN at its head as the guiding armed hand of the Nicaraguan people.

NICARAGUA'S STRATEGIC IMPORTANCE TO THE COMMUNISTS

The question of why Nicaragua has been targeted for subversion and overthrow by the Communists was supplied by an article in the U.S. Communist newspaper, The Guardian, the publication that carriers KGB agent Wilfred Burchett on its staff, in March 1977. The article, written by one Alejandro Bendana, stated:

The overthrow of Somoza by a popular anti-imperialist movement may well prove a critical turning point in the regional struggle for national liberation, U.S. imperialism and its allies are all too aware of their fragile grip on this strategically vital area—of the explosive situation in Panama, the strength of the progressive forces in Costa Rica, the deep unrest in El Salvador * * *, the organized revolutionary movement in Honduras and Guatemala, the nationalist surge in the Caribbean, and, of course, the towering influence of socialist Cuba.

This, of course, is an explication of the "domino theory;" usually characterized when propounded by an anti-Communist in the U.S. media as the "discredited domino theory."

DISASTEROUS U.S. POLICY TOWARD NICARAGUA

Until recently, the people of Nicaragua and their elected government were able to count on the United States of America as the leader of the free world to support their resistance against Communist aggression. However, it has become evident that in the past two years a clique has formed in the U.S. State Department that has instituted a radical new United States policy of non-support and non-assistance to Nicaragua.

Superficially, a so-called hands off Nicaragua policy might appear to be balanced, but in fact that policy is designed to be used as a weapon against the Government of Nicaragua which historically has enjoyed a stable, friendly relationship with the United States.

Denial of assistance to a long-time friend of the United States when it is under attack from the Communists and their allies in the guise of "nonintervention" is de facto provision of assistance to Nicaragua's enemies.

This open hostility of the U.S. Government toward the Nicaraguan Government is a matter of public record. One of its leading architects is Mauricio Solaun, the U.S. Ambassador to Nicaragua. Ambassador Solaun will be remembered for his sensational "confirmation" of false press reports that U.S. mercenaries were serving in a combat capacity with the Nicaraguan National Guard. The Ambassador's false statement was repudiated on that occasion by State Department spokesmen who pointed out that while a few U.S. citizens under contract to the Nicaraguan National Guard have participated in training programs as instructors, there are no U.S. citizens serving as mercenaries in Nicaragua.

But Ambassador Solaun has done much more. Another of his projects was to work with the Nicaraguan opposition group, the Democratic Union of Liberation (UDEL), and persuade President Somoza to engage in a political dialog, in other words, to make concessions to this group. In 1977, the CIA publicly characterized UDEL as a united front "composed of anti-Somoza political movements and labor groups with orientations ranging from conservative to Christian Democrat to Communist." The Hoover Institution 1975 Yearbook on International Communist Affairs, citing the official journal of pro-Soviet Communist parties published in Czechoslovakia, World Marxist Review Information Bulletin No. 1–2, 1974, quotes a major resolution passed at the 10th Congress of the Nicaraguan Communist party (Partido Socialista de Nicaragua (PSN)). At that meeting held secretly in Managua in October 1973, the Communists called for the formation of a "united front incorporating all labor unions, students, peasant organizations, committees for defense and improvement of the people's conditions, democratic political parties, elements of the middle class, progressive Christians, democratically minded military, and all others who oppose the Somoza government."

The PSN resolution continued:

Only thus will it be possible to create a broadly-based popular movement capable of overthrowing the regime and bringing down its oligarchic imperialist mainstays.

Formation of the "democratic opposition front" was made the principal Communist task. In 1974, several months after the Nicaraguan Communist meeting, UDEL was formed. As of January 1978, the nine parties and groups forming the UDEL included both the PSN and its controlled labor front, the Independent General Confederation of Workers.

Thus we have a case where an American Ambassador has encouraged a Free World Government to cooperate with the Communists.

The new anti-Nicaraguan policy of the United States was developed by an activist State Department clique referred to in the press as the Christopher Committee. It is headed by Deputy Secretary of State Warren M. Christopher and is composed mostly of young activists from the Bureau of Human Rights and Humanitarian Affairs and Policy Planning Department.

Documentation of the State Department bias against the Nicaraguan Government and its leader, President Anastasio Somoza, appeared with the February 1978 publication in the Review of the News of excerpts of an October 1977 report drafted for Ambassador Solaun by his political officer in Managua, Jack Martin. The report was written after the Cuban-backed Marxist terrorist group in Nicaragua had greatly increased its attacks and had begun an urban terror campaign. But Mr. Martin's report blandly commented that despite a well-organized political and economic campaign aided by "pressure from the United States," against the government headed by President Somoza, he "appears to be in firm control and able to resist the pressure for change." Here we have a State Department political officer categorizing as mere "pressure for change" a combination of increasing terrorist violence by Marxist revolutionaries, an economic and political pressure campaign by the United States, and economic warfare organized by a coalition of opponents that is directed by the Nicaraguan Communists and supporters of the terrorist organization.

The purpose of a Communist front organization is to attract non-Communist dupes and opportunists and get people with varying motives working in a unified way along lines beneficial to the Communists. One of those who worked in UDEL was Pedro Chamorro, a liberal newspaper publisher whose family had been an opponent of the Somoza family for two generations. Chamorro allowed his blind hatred of President Somoza and his relatives to lead him into collaboration with first the Communists in UDEL, and finally, with the terrorists of the Sandinista National Liberation Front (FSLN). Sources favorable to the FSLN have reported that Chamorro had gone to Honduras to make arrangements to meet with the FSLN representatives in Mexico City at the end of January. The murder of Chamorro by hired assassins who confessed they worked for a U.S. citizen named Pedro Ramos who was involved in a law suit against Chamorro on January 10, 1978, provided the UDEL group and the FSLN with an excuse to organize an economic warfare campaign of strikes and rioting in an effort to cause the collapse of the Nicaraguan Government.

UDEL has now been supplanted by a new coalition, the Broad Oppositon Front (FAO). This consists of the old UDEL plus others, including the so-called Group of 12, formed on October 14, 1977, with the release of a statement of politi-

cal support for the FSLN terrorists signed by a dozen Nicaraguan opposition politicians. Within the FAO coalition, the Group of 12 represents the interests of the FSLN.

To prevent any misunderstanding of the Group of 12's full support for the FSLN, I would point out the concluding section of their founding statement:

Throughout more than a decade the FSLN struggled selflessly to achieve a change in Nicaragua, and the blood that so many young people have shed is the best witness to the seriousness and perseverance of the struggle which is being carried out with growing political maturity.

We the undersigned do not hesitate to call upon conscientious Nicaraguans to find a national solution for Nicaraguas' grievious problem and to realize that a solution which will guarantee a permanent and effective peace cannot be achieved without the participation of the FSLN.

The signers of that statement included:

Felipe Mantica Abauza.
Joaquin Cuadra Chamorro.
Miguel d'Escoto Brockman.
Ricardo Coronel Kautz.
Carlos Tunnerman B.
Fernando Cardenal Martinez.
Emilio Baltodano Pallais.
Sergio Ramirez Mercado.
Arturo Jose Cruz.
Carlos Gutierrez Sotelo.
Ernesto Castillo Martinez.
Casimiro Sotelo Rodriguez.

This so-called group of 12 of proterrorist politicians which is the political front for the FSLN, has also been promoted by the State Department's activists as an alleged "Third Force" in Nicaragua, a "Third Force" of Las Doces and UDEL, now the FAO, to offer a "moderate" alternative to the traditionally anti-Communist, pro-American centralized government headed by President Somoza and to a possible military coup by the Nicaraguan National Guard.

This "Third Force" method of finding some "alternative" of existing governments friendly to the United States has been the State Department's main tactic for attacking American allies since the early 1950's. As usual, the Nicaraguan "Third Force" is an ally not of the Free World, but of the Communists, and ends up playing the role of a "front man" for a Communist takeover. R. Harris Smith wrote in his book, "OSS: The Secret History of America's First Central Intelligence Agency," that the most notorious failure of the "Third Force" theory was in Cuba where Fidel Castro's 26th of July Movement played that role.

Should the "Broad Opposition Front" in which the FSLN terrorists and the tightly organized PSN Communists have the strongest organization succeed in overthrowing the Nicaraguan Government, we may expect a reign of terror to follow, as it did in Cuba, Vietnam, Cambodia, Angola, Mozambique, and recently in Afghanistan where the pro-Soviet leaders have been executing landlords and supporters of the previous government.

The United States should show its strong support for the lawful Government of Nicaragua and its President, and give it the support needed to achieve civil peace, suppress the violence by the Marxist terrorists, and demonstrate to the enemies of freedom that the United States will not sit by and permit a Communist takeover of another Latin American country. The Cuban tragedy must not be repeated in Nicaragua.

● Mr. COLLINS of Texas. Mr. Speaker, I appreciate the opportunity to join my colleague from New York (Mr. MURPHY) in discussing our American foreign policy with Nicaragua. Many times it seems we have a policy of turning our back on our friends and encouraging Communist agitators.

With the liberals in Nicaragua we have a group of dissidents who will continue to ferment agitation in Central America. If Somoza's regime loses power, human life and stability of operations will be most uncertain for a long time to come. Recently, terrorists held legislators at gunpoint and demanded a $500,000 ransom plus, as I recall, 50 political prisoners. They received the money and prisoners and immediately headed for their sanctuary which was Panama.

It was just a few months ago that we talked about the Communist leadership in Panama. And here we have Panama where terrorists find they can seek asylum. With the Communists firmly established in Cuba, they have now moved forward in Panama through the administration giving them the canal, and now the Communist sympathizers and terrorists received more encouragement from the United States.

Around the world we should support our friends and help them maintain democratic institutions of responsible government. Nicaragua has always been our friend. Now in this year of domestic turmoil, why does America turn its back on them?

There are many of us here in Congress who want to see a peaceful business, agriculture, and academic climate reestablished in Nicaragua.

I believe we should encourage the existing government.●

GENERAL LEAVE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order on today.

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

There was no objection.

SOLID WASTE DISPOSAL: A NATIONAL SCANDAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 10 minutes.

● Mr. LAFALCE. Mr. Speaker, in a continuing effort to alert my colleagues to the environmental problems that are continuing to plague our Nation as a result of the nonimplementation of the Resource Recovery and Conservation Act of 1976, I am inserting into the RECORD two articles by Michael Desmond recently published in the Buffalo Courier-Express.

By not issuing regulations for RCRA, EPA is creating a gaping hole in our national policy to reduce the amount of uncontrollable pollutants in the environment. Congress has passed landmark legislation such as the Clean Air Act of 1977, the Clean Water Act of 1977, the Safe Drinking Water Act and the Toxic Substances Control Act. Congress clearly indicated that these laws should be implemented as quickly as possible, so that the Nation's health, welfare, safety, and environment could be protected in a well coordinated manner. Since RCRA is not currently being implemented, an integral part of that national policy is mising.

Without RCRA regulations, for example, "midnight haulers"—illegal waste dumpers—spill wastes into sewers, along roadsides, or at any other place which seems to be convenient for the hauler. The results of these actions are additional pollutants in our drinking water, increased burdens on our sewage treatment plants, increased pollution in our rivers and streams, and increasingly higher amounts of unhealthy and even toxic chemicals in the atmosphere which we must breathe.

