HOUSE OF REPRESENTATIVES—November 15, 1983

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Enable us, O God, to be the people You would have us be, and to do those things that honor You and insure justice for all people. We admit the pressures that clamor for our attention and we do what we can to speak to everyone's needs. Help us, O gracious God, to act and believe with righteousness that the paths of peace and concord will be our way and we will strive to reflect the glorious image of our creation. In Your name, we pray. Amen.

THE JOURNAL

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

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. BLILEY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

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

Mr. BLILEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 284, nays 120, answered "present" 3, not voting 27, as follows:

[Roll No. 503]

YEAS—284

Ackerman
Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews (NC)
Andrews (TX)
Annunzio
Anthony
Archer
Aspin
AuCoin
Barnard
Barnes
Bartlett
Bateman
Bates
Bedell
Beilenson
Bennett
Berman
Bevill
Biaggi
Boehlert
Boggs
Boland
Boner
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Britt
Brooks
Brown (CA)
Broyhill
Bryant
Burton (CA)
Burton (IN)
Carper
Carr
Chandler
Chappell
Clarke
Clay
Coelho
Coleman (TX)
Collins
Conte
Cooper
Corcoran
Coyne
D'Amours
Daniel
Darden
Daschle
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Dorgan
Dowdy
Downey
Duncan
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
English
Erdreich
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Florio
Foglietta
Foley
Ford (TN)
Fowler
Frost
Fuqua
Gaydos
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gore
Gray
Green
Gregg
Guarini
Gunderson
Hall (IN)
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Harrison
Hatcher
Hawkins
Hayes
Hefner
Heftel
Hertel
Hightower
Hillis
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Ireland
Jeffords
Johnson
Jones (NC)
Jones (OK)
Kaptur
Kastenmeier
Kazen
Kennelly
Kildee
Kogovsek
Kolter
Kostmayer
LaFalce
Lantos
Leach
Leath
Lehman (CA)
Lehman (FL)
Leland
Levin
Levine
Lipinski
Long (LA)
Lowry (WA)
Lujan
Luken
Lundine
MacKay
Markey
Marriott
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCurdy
McDade
McEwen
McHugh
McKernan
McKinney
McNulty
Mica
Michel
Mikulski
Miller (CA)
Mineta
Minish
Mitchell
Moakley
Mollohan
Montgomery
Moody
Moore
Morrison (CT)
Mrazek
Murtha
Myers
Natcher
Neal
Nelson
Nowak
O'Brien
Oakar
Obey
Olin
Ortiz
Owens
Panetta
Patman
Patterson
Pease
Penny
Pepper
Perkins
Petri
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ratchford
Ray
Reid
Richardson
Rodino
Roe
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Savage
Scheuer
Schneider
Schroeder
Schumer
Shannon
Sharp
Simon
Sisisky
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Snowe
Snyder
Spence
Spratt
Staggers
Stark
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tallon
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Udall
Valentine
Vandergriff
Vento
Volkmer
Walgren
Watkins
Waxman
Weaver
Weiss
Wheat
Whitley
Whitten
Williams (OH)
Wilson
Wirth
Wise
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (MO)
Zablocki
Zschau

NAYS—120

Badham
Bereuter
Bethune
Bilirakis
Bliley
Broomfield
Brown (CO)
Campbell
Carney
Chappie
Cheney
Clinger
Coats
Coleman (MO)
Conable
Coughlin
Courter
Craig
Crane, Daniel
Crane, Philip
Dannemeyer
Daub
Davis
DeWine
Dickinson
Dreier
Durbin
Edwards (OK)
Emerson
Erlenborn
Evans (IA)
Fiedler
Fields
Fish
Forsythe
Franklin
Frenzel
Gejdenson
Gekas
Gingrich
Gradison
Gramm
Hammerschmidt
Hansen (ID)
Hansen (UT)
Harkin
Hiler
Hyde
Jones (TN)
Kasich
Kemp
Kindness
Kramer
Lagomarsino
Latta
Levitas
Lewis (FL)
Livingston
Lloyd
Loeffler
Lott
Lowery (CA)
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NC)
McCain
McCollum
McGrath
Miller (OH)
Moorhead
Morrison (WA)
Murphy
Nielson
Oxley
Packard
Parris
Pashayan
Regula
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roemer
Rogers
Roth
Rudd
Schaefer
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Sikorski
Siljander
Skeen
Smith (NJ)
Smith, Denny
Smith, Robert
Solomon
Stangeland
Stump
Sundquist
Tauke
Tauzin
Taylor
Thomas (CA)
Vander Jagt
Vucanovich
Walker
Weber
Whitehurst
Whittaker
Winn
Wolf
Young (AK)
Young (FL)

ANSWERED "PRESENT"—3

Jacobs
Ottinger
St Germain

NOT VOTING—27

Applegate
Breaux
Byron
Conyers
Crockett
Donnelly
Flippo
Ford (MI)
Frank
Garcia
Goodling
Hance
Hartnett
Jenkins
Lent
Lewis (CA)
Long (MD)
Molinari
Nichols
Oberstar
Paul
Pritchard
Sawyer
Seiberling
Shelby
Solarz
Williams (MT)

□ 1210

Mr. DANIEL B. CRANE changed his vote from "yea" to "nay."

Mr. LIPINSKI and Mr. HAWKINS changed their votes from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate disagrees to the amendments of the House to the amendments of the Senate to the bill (H.R. 3385) entitled "An act to provide equity to cotton producers under the payment-in-kind program," agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HELMS, Mr. DOLE, Mr. LUGAR, Mr. COCHRAN, Mr. BOSCHWITZ, Mr. HUDDLESTON, Mr. LEAHY, Mr. ZORINSKY, and Mr. MELCHER to be the conferees on the part of the Senate.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

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. 2230. An act to amend the Civil Rights Act of 1957 to extend the life of the Civil Rights Commission, and for other purposes.

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

S. 452. An act to establish public buildings policies for the Federal Government, to establish the Public Buildings Service in the General Services Administration, and for other purposes.

The message also announced that Mr. DECONCINI is appointed a conferee, on the part of the Senate, on the bill (H.R. 3959) entitled "An act making supplemental appropriations for the fiscal year ending September 30, 1984, and for other purposes," vice Mr. INOUYE, excused.

□ 1220

PRIVATE CALENDAR

The SPEAKER. This is the day for the call of the Private Calendar. The Clerk will call the first individual bill on the Private Calendar.

THEDA JUNE DAVIS

The Clerk called the bill (H.R. 743) for the relief of Theda June Davis.

There being no objection, the Clerk read the bill, as follows:

H.R. 743

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury shall pay to Theda June Davis of Phoenix, Arizona, out of any money in the Treasury not otherwise appropriated, the sum of $35,499.25 plus interest thereon calculated at the rate of 6 per centum per year from December 1, 1976, to April 3, 1980, and at the rate of 10 per centum per year from