The harmful effect on the health and welfare of society from the "midnight hauler" is only one example of the type of burden we must bear as a result of EPA's dereliction of duty. The "midnight haulers' " clandestine spills also mean that innocent victims must bear the expenses of protecting themselves from the irresponsible actions of others.

These two articles discuss the hazards which this Nation will face if the toxic wastes which our technological society is producing continue to pile up and are not disposed of properly in accordance with uniform Federal regulations.

EPA must implement RCRA immediately so that this Nation can have the coordinated national policy that it deserves and which Congress has mandated in order to protect it from the toxic wastes which are the unfortunate legacy of our highly industrialized society.

The articles follow:

ILLEGAL WASTE HAULERS CREATE U.S. TIME BOMB

(By Michael Desmond)

There are two ways to dispose of hazardous chemical wastes—legally and illegally. And the illegal way is by far the most common.

"Midnight haulers," as illegal waste-dumpers are known, are familiar figures in the chemical industry. They are especially familiar among smaller chemically-oriented companies which cannot afford the high costs of legal waste treatment or disposal.

How expensive is legal waste treatment? One operator of a well-known chemical waste treatment plant cited this example to The Courier-Express: To turn one type of chemical into harmless material costs $5 a gallon. The chemical comes in 55-gallon drums. The cost, then, is $275 per drum. Multiplied by the thousands of drums which must be disposed of, and the costs would be astronomical.

DUPONT COSTS

E. I. duPont DeNemours & Co. Inc., for example, will spend $35 million this year to operate its disposal system for chemical wastes from its own vast complex of plants

across the nation. The firm said it expects to spend even more next year.

C. Edward Ashby Jr. is well aware of the "midnight hauler" problem. He is vice president-eastern region for Rollins Environmental Services Inc. in Bridgeport, N.J., a disposal firm located not far from the state's rustic Pine Barrens. He grimaces when "midnight hauling" is mentioned as an alternative to proper disposal, but admits it is common.

New Jersey is a chemist's dream. From the industrial complex across the Delaware River from Philadelphia to the miles of industry across the Hudson River from New York City, the state is a giant test tube.

BIG WASTE PRODUCER

Currently, the state produces 350,000 tons of chemical waste a year and 1.2 billion gallons more which is dumped into the ocean, according to Dr. Ronald Buchanan, chief of the Bureau of Hazardous and Chemical Wastes in the state's Department of Environmental Protection in Trenton.

But, he is well aware of the Pine Barrens and its counterpart in North Jersey, the Meadowlands, where illegal dumping is common.

Many states have equivalent illegal dumping areas. Kenneth Weiss, a research engineer for the Delaware Department of Natural Resources and Environmental Control in Dover, noted, "From what we have learned from our waste investigation, most of it is going out of state."

However, the department makes no attempt to verify records showing an out of state destination, he admitted.

Many states have laws or rules on the books to take care of hazardous wastes. But, there is little or no staff to enforce the laws, so they are largely just for show.

TIP OF ICEBERG

"We don't have the ability with our current staffing to do more than break the tip of the iceberg," was the comment of James Snyder, chief of the operations and compliance section of the Solid Waste Management Division of the Pennsylvania Department of Environmental Resources.

This isn't a problem confined to the large industrial states. "We're certain there are things that are going on we don't know about," commented Dennis Dalley, associate deputy director of health in the Environmental Health Services Branch in the Division of Health in the Utah Department of Social Services. He is one of three state employees in the hazardous waste field.

Louisville, Ky. found out about illegal dumping in the spring of 1977. A series of toxic chemicals used to make pesticides were dumped down a sewer. The chemicals contaminated the sewer system and sent 35 sewer plant workers for medical treatment.

SEWAGE DUMPED

For nearly three months, 100 million gallons of raw sewage a day was put into the Ohio River because the Morris Foreman Treatment Plant could not be used.

Final cleanup of sewer lines took more than a year, while much raw sewage continued to flow into a major river. A group of employees and officials of an Indiana chemical firm were indicted in federal court for violating the Federal Water Pollution Control Act.

Recently, midnight dumpers poured toxic PCB along 210 miles of road outside Raleigh, N.C.

"There are states, Minnesota is one, unlike New York who have put their head in the sands," commented Dr. Charles A. Johnson, technical director of the National Solid Wastes Management Association in Washington, D.C. He added:

"As long as we continue to be an industrial society we are going to have industrial wastes."

His group lobbied hard for the Federal Resource Conservation and Recovery Act (RCRA). At the same time, the association doesn't think the law provides enough protection into the distant future.

And, the future is the problem.

LOVE CANAL

When the Hooker Chemicals & Plastics Corp. buried its waste in the industrial dream that was the Love Canal area of Niagara Falls, it was using the standard approach of the time. The chemicals turned into a nightmare which haunts the quiet neighborhood and many haunt its residents for a generation or more.

So, as the horrible example of the Love Canal indicates, there are even problems with legal dumps.

The Love Canal was a chemical waste dump which went wrong. The bad dumps around the country—and there are probably many thousands of them—are ticking time bombs. In the Love Canal, the bomb has gone off. Chemicals from the leaking site are thought to have caused birth defects and miscarriages, and have forced evacuation of a section of Niagara Falls.

What former dump site will go off next? There is no way to tell. The U.S. Environmental Protection Agency, the government unit responsible for protecting the nation's health from such calamities, admits it does not even know where the sites are.

Some waste is supposed to be burned, Federal regulations require that PCBs be burned in special incinerators at 2,100 degrees. But, there is no public incinerator in the country licensed to burn liquid PCBs. So, they have to be stored until EPA can license incinerators.

WASTE FUEL

Some chemicals are cleaned and mixed and used as fuels in industrial processes. Since the oil embargo of five years ago, industry is much more aware of this source of heat, one large treatment plant uses about 10 percent of the wastes it handles as a fuel supplement.

Some liquid waste can be treated to pre- and reused. This is especially true of industrial solvents. One plant recycles 10 percent on the average.

Some liquid waste can be treated to precipitate out the contaminant in the form of sludge. The water is then cleaned and discharged. Usually the sludge is buried. But some metals can be reclaimed if concentrated.

Sometimes waste itself can be exchanged with other companies and used as a source material by the second company. Currently, little of this is being done.

There are three last resorts. Dumping in a secure land fill is one. Pumping material several miles into the ground in a deep well is a second, And, hauling the material out into the ocean or Gulf of Mexico is the third.

REDUCE WASTES

Of course, there is an alternative companies have been reluctant to use as long as disposal, at present, is cheaper: Reducing the amount of waste to be disposed of. This can be done by making production more efficient or by changing the basic process.

James Reilly, corporate director of environmental affairs for DuPont in Wilmington, Del., commented on efficiency: "That gets to be the topic of any manufacturing discussion."

Bruce Davis, executive vice president for Hooker's Industrial Chemicals Group, noted his firm spent $5 million in Niagara Falls on one of its industrial processes. It resulted in "a hell of a lot more efficiency and one of the savings is less disposal of residue."

In another process in Niagara Falls, he said, "We've essentially eliminated any material going to landfill or sewer system."

Davis said the technology involved in this change will be sold to other companies in the field by Hooker. "We are one of the leading purveyors of chloralkali technology in the world," he noted. This involves turning salt and water into commercial chemicals.

Simply trying to throw away the wastes isn't the answer because it doesn't work.

Ocean dumping will be stopped, by law after Dec. 31, 1981. It has been the subject of fierce talk.

TEXAS PROTEST

On Aug. 23, shrimp fishermen from Freeport, Texas attacked an EPA proposal to permit the federal agency department to dump salt brine into a fish spawning ground. The brine is being pumped out of an underground salt formation to make room for oil storage through the government's Strategic Petroleum Reserve Program.

The oil is being stored to be used in the event of another oil embargo. The brine is so much saltier than the ocean that it could pollute the spawning grounds.

Lonnie Vandergrifft is president of the Freeport Shrimp Association and a director of the Gulf Coast Fishermen's Defense Fund. Both groups are considering a federal court suit against the proposal. Vadergrifft said: "The EPA is supposed to be against ocean dumping. But, this will be just like a sewer line into the Gulf."

DUMPING SUPERVISED

Currently, the EPA is supervising the annual dumping of 1.5 million tons of waste off the New Jersey shore, Dr. Peter Anderson, chief of the Marine Protection Branch for EPA's Region 2 in New York City, told The Courier-Express.

Most of the waste is either chemically basic, as is the ocean, or acidic which is neutralized into a salt by the ocean. Some toxic pesticide wastes and pesticides are also dumped. Anderson claimed they deteriorate in the ocean. Garbage and sewage are also dumped and have washed back on shore.

Rep. Bob Eckhardt, D-Texas, was influential in pushing for the now required end to most dumping. He pointed out to The Courier-Express that one steel company used to dump 1,000 pounds of cynide into the Houston Ship Channel each day. Eventually, former Texas Governor John Connally was called in by the company to get EPA off its back about the waste.

"Connally went up to Washington and had some conversations with the Department of Justice. It was out of EPA's hands," Eckhardt told The Courier-Express.

CASE REOPENED

Eckhardt said a letter turned up which showed EPA was ordered to reopen the case. Connally, who was also formally treasury secretary, was later publicly praised by the president of the steel company.

Finally, tighter controls were put on by congress.

Eckhardt has been pushing on the dumping situation, even though he admits, "I really do have more of the chemical industry in my district than any other congressman."

TOUCHY ISSUE

The issue remains touchy:

On Aug. 23, the Ethyl Corp. withdrew a new application for ocean dumping in the Gulf of Mexico when EPA ruled that both Houston newspapers could use the Fredom of Information Act to find out what the company was dumping. Ethyl was the last company to have a federal permit to dump in the Gulf.

When EPA began to regulate Gulf dumping in 1973, there were seven companies dumping. Before that, the practice was loosely regulated by the Army Corps of Engineers.

It isn't known exactly what Ethyl wanted to dump, although in the past the firm has dumped calcium and sodium sludge in an area 50 miles off the Mississippi Delta.

Instead, the company said, it will incinerate its waste.

WASTE BURIED

Some other companies no longer dumping in the Gulf are now burying their waste.

At one time, the Gulf was close to being a main dumping ground for Middle America, Rep. Eckhardt noted:

"I started complaining a long time ago. People were shipping drums down the Ohio River to dump in the Gulf of Mexico."

PUBLIC FRETS OVER EPA "LAXITY" ON DUMP SITES

(By Michael Desmond)

The federal Environmental Protection Agency is delaying more and better treatment of chemical wastes because of its tardiness in setting ground rules for the industry.

The federal Resource Conservation and Recovery Act (RCRA) of 1976 was designed to manage hazardous and chemical waste. But EPA, headed by administrator Douglas M. Costle, has not yet told potential investors what rules and regulations will be on waste handling. The act required the regulations to be written by April 1978. But EPA said it will not complete the work until 1980.

Sophisticated waste treatment is a small but growing field, facing growing opposition by neighbors of treatment plant sites.

Citizens are worried that the waste treatment plant set up in their neighborhood will go broke and leave behind lakes of chemicals and drums of unknown materials to pose a health threat.

There is reason for that kind of worrying:

Michigan recently spent $700,000 in Pontiac cleaning up 20,000 drums of toxic wastes after Ankerson Resource Recovery Systems went broke.

The Coast Guard has just spent $1.9 million in Oswego, cleaning up liquid wastes after Pollution Abatement Services (PAS) went out of business.

New York State's proposed supplemental budget includes $750,000 to be used to find out what is in the PAS drums and how much it will cost to process the wastes. The drums are split between Oswego and a warehouse in nearby Mexico, N.Y.

MAKE CLAIM

Companies in the waste treatment field claim that wastes can be "properly" disposed of. But, none says it's easy. And no one can say "permanently."

There is considerable skepticism in the industry about buried wastes. No matter how well designed and how well built the waste burial vaults are, no one is really certain how long they will last.

What burying the waste really does is leave today's problems for future generations.

"When you get in that business, you have to be in the business of running a chemical plant," according to Carl Goslin, assistant technical director of the Manufacturing Chemists Association (MCA). The MCA is a trade group for chemical producers in Washington, D.C.

Goslin once ran a waste treatment site in Delaware. Since chemicals are going in and chemicals are going out, a treatment plant must be operated as if it were an initial maker of chemicals.

Proper disposal of chemicals and waste which cannot be turned to another use will cost a lot of money.

"We are going to have the costs of disposal built into the cost of the item," remarked Dr. Charles A. Johnson, technical director of the National Solid Waste Management Association. But one thing is for sure: the consumer will foot the bill.

No one can tell what the extra cost will be.

LOBBYING GROUP

Johnson's association is a lobbying group in Washington for the entire solid waste industry. A small segment of the group handles hazardous and chemical wastes.

Johnson admits the federal Resource Conservation and Recovery Act could be a real boon to his group's members in the chemical field. That is, if the EPA ever gets the regulations out to implement the law. EPA announced on Friday that it will issue its regulations in Jan. 1980—21 months late.

The regulations were due in April, 18 months after the RCRA became law.

On Sept. 7, Illinois Attorney General William J. Scott filed suit against the EPA for its failure to put the regulations into effect. Last Wednesday, also in Federal District Court in Washington, two activist groups, Environment Environmental Action and the Environmental Defense Fund, also sued EPA for the lack of regulations.

Without the rules, companies are reluctant to invest in the treatment field because the investments might wind up in violation of the final rules.

At the same time, the rules will guarantee the existence of the waste treatment industry. Basic to RCRA is the idea that the company which generates waste is responsible for whatever happens to it. Under the law, the company must prove its waste was properly disposed of in an approved site.

There will be much less opportunity for "midnight haulers," the clandestine operators who spill wastes into sewers, roadside ditches, drinking water sources or whatever.

CAN COP OUT

Now, chemical waste producers can simply cop out by saying to federal or state investigators they had hired a reputable hauler. The producers can claim to have no responsibility for later illegal disposal.

Jim Hunt, who oversees licensing of waste haulers for the Indiana Board of Health, noted:

"We don't have the controls or manpower to get totally on top of the problem. While this state has a liquid industrial wastes control program, there is still much illicit traffic. It is widespread, with a lot of interstate movement, and difficult to trace."

Basic to the whole problem is that no one really knows how much hazardous waste is generated, exactly where it goes or even exactly how to define hazardous waste.

ONLY 6 PERCENT

EPA throws around estimates of 98 billion pounds a year, with 80 percent going into on-premises factory sites and the other 20 percent going into the 20,000 private dump sites. Only 5.6 billion pounds are properly disposed of, EPA admits. That's only 6 percent.

Hazardous waste obviously include waste which can cause cancer, can cause birth defects, and cause gentic defects or an even cause immediate death. But, there is also waste which can explode or waste which is dangerous only in very high concentrations.

Reputable waste treatment operators offer a variety of services.

PICK IT UP

Initially, they test to see exactly what it is a waste generator wants handled. If it is something the treatment firm can handle, the plant can even pick it up. When the material arrives, it is checked again to make certain it is what it is supposed to be.

Proper analysis should clear any obscurities caused by the use of chemical trade names which do not indicate the actual chemical.

Waste treatment firms maintain elaborate facilities for electronic, mechanical and chemical tests of waste to make certain the firm knows what the stuff is.

Some waste must simply be burned. The federal government requires that liquids of the highly toxic PCB family be burned in incinerators which can maintain a temperature of 2,100 degrees Farenheit for long periods.

PILING UP

Since not a single public incinerator in the country is licensed to do that, PCB is piling up all over the country. Or, it is being illegally dumped.

EPA estimates that one million gallons a year of liquid PCB waste will be produced for the next 25 years. Disposal firms are unwilling to invest in building incinerators until the EPA issues its long-delayed regulations.

Some materials must be buried in "secure landfills." These aren't just dumps any more, as the Love Canal in Niagara Falls really was. Electrical materials made with PCB in solid form can be buried in secure landfills.

CAN BURN WASTE

Liquid wastes are handled differently. Treatment depends on exactly what they are. C. Edward Ashby, vice president/eastern region for Rollins Environment Environmental Services Inc., Bridgeport, N.J., said his disposal firm can burn waste which is 99 percent water. Because of the possibility of a patent application. Ashby won't say how. But apparently it involves using heat from the incinerator process to boil off most of the water in the incoming waste.

Right now, however, Rollins can't use the Bridgeport incinerator: Last December, an on site explosion of disputed cause killed six persons and knocked it out of service.

Some liquid wastes are mostly solvents, chemicals used to dissolve other chemicals. Through chemical treatment, some of these solvents can actually be cleaned and put back into use. Some solvents are cleaned and then simply used as fuel because it is not economically attractive to reuse them as solvents.

DIRTY WATER

Many wastes have a lot of water in them. Sometimes a "flocculant" can be added which turns the contaminant into residue, leaving dirty water. The residue is left to dry and then buried in a landfill. Sometimes various forms of bacteria can be put into the water which will literally eat the waste material.

Whatever liquid waste treatment process is involved, large amounts of water are produced which also must be cleaned. The water is pumped through giant tanks of activated carbon to remove oragnic wastes. Then, it is aerated to provide oxygen for bacteria and cleaning. Finally, the clean water is released.

FEARS ABOUND

But, people are afraid of places where solid hazardous waste is actually buried. Their fears are not without reason, The Courier-Express has found.

The little town of Wilsonville, Ill., fought and won a battle to get rid of a chemical waste dump in an abandoned coal mine there. Mrs. Gwen Molinar, a village trustee, explained to The Courier-Express:

"We've got a good water supply out there. There's no contamination yet. You know how you get the it's-all-right now . . . feeling." ●

MONTHLY LISTS OF GAO REPORTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BROOKS) is recognized for 10 minutes.

● Mr. BROOKS. Mr. Speaker, the monthly list of GAO reports includes summaries of reports which were prepared by the staff of the General Accounting Office. The July 1978 list includes:

NATIONAL DEFENSE

Need to Better Inform Military Personnel of Compensation Changes. FPCD–78–27, July 12.

Defense's Response to the Issues in the Defense Manpower Commission Report. FPCD–78–51, July 28.

The Department of Defense Could Save Several Million Dollars Annually Through Improved Management and Control of Reusable Containers. LCD–78–214, July 19.

Essentiality of Air Force War Reserve Items. LCD–78–421, July 25.

Aircraft Depot Maintenance: A Single Manager is Needed to Stop Waste. LCD–78–406, July 12.

Army Commissary Accounting for Gains and Losses Needs Improvement. FGMSD–78–43, July 17.

Letter reports

Based on its 10-year lease of Government property under the hammer and press program, does the Air Force intend to base rental charges on the appraised value of the facilities? LCD–78–331, June 12.

Actions to more fully evaluate the potential war-time role of the Coast Guard and Navy and to improve their coordination. LCD–78–424, July 13.

Redirection needed for successful development of Defense's Tri-Service Medical information system. LCD–78–121, July 19.

Are Defense contracting officials obtaining adequate data in support of forward-pricing rate proposals and are contract administration personnel adequately evaluating business volume forecasts for indirect expense rate negotiations? PSAD–78–127, July 20.

Regulations should be established for operational testing of foreign built weapons systems. PSAD–78–131, July 25.

The Department of Defense could save a substantial amount by shifting the National Parachute Test Range to other facilities. PSAD–78–136, July 27.

INTERNATIONAL AFFAIRS

U.S. Economic Aid For the West Bank and Gaza—A Positive Contribution. ID–78–35, July 5.

Coordination of International Exchange and Training Programs—Opportunities and Limitations. ID–78–37, July 24.

The Department of State Has Continuing Problems in Managing Real Estate Overseas. ID–78–16, July 12.

Revenue Estimates Under Various Methods of Taxing Americans Abroad. ID–78–52, July 27.

GENERAL SCIENCE, SPACE, AND TECHNOLOGY

Management of Federal Materials Research Should be Improved. EMD–78–41, July 14.

ENERGY

Liquified Energy Gases Safety. EMD–78–28, July 31.

Need to Improve Regulatory Review Process for Liquified Natural Gas Imports. ID–78–17, July 14.

Major Unresolved Issues Preventing a Timely Resolution to Radioactive Waste Disposal. EMD–78–94, July 13.

Letter reports

Impact of the energy situation on rural economic growth and development. EMD–78–79, July 18.

The new 10-year plan for energy conservation in Federal buildings will not adequately meet requirements of the Energy Policy and Conservation Act. EMD–78–89, July 20.

NATURAL RESOURCES AND ENVIRONMENT

The Strategic and Critical Materials Stockpile Will Be Deficient For Many Years. EMD–78–82, July 27.

The National Forests—Better Planning Needed to Improve Resource Management. CED–78–133, July 12.

The Department of the Interior's Computerized Resources Information Bank. EMD–78–17, July 17.

Inaccurate Estimates of Western Coal Reserves Should be Corrected. EMD–78–32, July 11.

The Department of the Interior's Minerals Availability System. EMD–78–16, July 17.

Interior Programs for Assessing Mineral Resources on Federal Lands Need Improvements and Acceleration. EMD–78–83, July 27.

AGRICULTURE

Department of Agriculture's Beef Grading: Accuracy and Uniformity Need to be Improved. CED–78–141, July 21.

Food: Reports, Legislation and Information Sources. (A Guide Issued by the Comptroller General.) CED–78–37, May 1978.

COMMERCE AND HOUSING CREDIT

Changes Needed in the United States Postal Service's Rural Carrier Pay Systems. GGD–78–84, July 14.

TRANSPORTATION

Unwarranted Delays by the Department of Transportation to Improve Light Truck Safety. CED–78–119, July 6.

Airline Passengers: Are Their Consumer Rights Protected? CED–78–143, July 20.

Need For More Federal Leadership in Administering Non-Urbanized Area Public Transit Activities. CED–78–134, July 3.

Use of Discount Airline Fares and Teleticketing Would Help Save on Government Travel Expenses. FGMSD–78–46, July 21.

The Alaska Railroad: Its Management is Being Improved; Its Future Needs to be Decided. CED–78–137, July 27.

Letter reports

Federal, State, county, and city government shares of the total cost of the proposed Crosstown Expressway in Chicago. CED–78–135, June 30.

COMMUNITY AND REGIONAL DEVELOPMENT

HUD's Evaluation System—An Assessment, PAD–78–44, July 20.

EDUCATION, TRAINING, EMPLOYMENT, AND SOCIAL SERVICES

Job Training Programs Need More Effective Management. HRD–78–96, July 7.

Letter reports

Summary of Department of Agriculture views on why the Food Stamp Program, the Child Nutrition Programs, and the Special Supplemental Food Programs are funded by "no-year" appropriations. PAD–78–46b, July 14.

Updated analysis of economic effect of impact aid payments to school districts. HRD–78–132, July 13.

HEALTH

Can Health Maintenance Organizations Be Successful?—An Analysis of 14 Federally Qualified "HMOs". HRD–78–125, June 30.

Savings Available by Contracting for Medicaid Supplies and Laboratory Services. HRD–78–60, July 6.

Problems in Administration of Two Health Grant Projects in Region VIII. HRD–78–61, July 20.

INCOME SECURITY

Disability Provisions of Federal and District of Columbia Employee Retirement Systems Need Reform. FPCD–78–48, July 10.

Investment Decisionmaking Process in Two New York Public Employee Retirement Plans. HRD–77–41, February 16, 1977.

VETERANS BENEFITS AND SERVICES

Electron Microscopy in Veterans Administration Hospitals: Planning, Distribution, and Control Need Improvement. HRD–78–75, July 19.

Letter reports

VA's rationale for proposed reduction of beds and staff in its hospital system for fiscal year 1979. HRD–78–134, July 19.

ADMINISTRATION OF JUSTICE

Evaluation Needs of Crime Control Planners, Decisionmakers, and Policymakers. Are Not Being Met. GGD–77–72, July 14.

The Affirmative Action Programs in Three Bureaus of the Department of Justice Should be Improved. FPCD–78–53, July 5.

The Federal Bureau of Investigation Needs Better Representation of Women and Minorities. FPCD–78–58, July 10.

GENERAL GOVERNMENT

Further Simplification of Income Tax Forms and Instructions is Needed and Possible. GGD–78–74, July 5.

Legislative Recommendations of the Commission on Government Procurement: 5 Years Later. PSAD–78–100, July 31.

The Quality of Working Life: An Important Issue for Managers of the Federal Work Force. FPCD–78–38, July 3.

New Ways of Preparing Data For Computers Could Save Money and Time and Reduce Errors. FGMSD–78–39, July 18.

OMB Needs to Intensify its Work Measure Effort. FPCD–78–63, July 24.

Computer-Aided Building Design. LCD–78–300, July 11.

Federal Compensation Comparability: Need for Congressional Action. FPCD–78–60, July 21.

GSA Can Improve Traffic Management Practices. LCD–77–24, July 28.

Examination of the Bureau of Engraving and Printing Fund's Financial Statements for the 15 Months Ended September 30, 1976, and for Fiscal Year 1977. GGD–78–67, July 5.

Letter reports

Are GSA's contracting practices adequate and appropriate? LCD–78–323, July 6.

Is there sufficient competition in GSA's contracting? LCD–78–330, July 6.

Civil agency participation in the Federal Catalog System. LCD–78–229, July 7.

Recent New York City contract negotiations with its labor unions will set the pattern for all other settlements. GGD–78–98, July 26.

All FTC employees who have duties which could influence regulatory activities should be required to file annual financial disclosure statements. HRD–78–141, July 10.

GENERAL PURPOSE FISCAL ASSISTANCE

State and Local Governments' Views on Technical Assistance. GGD–78–58, July 12.●

THE INTERNATIONAL MACHINE TOOL FAIR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 5 minutes.

● Mr. ROSTENKOWSKI. Mr. Speaker, September 15 marked the end of the 10-day International Machine Tool Fair, which was held in Chicago. The most successful and best attended show of its kind, it drew over 100,000 businessmen from around the globe this year. O'Hare International Airport reported that its airline traffic for these 10 days exceeded that of any similar period in its history. The show generated a record volume of business, with a number of individual companies reporting multimillion-dollar earnings. Measured by floor space and the number of exhibitors, this was in fact the largest industrial trade fair ever held in the United States.

Mr. Speaker, what makes the machine tool industry unique is the long leadtime which is involved in its output. A company placing an order today often understands that it will not take delivery for up to a year. When corporations demonstrate a willingness to make long-term investments in capital equipment in the way that they did last week, it suggests to

me that businessmen are confident about the economic outlook.

Mr. Speaker, the importance of this fair involves more than the amount of business that was generated by it. Its deeper significance lies in its emphatic demonstration that a major industrial sector has a basic faith in the strength of our economy. Clearly, the show was a great success for the machine tool industry, and for the city of Chicago. As a matter of fact, businessmen spent up to $50 million in the city over the 10-day period. But more than that, Mr. Speaker, the show was to me a clear economic indicator pointing to the success of President Carter's economic policies, and to the effective and far-reaching legislation enacted by this Democratic Congress.●

EXPORT-IMPORT BANK FINANCING NOTIFICATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. NEAL) is recognized for 5 minutes.

● Mr. NEAL. Mr. Speaker, I call to the attention of my colleagues a communication from the Export-Import Bank which has been referred to me as chairman of the Banking Subcommittee on International Trade, Investment and Monetary Policy. The communication notifies the Congress a proposed Eximbank transaction to assist in the export of U.S. goods and services to Algeria.

Section 2(b)(3)(i) of the Export-Import Bank Act of 1945 requires the Bank to notify the Congress of any proposed loan, guarantee, or combination thereof in an amount of $60 million or more at least 25 days of continuous session of the Congress prior to the date of final approval. Upon expiration of this period, the Bank may give final approval to the transaction unless the Congress dictates otherwise.

The Bank proposes to lend $68,754,750 to Societe Nationale pour la Recherche, la Production, le Transport, la Transformation et la Commercialisation des Hydrocarbures (Sonatrach), a state-owned enterprise of the Government of Algeria. The loan will allow purchase of U.S. goods and services for the construction of a nautral gas pipeline in Algeria. The pipeline will be part of a system consisting of gas liquefaction plants, gas field treatment facilities, and gas pipelines which is already in part funded by Eximbank.

The total cost of the pipeline is $140 million with U.S. costs of $91,673,000. A cash payment will provide $13,750,950, private loans not guaranteed by Eximbank will provide $9,167,300, and Eximbank $68,754,750. The Eximbank loan will bear interest at 8.5 percent per annum payable semiannually. A commitment fee of one-half of 1 percent per annum will be charged on the undisbursed portion of the Eximbank loan. The combined total of Eximbank and private loans of $77,922,050 will be repaid by the borrower in 20 equal semiannual installments beginning November 30, 1981. The private loans will be repaid out of the first two and part of the third installments and the Eximbank credit will be repaid from the remainder. Repayment of the Eximbank credit will be guaranteed by Banque Algerienne de Developpement for the Government of Algeria.

I am inserting at this point in the RECORD the letter from the Eximbank pertaining to this transaction together with the accompanying materials and I welcome any comments my colleagues may wish to offer concerning this proposed loan:

WASHINGTON, D.C.,
September 13, 1978.

Hon. STEPHEN L. NEAL,
Chairman, Subcommittee on International Trade, Investment and Monetary Policy, Committee on Banking, Finance and Urban Affairs, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In accordance with Section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, I have reported to the President of the Senate and the Speaker of the House of Representatives on an application currently pending consideration by the Bank. I am taking the liberty of providing you with a copy of this statement.

Sincerely,

JOHN L. MOORE, Jr.,
President and Chairman.

WASHINGTON, D.C.,
September 13, 1978.

THE SPEAKER OF THE HOUSE OF REPRESENTATIVES,
The Speaker's Room, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to Section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the United States House of Representatives with respect to the following transaction involving U.S. exports to Algeria.

A. DESCRIPTION OF TRANSACTION

1. Purpose

Eximbank is prepared to extend a direct credit in the amount of $68,754,750 to Societe Nationale pour la Recherche, la Production, le Transport, la Transformation et la Commercialisation des Hydrocarbures (SONATRACH), a state-owned enterprise of the Democratic and Popular Republic of Algeria, to assist in financing the export from the United States of U.S. goods and services for the construction of a natural gas pipeline from Hassi R'Mel to Arzew, Algeria. Repayment of the Eximbank credit will be guaranteed by Banque Algerienne de Developpement for and on behalf of the Democratic and Popular Republic of Algeria.

The total cost of the pipeline and related facilities is estimated at $140,000,000 with U.S. costs of $91,673,000 and the balance expected to be Algerian costs. The pipeline will be 42 inches in diameter, will extend 511 kilometers (319 miles) and is designated as the GZ–3 pipeline. The U.S. goods and services to be financed by Eximbank relate to the pipeline, terminals and related facilities but not to the pipe itself or the compressor stations.

The pipeline is part of a system in Algeria consisting of gas liquefaction plants at Arzew on the Mediterranean coast, gas field treatment facilities on Hassi R'Mel in the Sahara desert and gas pipelines connecting the two. The liquefaction plants will produce liquefied natural gas (LNG) for export from Algeria to the U.S. and Europe. The GZ–3 pipeline will mainly supply the liquefaction plant known as LNG–2, for which Eximbank recently approved a credit of $240 million.

An earlier liquefaction plant (LNG–1), also supported by Eximbank financing, is in process of completion at Arzew and is part of a system similar and related to the LNG–2 system. The Eximbank financing for LNG–1 supported the export of U.S. goods and services for not only the LNG–1 plant but also the gas field treatment facilities and gas pipeline built in connection with the LNG–1 plant.

The plants for LNG–1 and LNG–2, as well as others which are planned, will draw from the Hassi R'Mel field and later, from other gas fields, and some of the systems will have certain facilities in common. Other countries have also supplied and financed some of the components of the LNG–1 system and are providing a total of about $900 million of officially supported export financing for the LNG–2 system.

2. Identity of the parties

SONATRACH is the state-owned monopoly of Algeria under the jurisdiction of the Ministry of Energy and Petrochemical Industries charged with the responsibility for the development of Algeria's oil and gas resources.

Banque Algerienne de Developpement is the government-owned development bank which will guarantee repayment of Eximbank's credit for and on behalf of the Democratic and Popular Republic of Algeria.

3. Nature and use of goods and services

The principal goods and services to be exported from the United States for use in the construction and operation of the GZ–3 gas pipeline include U.S. services for engineering, procurement and construction supervision and U.S. goods consisting of pipeline valves, controls, connecting pipe, pipe coating and wrap, terminal equipment, other materials, and bulk construction materials and equipment. The major U.S. supplier for the project is the Houston Contracting Company, Houston, Texas, a division of Sedco, Inc., Dallas, Texas.

B. EXPLANATION OF EXIMBANK FINANCING

1. *Reasons.* The proposed extension of a $68,754,750 credit by Eximbank will facilitate the export of $91,673,000 of U.S. goods and services. In addition to the engineering, design and construction work which will result from this project for the Houston Contracting Company, other U.S. firms will receive contracts to supply equipment and material. Export sales generated by the project will result in an estimated 420 man-years of direct employment in the United States. None of the goods to be exported is in short supply in the United States, and Eximbank perceives no adverse impact on the U.S. economy from the export of these goods and services.

There has been active foreign competition offering official export credit support for this pipeline project from the Netherlands and the United Kingdom, and very active competition from all major industrial countries for projects in the oil and gas sector in Algeria. A contract for the related and parallel GZ–4 gas pipeline was awarded to a Dutch firm with official export credit support on similar financing terms, and contracts for another gas pipeline and an oil pipeline were recently awarded to Italian firms, also with official export credit support.

The overall LNG systems are major elements of Algeria's long-range plan to develop its vast reserves of natural gas. They will generate substantial amounts of foreign exchange earnings for Algeria and will help to expand the world supply of energy.

Because of present and past sales of U.S. goods and services with the support of Eximbank financing for Algeria's program for development of its natural resources, American firms will be in a better position to compete for further export sales under Algerian plans for other projects in such development.

2. *The Financing Plan.* The total cost of U.S. goods and services to be exported from the United States for the GZ–3 gas pipeline is estimated to be $91,673,000, which will be financed as follows:

		Percent
Cash payment	$13,750,950	15
Eximbank credit	68,754,750	75
Private loans not guaranteed by Eximbank	9,167,300	10
Total	91,673,000	100

(a) *Eximbank Charges.* The Eximbank credit will bear interest at the rate of 8.5 percent per annum, payable semiannually. A commitment fee of one-half of 1 percent per annum will be charged on the undisbursed portion of the Eximbank credit.

(b) *Repayment Terms.* The total financing of $77,922,050 consisting of the Eximbank credit and private loans will be repaid by the Borrower in twenty equal semiannual installments beginning November 30, 1981. The private loans will be repaid out of the first two and part of the third installments, and the Eximbank credit will be repaid from the remainder.

Sincerely,

JOHN L. MOORE, Jr.,
President and Chairman.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CARR) is recognized for 5 minutes.

● Mr. CARR. Mr. Speaker, on Monday, September 18, I was absent during the first quorum call, rollcall No. 787.

I was in transit from my district at the time, and I was unable to reach the floor of the House in time for the quorum call.●

EXPORT TASK FORCE ORGANIZED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 30 minutes.

● Mr. ALEXANDER. Mr. Speaker, today several of my colleagues and I met with a group of leading businessmen to discuss the current status of U.S. foreign trade. The special guests at the luncheon were Secretary of Commerce Juanita Kreps, the Assistant Secretary of Commerce for Industry and Trade Frank Weil, and the Deputy Assistant Secretary of Commerce for Field Operations Raymond DePaulo.

Among the congressional attendees were the gentleman from Washington (Mr. FOLEY); the gentleman from Wisconsin (Mr. ZABLOCKI); the gentleman from Oregon (Mr. ULLMAN); the gentleman from Wisconsin (Mr. REUSS); the gentleman from New York (Mr. BINGHAM); the gentleman from West Virginia (Mr. SLACK); the gentleman from North Carolina (Mr. NEAL); the gentleman from Ohio (Mr. VANIK); the gentleman from Oklahoma (Mr. JONES); the gentleman from Minnesota (Mr. FRENZEL); and the gentleman from Hawaii (Mr. AKAKA).

At this meeting we voted to organize as the Export Task Force in order to provide a forum for all Members of the House who are members of committees having jurisdiction over foreign trade issues or who have an interest in foreign trade to assemble regularly to share information, ideas, and goals on how best to resolve foreign trade problems. In the future, the Export Task Force will assemble an agenda for action, as well as continuing to meet on a regular basis with private and governmental figures involved in international trade. At our next meeting, G. William Miller, Chairman of the Federal Reserve Board, will present his views on our trade deficit.

Our speaker today was Mr. Richard Barovick, senior consultant with Fraser/Associates. His speech, entitled "U.S. Export Policy Issues," follows:

MEMORANDUM

SEPTEMBER 19, 1978.

To: Representative Bill Alexander.
From: Dick Barovick, Fraser/Associates.
Subject: U.S. Export Policy Issues.

Discussion of export policy issues can be broken down conveniently into three topics: (1) Exports are now much more important to the national economy than was the case in earlier years, and therefore require added government attention and support, (2) the international competitive environment in which U.S. exporters now operate is far more difficult, especially due to the support their competitors receive from their own governments, and (3) the U.S. has lacked an export policy and has therefore imposed some self-inflicted wounds on itself through a basketful of laws and regulations that damage the American competitive position.

I. The New Role of Exports.—Exports have become increasingly important to the United States in recent years due to the closer meshing of the world economy through trade and investment. For most of the Fifties and Sixties exports accounted for about 4 percent of U.S. gross national product. Then, in the Seventies, this figure started to climb, hitting a peak of 7.0 percent in 1975 before slipping to 6.3 percent in 1977.

Other major exporting nations experienced the same general trend. Germany's exports moved up from 18.4 to 23 percent of GNP, Italy's from 14.2 to 20.5, Britain's from 15.9 to 23.8.

The significance of exports is even more visible when it is related only to the production of goods, a meaningful ratio in an economy that is becoming increasingly service-oriented. Thus exports rose from 14.4 percent of production in 1970 to 24.3 in 1975 and slipped back to 22.8 in 1976.

In other countries this ratio is even more striking. In Germany exports moved up from 40 to 55 percent of goods production in 1970-76, in Italy from 41.8 to 55.4, in Britain from 47 to 62, in Japan from 23.7 to 32, and in Canada from 70 to 76.

The trend is clear: exports are now between one-fifth and one-quarter of U.S. goods production each year and are approximately half of production in several of our major exporting rivals.

Now, however, the trade deficit has made exports even more important. The United States had a trade surplus (exports exceeding imports) in every year this century until 1971. The first few deficits after that ran in the $1-6 billion range. But in 1977 the figure was nearly $27 billion and this year it will run in the low $30 billion area.

Short of massive import restrictions, export expansion is the only way to cope with this situation.

A closer look at the deficit, however, reveals that the problem is not just the huge ($40 billion-plus) energy imports. In early 1978 it became apparent that the trade deficit was being caused to a great extent by a deficit in manufactured goods trade. For the U.S. to lose its lead in several manufacturing sectors is disturbing enough, but to slip into a deficit is really cause for concern, and a signal that the nation's trade problems run much deeper than anyone had suspected.

In the first six months of 1978 the overall trade gap was $32.8 billion (projected onto an annual basis). The manufactured goods sector alone, which had provided a surplus of $13.8 billion as recently as 1976, was moving at an annual deficit of $10.7 billion. That means that in only two years we will have reversed our strong showing in this key sphere by as much as $24.5 billion.

That is an extraordinary turnabout. Within the manufacturing sphere two figures account for most of this deterioration. One is trade in goods classified by material (such as steel, textiles, paper and the like). Here the deficit mushroomed from $6.4 to $16.0 billion in two years. The other is the combined machinery and transport category, where the surplus fell from $19.7 billion to $9.0 billion.

In overseas construction activities too, U.S. companies have experienced a declining business. According to Engineering News Record magazine this business dropped 27 percent in the 1975–77 period, to $15.9 billion from $21.8 billion, a $6 billion decrease in contracts and 240,000 jobs. And since these operations normally generate substantial U.S. exports, it has been estimated that some $3 billion in export sales has been lost as well.

2. The New International Competitive Environment.—The manufacturing sector deficit may have many explanations, but three stand out. One is the decline in U.S. productivity and innovation in the face of strengthening in these factors among our main competitors abroad. The second is the growing support for exports provided by European and Japanese governments. The third is the emergence of some of the developing countries into the ranks of important exporters. Let's look at these one at a time.

First, Productivity and Innovation.—The decline in U.S. productivity is widespread. About two-thirds of the 67 industries whose performance is regularly monitored by the government have registered slippage. After a long period as a world leader, U.S. productivity has recorded a 1.6 percent annual growth rate over the past ten years, only half the rate of the prior 20 years. This year it looks like we will achieve almost no increase at all.

What makes this performance really discouraging is that our industrial rivals have been doing well while we are in the doldrums. In the years since 1967, Japanese productivity has soared 105 percent, that of Italy and France 54 percent and Canada's 39 percent. Even Britain has bested us (25 to 24).

The decline in productivity is paralleled by drying up in our innovative capacity. Partly this is due to the drop in the federal research budget, where R&D has declined from 3 percent of GNP to just over 2 percent this year. But an important explanation is that companies are forced to devote much of their R&D budget to cope with emerging legislation and regulations. One recent study showed that as much as 19.3 percent of corporate budgets are devoted to responding to regulation. Other research activities have been neglected accordingly.

Comptroller General Elmer B. Staats recently told a House subcommittee that if the U.S. annual productivity growth rate had increased over the past 10 years at the same 3.2 percent annual rate of the previous two decades the GNP would have grown an additional $100 billion. We can also assume that our exports would have grown accordingly. Mr. Staats said: "Equipment and facilities in this country are not being replaced fast enough to keep American industries competitive. The government, through tax and regu-

latory policies, can assist in turning this problem around."

Second, Foreign Government Policies.—In Europe and Japan governments pursue industrial policies whereby they identify certain sectors of the manufacturing economy as targets for future growth and employment, and then put their full resources behind these businesses. This support has been growing in two ways. First, governments provide subsidies through credit, tax, research and development, import restrictions, and other policies. Second, governments have increasingly moved to develop government-owned enterprises. Both of these approaches—subsidizing private firms and creating government-owned companies—have had a dramatic effect on world exports.

In the subsidy area, to take one of the more visible and widespread practices, European and Japanese government provide extensive export financing. Although the U.S. has substantial facilities in this sphere too through the Export-Import Bank, there are some important distinctions. One is that these governments generally finance a much larger percentage of their total exports than the U.S. Another is that they finance larger shares of individual transactions. In the case of France and Japan interest rates have frequently been lower, and both of those governments mix export credits with foreign aid programs so that their interest rates on some deals are very low. Moreover, Britain has offered its exporters a special insurance program that covers any change in foreign exchange rates between the time they bid and the time they land a contract.

In fairness to the U.S. Export-Import Bank, during the past year it has greatly improved the competitiveness of its facilities by lowering interest rates, taking larger shares of individual transactions, and matching foreign official competition.

In the government enterprise area, it has been estimated that as much as 30 percent of manufactured goods exports are now originating in these firms. In Britain the steel industry and a large part of the automotive industry, for example, are government-owned. In France the postal and telegraph agency is now planning to compete in the United States itself in the field of data-processing. In Italy and Spain a substantial part of the manufacturing sectors are government-owned.

In Japan, the manufacturing sector is privately owned but the government forces mergers to create economies of scale necessary for strong competitive companies, then provides them with substantial credit at home and abroad, and protects their home market (as in the case of computers, consumer electronics, automobiles and steel) during the period in which they are gaining enough strength to compete worldwide.

Among the developing countries a Big Six has now emerged with a commanding position in exports of numerous manufactured products, such as consumer electronics, textiles, clothing and shoes. The Six: South Korea, Taiwan, Hong Kong, Singapore, Mexico and Brazil. Through lower labor costs in fields where technology is readily accessible, they are now in the front ranks in a few manufacturing industries.

The governments of these countries have in some cases created "export platforms" which are special zones offering low-cost financing, ready-made factory buildings, duty-free entry of capital equipment, tax holidays, and in some cases even direct grants to cover training and equipment.

3. The Lack of a U.S. Export Policy.—Despite the growing need for exports, both as a percentage of production and as a cure for the huge trade deficit, sales abroad have remained a low priority in the U.S. Government and in public awareness. This is revealed in the Executive Branch in a variety of ways. The Administration has asked that DISC, the export tax incentive law, be terminated in the face of a $30 billion-plus trade deficit. The President's Export Council, a useful channel to communicate exporter problems and needs to the upper reaches of government, has never met in the last year and nine months (though an autonomous subcommittee on export controls has met). Two recently-appointed members of the Council have no previous experience in foreign trade. The Administration only reluctantly agreed to some adjustments in the tax treatment of Americans abroad, many of whom are the front lines of U.S. export penetration of important overseas markets. In recent months a stormy internal debate has been carried on over whether U.S. environmental laws and regulations should be imposed on exports, which could saddle American companies with critical and uncompetitive delays in doing business.

One of the major problems for exports in the past year has been the emergence of numerous competing values and priorities that, while important in their own right, have pushed sales abroad further into the shadows. Examples include human rights policies, the use of exports as a level in official relations with Communist nations, Arab Boycott laws and regulations, and the Foreign Corrupt Practices Act. Each of these policies has merit but the net effect of them in the aggregate on American exports has been to discourage foreign sales.

What has come to be called "linkage," the use of exports as a pawn in foreign policy, has resulted in a growing volume of lost business. Within the past few months, for example, U.S. companies have lost exports to Argentina, Chile, and Uruguay (because human rights policies prohibited Eximbank financing), as well as to Libya (on foreign policy grounds) and the Soviet Union (as a protest against the Moscow trial of dissidents).

All of these issues involve deep-rooted American values with which exporters can have no quarrel. But the increasing politicization of trade has produced an unrealistic and unfair balance. It is that balance that is the problem.

Recent decisions of Eximbank are perhaps most revealing of how competing policies can create serious problems for exporters. On a large capital goods sale to Argentina the State Department decided that Exim financing should be denied. This served as a signal to the Argentine government that the U.S. was displeased with its human rights practices. From an exporter point of view this kind of decision-making is enormously difficult to live with. More specifically, there is no list of countries that Eximbank can unqualifiedly do business with. Each loan is decided on the human rights situation during a specific time. If Argentina, for example, had demonstrated some compliance with U.S. demands during the period in which the export projects was negotiated, the Exim loan might have gone through. A few months later, however, some fresh episode might have brought new State Department signals. The exporter must now work with one eye on the market, and the other on rapid changes in U.S. diplomatic relations, which are difficult for an outsider to follow.

There is a need to broaden the base of American exporters, while strengthening the ability of existing exporters. Today some 100 firms account for somewhat over half of all sales abroad. Exports mean as much as 55,000 jobs for each $1 billion of business. That includes such service activities as transportation (especially ocean shipping and port operations), insurance and banking. If U.S. companies are competing with firms of other nations that do not have the same regulatory and foreign policy disincentives, the sales will go increasingly to those other countries.

In short, the signals that are being received by the American exporting community suggest that their role in the national economy is not adequately recognized. One solution to the linkage problem is for the appropriate government agencies to prepare an economic impact statement for each of these decisions, and then to make this study public. That will make it possible to achieve a better balance in decision-making. Another helpful solution, though harder to obtain, would be to seek international agreements on such issues as human rights and improper payments, so that the competitive impact of a unilateral U.S. position does not damage export sales.●

STATEMENT

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. BRADEMAS. Mr. Speaker, on Tuesday, September 19, 1978, I was absent for the vote on rollcall No. 802 on final passage of the conference report on H.R. 8149, the Customs Procedural Reform Act. The report was agreed to by a vote of 360 to 1. I was paired for that report and had I been present, would have voted in favor of it.●

TRIBUTE TO THE LATE CHIEF JUSTICE FRED M. VINSON

(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, 25 years ago this month Kentucky and the Nation lost one of their most distinguished sons when Chief Justice Fred M. Vinson died here in Washington. The Chief Justice served in this House in a district which I now represent. He was born in Lawrence County on January 22, 1890, and was one of the region's most eminent sons.

A few days ago Mr. Homer Q. Potter of Columbus, Ohio, sent me a copy of Chief Justice Vinson's address to the American Bar Association in Cleveland September 22, 1947. It is entitled "The Age of Great Challenge." Mr. Potter thinks that the message is so pertinent to our situation today that it should be republished in the CONGRESSIONAL RECORD in commemoration of the 25th anniversary of Mr. Vinson's death.

"THE AGE OF GREAT CHALLENGE"

(By Fred M. Vinson)

At some point in the distant future, scholars poring over the history of our time may well label the days through which we are passing as "The Age of Great Challenge." There can hardly be a thinking person in our country today who has not experienced the sense of urgency and crisis which our age envisions. The challenges cannot be ignored. They confront us in every aspect of human activity—in the political and economic, in the social and intellectual, and in the moral and spiritual realms.

Fundamental values upon which we have erected the edifice of our civilization are under attack. Our very successes in responding to the challenges of our time have bred new crisis and new challenge. Thus, confronted with the military might of the Axis, we rose to meet that test. In achieving success, we have fallen heir to the grave problems growing out of a postwar world in need of physical and spiritual rehabilitation. Our age gives striking confirmation to the observation of

Mr. Justice Holmes that "Repose is not the destiny of mankind."

The symptoms of this age of crisis are many and familiar. Perhaps the most striking evidence of the confusion of our time is the conception of the nature of man which forms a part of many widely-held ideologies. Under this view, man is a mere automaton incapable of sharing in the determination of his own destiny, bereft of dignity, capable of responding only to the grosser of materialistic motivations and irrational passions. That such a creature is incapable of exercising the high privilege of self-government is obvious. Essentially this conception of the nature of man underlies all of the totalitarian doctrines of our day, and unfortunately, it underlies the thinking of some in our own midst who shrink from its inevitable and logical conclusion. This conception contains the seeds of destruction. We must resist it and prove it fallacious.

But we see evidences of crisis elsewhere. We are confronted with the challenge of the weakening of the family and the loss of the spiritual values growing out of the strong family bond. As lawyers, we have been made disturbingly aware of a growing lack of faith in and respect for law and the legal process. After the first world war, the ideal of the supremacy of law was subjected to successful attack in many countries with the result that the legal systems of those nations abdicated their high functions and in cynical subservience served the demands of all-powerful States. But the challenge to the supremacy of law has not been confined to the totalitarian regimes. In our own country we have seen evidences that there are those who have failed to realize that the only alternative to the supremacy of law is anarchistic chaos or the reign of a personal dictator.

We need not explore the symptoms of our age at greater length. We are all conscious of their existence; they confront us at every turn. They confirm the proposition that we are, indeed, passing through "The Age of Great Challenge."

An age of great challenge is an age of danger and difficulty, but it is also an age of great opportunity. Though the hazards are real and menacing, the opportunities for great achievement are correspondingly enhanced. Rarely in human history have men been accorded so high a privilege and so appalling a responsibility. The release of atomic energy, for example, is fraught with dangers which could spell the doom of our civilization, but it also creates opportunities for advances in human welfare never before contemplated.

As lawyers, we have been accorded peculiar privileges and, therefore, we have inherited peculiar responsibilities. Perhaps no group in our society is in so favorable a position to observe and to contend with the challenges of our day. It is entirely appropriate, therefore, that we, from time to time, should give particular attention to the problem of how we may intelligently respond to the challenges that confront us, and then go forth to meet the demands of our age.

Men react to challenge in many different ways. In every age of crisis, there are those, for example, who react by attempting to escape challenge or to ignore it. Those persons live in the vain delusion that by avoiding responsibility and shrinking from the struggle they may find peace and security. In the words of Justice Holmes, they exist under the peril "of being judged not to have lived." We cannot escape the challenges of our time. Failure to respond in the face of crisis results in quite as positive consequences as the courageous assumption of responsibilities. A policy of drift can lead only to disaster. I would leave this thought with you: "He who lights a candle is better than he who curses the darkness."

There are also those who react to challenge by rigidly opposing all change and all innovation. There are others who reject all the methods and techniques of the past and find virtue only in the new. Frequently, such persons are sincere and well-intentioned. They are aware that the civilization which they value is under attack. The one group attempts to preserve and defend it by insisting that, in a changing world, the old institutions shall remain unchanged and inflexible and that the old forms of action shall remain unaltered. The other group reacts by insisting upon the precipitous abandonment of the entire legacy of the past without adequate consideration of the consequences. Both groups make the error of failing to distinguish between the essential values of their civilization and the transitory forms by which those values are given expression. They fail to realize that by insisting upon the use of outmoded techniques or by indiscriminately rejecting all that is old, they make impossible the effective defense of the foundation rocks of their civilization which are essential and timeless.

But there are other more constructive ways in which to react to the crisis of our time. We need, first of all, to reaffirm our faith in the fundamental values upon which has been based all that is worthwhile in our society. We need to revitalize our conviction that that society is best which gives the greatest practical recognition to the dignity of individual man and which affords greatest opportunities for the development of the higher potentialities of all men. We need to develop the same high sense of personal responsibility which led the early American statesman, George Mason, to write: "The debts we owe our ancestors we should repay by handing down entire those sacred rights to which we ourselves were born." We need, finally, to devote our full intelligence and greatest efforts to the task of devising ways and means whereby those essential values can be given their most complete expression in a world of flux and change.

Perhaps the greatest hazard which besets us today is the danger of losing faith in ourselves. In the face of the crisis of our time, some may be tempted to doubt the adequacy of human capacities to contend with the challenges which confront us, to fear for our ability to defend and preserve our civilization—our way of life. Such fears are irrational, but their consequences can be grave. The courage and sacrifice of our people in time of war mounted the heights. Courage and sacrifice were the paramount ingredients of miracles of production on the home front and the heroic deed on land, sea, and in the air. The courage and sacrifice of our sons and daughters in the face of death should shame us for our fears today. "Courage," 'tis said, "is fear that has said its prayers." And sacrifice, to paraphrase Emerson, is the real miracle out of which all the other miracles grow. We must be alive and alert to the problems of a shaken world; we need not be mercurial in arriving at quick conclusions as to the efforts to solve our problems; we must have patience, tolerance and understanding. We need always to keep a sense of proportion. The problems we face are human problems and therefore are capable of human solution.●

AMENDMENTS TO THE CLINICAL LABORATORY IMPROVEMENT ACT

(Mr. BURLESON of Texas asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. BURLESON of Texas. Mr. Speaker, on yesterday, September 20th I filed two amendments to H.R. 10909 in order to comply with the rule House Resolution 1348. I now refile the Amendment with a brief explanation.

The following amendment will be offered to provide for a 2-year renewable waiver for rural hospital laboratories from national personnel standards, under limited conditions, similar to present law now in effect for rural hospital nursing staff:

Page 9, line 23, insert "and, with the approval of the Secretary, during subsequent two-year periods" before "the provisions."

I also intend to offer the following amendment to substitute the provision in the Senate-passed bill, S. 705, to limit the competitive bidding section to a 1-year experiment:

Page 56, line 8, strike out "three-year period" and insert in lieu thereof "one-year period".

Page 56, line 11, insert "on an experimental basis" after "competitive bidding process or otherwise".

Page 57, strike out lines 7 through 9 and insert in lieu thereof the following:

(2) Each State which has made arrangements under section 1902(a)(23)(B) for the purchase of laboratory services through a competitive bidding process or otherwise on an experimental basis shall report to the Secretary concerning the results of these experimental arrangements and the Secretary shall evaluate these arrangements and transmit

Page 57, line 12, strike out "twenty-four months" and insert in lieu thereof "18 months"."

It is also my intention to offer a motion to ask for a division on the amendments recommended by the Committee on Interstate and Foreign Commerce en bloc to provide the exemption from the national standards of insurance laboratories engaged solely in the assessment of an individual's insurability or eligibility for insurance policy benefits. This exemption has been an historic one and is in line with the action taken by the Commerce Committee's Subcommittee on Health and the Environment and the Senate Committee on Human Resources.●

RETIREMENT OF HON. OLIN TEAGUE, AN EMPLOYEE VIEW

(Mr. BURLESON of Texas asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. BURLESON of Texas. Mr. Speaker, the attached letter from Mr. George Fisher, administrative assistant to our friend and colleague, OLIN TEAGUE, is most unusual and I feel deserving to be entered in the RECORD.

George Fisher was in battle in World War II with Congressman TEAGUE and as he indicates in the attached, has been with him in Congress for more than 30 years.

TWIN BRANCHES DRIVE,
Silver Spring, Md., July 20, 1978.

Hon. OMAR BURLESON,
Rayburn Building,
Washington, D.C.

DEAR MR. BURLESON: There have been literally thousands of words written over the years about Congressman Olin Teague, his war record, his work in the Congress for veterans, for space and technology and more recently in the field of energy. So, there is little more I could add. By the same token, thousands of words will no doubt be spoken by his peers as he leaves the Congress of the United States at the end of this session.

Because, as an employee, I have no vehicle to bring my sentiments to the attention of the general public on this great American, I have taken the liberty of writing this letter to you in the hopes you would see fit to place it in the Congressional Record.

With the exception of a period of approximately three years I have been closely associated with Congressman Olin Teague since 1942; first as a member of his Command during World War II and then as an employee in his office. My association with him has spanned a period of more than 30 years, and I feel well qualified to make a few simple statements about this man.

His compassion for his fellow man; his ability to empathize; his quality of leadership; his courage to fight for his convictions no matter what the odds; are but a few of the attributes which endeared then Colonel Teague to nearly 1,000 combat infantrymen during World War II. He could sternly order a soldier back to the front while secretly shedding a tear over the death of another; yet never order a soldier to do something that he would not do himself. It was this latter quality in him which led to the serious wounds he received while personally reconnoitering a safe passage through the Siegfried Line, that forced him to remain in military hospitals for over two years.

In the 30 years I have been with him in the Congress, I believe I can safely say that is these very same attributes which have endeared him to his Colleagues in the House of Representatives.

If I had my entire life to live over, I know of no other person who I would have wanted to lead me into battle; nor no other person who I would have wanted to represent me in the Congress of the United States than Olin Teague. It has been an honor for me to have been with him and honor to have been a part of the Congress. Need I say more to prove that he is truly a singular individual.

Sincerely,

GEORGE FISHER.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CORMAN (at the request of Mr. WRIGHT), unto 2 o'clock p.m. today, 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:

Mr. ASHBROOK, for 15 minutes today, and to revise and extend his remarks.

(The following Members (at the request of Mr. MOORE) to revise and extend their remarks and include extraneous material:)

Mr. KEMP, for 10 minutes, today.

Mr. GOLDWATER, for 5 minutes, today.

(The following Members (at the request of Mr. MCDONALD) to revise and extend their remarks and include extraneous material:)

Mr. MURPHY of New York, for 60 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. BINGHAM, for 5 minutes, today.

Mr. COTTER, for 30 minutes, today.

Mr. LAFALCE, for 10 minutes, today.

Mr. BAUCUS, for 10 minutes, today.

Mr. BROOKS, for 10 minutes, today.

Mr. ROSTENKOWSKI, for 5 minutes, today.

Mr. NEAL, for 5 minutes, today.

Mr. BRADEMAS, for 5 minutes, today.

Mr. CARR, for 5 minutes, today.

Mr. ALEXANDER, for 30 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. UDALL, to revise and extend in connection with the McHugh amendment to H.R. 12611 considered in the Committee of the Whole today.

Mr. DON H. CLAUSEN, to insert remarks during consideration of H.R. 11733, Surface Transportation Assistance Act of 1978.

Mr. DON H. CLAUSEN, to insert remarks during consideration of Snyder amendment.

Mr. RUSSO, to revise and extend his remarks prior to vote on Oberstar amendment.

Mr. MILLER of Ohio, to revise and extend his remarks and include extraneous matter on the bill H.R. 11733, in two instances.

Mr. MURPHY of New York, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $10,183.50.

(The following Members (at the request of Mr. MOORE) and to include extraneous matter:)

Mr. LENT.

Mr. COLLINS of Texas in two instances.

Mrs. HOLT.

Mr. HILLIS.

Mr. CAPUTO.

Mr. BAUMAN in 10 instances.

Mr. KEMP in two instances.

Mr. GRASSLEY.

Mr. PRESSLER.

Mr. ASHBROOK in two instances.

Mr. MCDADE.

Mr. DORNAN.

Mr. LEACH.

(The following Members (at the request of Mr. MCDONALD) and to include extraneous material:)

Mr. GONZALEZ in three instances.

Mr. ANDERSON of California in three instances.

Mr. MCFALL.

Mr. PEPPER in two instances.

Mr. MILLER of California.

Mr. FARY.

Mr. MOTTL.

Mr. LAFALCE in two instances.

Mr. STUDDS.

Mr. RUSSO.

Mr. EILBERG.

Mr. JENKINS.

Mr. BRODHEAD.

Mr. DERRICK.

Mr. BRECKINRIDGE.

Mr. MCDONALD in three instances.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on September 20, 1978, present to the President, for his approval, bills of the House of the following title:

H.R. 7814. To authorize Federal agencies to experiment with flexible and compressed employee work schedules;

H.R. 7819. To complement the Vienna Convention on Diplomatic Relations; and

H.R. 12860. To settle Indian land claims within the State of Rhode Island and Providence Plantations, and for other purposes.

ADJOURNMENT

Mr. MCDONALD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 26 minutes p.m.) the House adjourned until tomorrow, Friday, September 22, 1978, at 10 o'clock a.m.

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. MAHON: Committee on Appropriations. H.R. 13611. A bill to strengthen and improve the early and periodic screening, diagnosis, and treatment program, and for other purposes. (Rept. No. 95–1481, Pt. II), Referred to the Committee of the Whole House on the State of the Union.

Mr. MOAKLEY: Committee on Rules, House Resolution 1365. Resolution providing for the consideration of H.R. 12161. A bill to amend the Regional Rail Reorganization Act of 1973 to authorize additional appropriations to the United States Railway Association for purposes of purchasing securities of the Consolidated Rail Corporation (Rept. 95–1595). Referred to the House Calendar.

Ms. CHISHOLM: Committee on Rules. House Resolution 1366. Resolution providing for the consideration of H.R. 12299. A bill to establish a Federal Office on Domestic Violence, and a Federal Council on Domestic Violence, to provide grants for the assistance of victims of domestic violence and for training programs, and for other purposes (Rept. No. 95–1596). Referred to the House Calendar.

Mr. SISK: Committee on Rules. House Resolution 1367. Resolution providing for the consideration of H.R. 13335. A bill to amend part A of title IV of the Social Security Act to provide additional fiscal relief for States and political subdivisions with respect to the costs of certain welfare programs (Rept. No. 95–1597). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. House Resolution 1368. Resolution providing for the consideration of H.R. 14042. A bill to authorize appropriations for fiscal year 1979 for procurement of aircraft, missile, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, develop-

ment, test and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes (Rept. No. 95–1598). Referred to the House Calendar.

Mr. MAHON: Committee on Appropriations. House Joint Resolution 1139. Joint resolution making continuing appropriations for the fiscal year 1979, and for other purposes; with amendment (Rept. No. 95–1599). Referred to the Committee of the Whole House on the State of the Union.

Mr. FOLEY: Committee on Agriculture. H.R. 12917. A bill directing the Secretary of Agriculture to compile and publish certain information relating to the adequacy of a transportation system to meet the needs of agriculture and rural development in the United States, and for other purposes; with amendment (Rept. No. 95–1600). Referred to the Committee of the Whole House on the State of the Union.

Mr. REUSS: Committee on Banking, Finance, and Urban Affairs. H.R. 8389. A bill authorizing the President of the United States to present a gold medal to the widow of Robert F. Kennedy (Rept. No. 95–1601). Referred to the Committee of the Whole House on the State of the Union.

Mr. REUSS: Committee on Banking, Finance, and Urban Affairs. H.R. 13174. A bill to provide for the striking of national medals to commemorate the XIII Olympic Winter Games to be held in Lake Placid, New York, in 1980 (Rept. No. 95–1602). Referred to the Committee of the Whole House on the State of the Union.

Mr. REUSS: Committee on Banking, Finance and Urban Affairs. S. 425. An act to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Lt. Gen. Ira C. Eaker, U.S. Air Force (retired) (Rept. No. 95–1603). Referred to the Committee of the Whole House on the State of the Union.

Mr. REUSS: Committee on Banking, Finance and Urban Affairs. H.R. 13643. A bill to provide for the striking of medals in commemoration of the life and ideals of Dr. Martin Luther King., Jr.; with amendment (Rept. No. 95–1604). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 12051. A bill relating to the application of certain provisions of the Internal Revenue Code of 1954 to specified transactions by certain public employee retirement systems created by the State of New York or any of its political subdivisions; with amendment (Rept. No. 95–1605). Referred to the Committee of the Whole House on the State of the Union.

Mr. FOLEY: Committee on Agriculture. S. 286. An act to repeal certain requirements relating to notice of animal and plant quarantines, and for other purposes (Rept. No. 95–1606). Referred to the Committee of the Whole House on the State of the Union.

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. FITHIAN:

H.R. 14144. A bill to suspend the duty on freight cars until the close of June 30, 1980; to the Committee on Ways and Means.

By Mr. KASTENMEIER (for himself, Mr. DANIELSON, Mr. SANTINI, Mr. RAILSBACK, Mr. BUTLER, and Mr. COHEN):

H.R. 14145. A bill to amend title 28 of the United States Code to make certain changes in the divisions within judicial districts and in the places of holding court, and to require the Director of the Administrative Office of the United States Courts to conduct a study of the judicial business of the Central District of California and the Eastern District of New York; to the Committee on the Judiciary.

By Mrs. LLOYD of Tennessee:

H.R. 14146. A bill to amend certain provisions of the Tennessee Valley Authority Act of 1933, as amended, relating to the charge rates for power of the Tennessee Valley Authority; to the Committee on Public Works and Transportation.

By Mr. MAGUIRE (for himself, Mr. STEIGER, Mr. BENJAMIN, Mr. CARR, Mrs. COLLINS of Illinois, Mr. DOWNEY, Mr. EILBERG, Mr. HEFTEL, Mr. LIVINGSTON, Mr. MINETA, Mr. MITCHELL of Maryland, Mr. NOLAN, Mr. PATTEN, Mr. PATTERSON of California, Mr. PATTISON of New York, Mr. SEIBERLING, Mrs. SPELLMAN, and Mr. WHITLEY):

H.R. 14147. A bill to amend the Higher Education Act of 1965 to raise the limits on insured loans for undergraduate students, to allow lenders to use a Government service administered by the Commission of Education and the Secretary of the Treasury for the collection of such loans, and for other purposes; to the Committee on Education and Labor.

By Mr. McCORMACK:

H.R. 14148. A bill designating the "Justice William O. Douglas Federal Building"; to the Committee on Public Works and Transportation.

By Mr. TREEN (for himself and Mr. WAGGONNER):

H.R. 14149. A bill to amend section 302 of the Internal Revenue Code of 1954 with respect to the redemption of corporate stock held by an estate or trust; to the Committee on Ways and Means.

By Mr. WOLFF:

H.R. 14150. A bill to amend title 5, United States Code, to entitle Civil Air Patrol Cadets 18 years of age and older to compensation available to Civil Air Patrol senior members in the event of disability or death, and to increase the level of compensation available to both; to the Committee on Post Office and Civil Service.

By Mr. GOLDWATER:

H.J. Res. 1141. Joint resolution to provide for the convening of an International Conference on Communication and Information, and for other purposes; to the Committee on International Relations.

By Mr. MINETA (for himself, Mr. ASHLEY, Mr. FAUNTROY, Mr. REUSS, Mr. THOMPSON, and Mr. BRADEMAS):

H.J. Res. 1142. Joint resolution to initiate preliminary studies for the restoration and renovation of the Pension Building in Washington, District of Columbia, to house a Museum of the Building Arts, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. STANGELAND:

H.J. Res. 1143. Joint resolution authorizing the President to proclaim September 8 of each year as National Cancer Day; to the Committee on Post Office and Civil Service.

By Mr. GIAMO (for himself, Mr. EDGAR, Mr. HARRINGTON, Mr. KAZEN, Mr. SARASIN, Mr. VENTO, Mr. WEAVER, and Mr. WHITEHURST):

H. Res. 1369. Resolution expressing the sense of the House that the Reverend Sun Myung Moon appear before the Subcommittee on International Organizations investigating Korean-American relations; to the Committee on International Relations.

By Mr. LUKEN (for himself, Mr. GRADISON, Mr. APPLEGATE, Mr. GUYER, Mr. STANTON, Mr. MOTTL, Mr. HARSHA, Mr. WHALEN, Mr. REGULA, Mr. KINDNESS, Mr. ASHLEY, Ms. OAKAR, Mr. MILLER of Ohio, Mr. BROWN of Ohio, Mr. MOFFETT, Mr. HANLEY, Mr. YOUNG of Missouri, Mr. CARNEY, Mr. ECKHARDT, and Mr. BARNARD):

H. Res. 1370. Resolution expressing the appreciation of the House to Pete Rose for his dedication and service to baseball; to the Committee on Post Office and Civil Service.

By Mr. LUKEN (for himself, Mr. STOKES, Mr. MADIGAN, Mr. WALGREN, Mr. GOLDWATER, Mr. HORTON, Ms. CHISHOLM, Mr. DELLUMS, Mr. STARK, and Mr. STEIGER):

H. Res. 1371. Resolution expressing the appreciation of the House to Pete Rose for his dedication and service to baseball; to the Committee on Post Office and Civil Service.

By Mr. WAXMAN (for himself, Mr. BROOMFIELD, and Mr. GILMAN):

H. Res. 1372. Resolution supporting the nomination of the Public Groups to Promote Observance of the Helsinki Agreement in the Union of Soviet Socialist Republics for the 1978 Nobel Peace Prize; to the Committee on International Relations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. FISHER:

H.R. 14151. A bill for the relief of Rodolfo S. Benedicto; to the Committee on the Judiciary.

By Mr. OBERSTAR:

H.R. 14152. A bill for the relief of Nelia Ruiz Hedlund; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of the XXIII. proposed amendments were submitted as follows:

H.R. 1

By Mr. ASHBROOK:

—On page 51, after line 19, insert the following new section and renumber accordingly:

"SEC. 243. Except where the employee's Agency, Department or other Federal employer shall have more restrictive limitations on outside earned income, all employees covered by this Act whose basic rate of pay is equal to or greater than the rate of basic pay for which is fixed at a rate equal to or greater than the minimum rate of basic pay for GS–16 (as prescribed by Section 5332 of title 5, United States Code) shall be limited in outside income to not more than fifteen percent of their salary."

H.R. 10909

By Mr. COLLINS of Texas:

—Page 6, line 14, strike out the comma and insert "and" and beginning in line 16 on that page, strike out "and (iii)" and all that follows through line 18.

—Page 6, strike out lines 19 through 23.

Page 6, line 24, strike out "(F)" and insert in lieu thereof "(E)".

Page 7, line 4, strike out "and technicians".

Page 7, line 8, strike out "subparagraphs (D) and (E)" and insert in lieu thereof "subparagraph (D)".

Page 7, strike out lines 13 through 21 and insert in lieu thereof the following:

"(2) For purposes of paragraph (1), the term 'technologist' means an individual employed in a laboratory who is performing services in such laboratory is required to exercise independent judgment.

Page 13, beginning in line 3, strike out "technologist, or technicians" and insert in lieu thereof "or technologists".

Page 35, line 4, strike out "technologists, and technicians" and insert in lieu thereof "and technologists".

—Page 9, beginning in line 7, strike out "which are located or doing at least 10 per centum of their business within the State" and insert in lieu thereof "which are located within the State or, as determined by the State, doing business within the State".

Page 20, beginning in line 24, strike out "or doing at least 10 per centum of their business" and insert in lieu thereof "or, as determined by the State, doing business".

—Page 9, strike out lines 10 and 11 and insert in lieu thereof the following: "(c)(1) During the".

Page 9, beginning in line 20, strike out "and which is not subject to section 103(a)(2) of the Clinical Laboratory Improvement Act of 1978".

Page 10, strike out lines 24 and 25 and insert in lieu thereof the following: "'(B) The".

Page 11, insert "and" after the comma in line 5, strike out ", and" in line 11 on that page and insert in lieu thereof a period, and strike out lines 15 through 17.

Page 36, line 21, strike out "(1)".

Page 37, line 5, strike out "(A)" and insert in lieu thereof "(1)" and in line 8 on that page, strike out "(B)" and insert in lieu thereof "(2)".

Page 37, strike out lines 13 through 19.

Page 37, strike out line 20 and all that follows through line 24 on page 38 and insert in lieu thereof the following:

(b) Within two years of the date of the enactment of this Act, the Secretary shall report to the Congress the results of the evaluation made under subsection (a). In such report the Secretary shall make recommendations as to whether clinical laboratories granted an exemption under section 372(c)(3)(B) of the Public Health Service Act should be required as a condition to such exemption (1) to participate in proficiency testing programs, (2) to have laboratory procedure manuals or other items or procedures bearing on the medical reliability of tests and procedures performed by such laboratories, or (3) to both participate in such programs and have such manuals or other items or procedures.

Page 38, line 17, strike out "(a)(1)(B)" and insert in lieu thereof "(a)".

—Page 16, beginning in line 14, strike out "refused a request of the Secretary or any individual duly designated by him for permission to inspect, under section 376(b)" and insert in lieu thereof "refused to permit the Secretary, or any individual duly designated by him, to inspect, in accordance with section 376(b)".

Page 26, line 6, insert after "upon" the following: "obtaining a search warrant from a judicial officer and after".

Page 26, line 10, insert "pursuant to the search warrant" after "inspect".

Page 27, strike out lines 8 through 13.

Page 27, line 14, strike out "(4)" and insert in lieu thereof "(3)".

—Page 27, strike out lines 14 through 22.

—Page 27, strike out line 23 and all that follows down through and including line 16 on page 31.

H.R. 11733

By Mr. GOLDWATER:

—Page 166, after line 21, insert the following proviso: "*Provided*, That no chief motor vehicle official of a State shall include in any report the social security number of any individual, unless the individual's social security number is the official operator's license identification number and the use of such number by the State is specifically provided for and required by State law."

—Page 167, after line 17, insert the following new subsection "(d)" to read as follows: "The Secretary shall not release any information regarding any individual contained in the National Driver Register prior to the date of enactment of this Act, unless the Secretary has determined that the information is accurate and current in all respects and has received a notification from the appropriate chief of motor vehicles for the State from which the information was received to support such a determination."

—Page 167, after line 17, insert the following new subsection (e) to read as follows:

"The Secretary shall not receive from any source other than the chief motor vehicle official of a State any information about any individual for inclusion in the National Driver Register established in section 220 of this title, and the Secretary shall not receive any information about any individual from the chief motor vehicle official of a State, except that information specifically authorized in sections 221 and 222 of this title."

—Page 170, after line 8, strike out lines 9 through 14, inclusive and renumber succeeding lines accordingly.

H.R. 11733

By Mr. HORTON:

—Page 108, after line 3, insert the following new section:

ADVERTISING BY NONPROFIT ORGANIZATIONS

SEC. 118. Section 131(c) of title 23, United States Code, is amended—

(1) by striking out "and (4)" and inserting in lieu thereof "(4)"; and

(2) by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "and (5) signs, displays, and devices advertising the distribution by nonprofit organizations of free coffee to individuals traveling on the Interstate System of the primary system. For the purposes of this subsection, the term 'free coffee' shall include coffee for which a donation may be made, but is not required.".

Renumber the succeeding sections of title I accordingly.

H.R. 11733

By Mr. GARY A. MYERS:

—Page 151, after line 10, insert the following new section:

FEDERAL PARTICIPATION IN PREVIOUSLY INCURRED COSTS

SEC. 159. (a) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 159. Federal participation in previously incurred costs

"(a) If, prior to the time that any sums apportioned to a State for expenditure on any Federal-aid system lapse pursuant to section 118 of this title, the State requests that such sums be available for payments to such State for expenditures made by such State for a project in such State which was constructed during the period that such sums were available for expenditure in such State without any Federal assistance, the Secretary shall enter into an agreement with such State for the payment of 50 per centum of the cost of such project if the Secretary determines that—

"(1) the project would, at the time of its construction, have been eligible for Federal financial assistance under this title;

"(2) such agreement will not adversely affect the public interest;

"(3) construction of such project was in substantial compliance with all Federal statutory requirements and that there was no willful violation of any other Federal requirements;

"(4) the cost to the United States under such agreement will not exceed what would have been the cost to the United States at the time of construction if Federal assistance had been provided; and

"(5) the project has been fully and adequately maintained since construction.

"(b) The total Federal expenditures in any State in any fiscal year under this section shall not exceed the amount of such State's apportionment which would have lapsed in such fiscal year under section 118 of this title but for this section.

"(c) Any request submitted under subsection (a) of this section shall provide information as the Secretary shall require.".

(b) The analysis for chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following:

"§ 159. Federal participation in previously incurred costs.".

H.R. 11733

By Mr. YOUNG of Missouri:

—Page 132, after line 8, insert the following:

BRIDGE DIVERSION STUDY

SEC. 135. The Secretary of Transportation shall make a full and complete investigation and study of the need for, and ways and means of accomplishing, diverting a portion of the traffic from the bridges on the Interstate System across the Mississippi River presently operating above designed capacity to other bridges in the vicinity of any such Interstate System bridge. The Secretary shall report to Congress not later than two years after the date of enactment of this section the results of such investigations and study together with recommendations for necessary legislation.

Renumber succeeding sections accordingly.

H.R. 13059

By Mr. VOLKMER:

—Page 85, following line 12, insert the following new section:

SEC. 185. Section 221 of the Flood Control Act of 1970 (Public Law 91-611), as amended (42 U.S.C. 1962d-5b) is further amended as follows:

Insert the following new sentence at the end of section 221(b): "Where the non-Federal interest is the State itself, performance and payment of damages may be contingent upon the legislative appropriations process of the States.".

Delete the period at the end of the sentence contained in section 221(f) and add the following words at the end of that sentence; "or to contract with non-Federal interests for water supply storage under the Water Supply Act of 1958 (Public Law 85-500), as amended, (43 U.S.C. 39b) or for recreational development under the provisions of the Federal Water Project Recreation Act of 1965 (Public Law 89-72), as amended (16 U.S.C. 4601-12 et seq.)".

Renumber suceeeding sections accordingly.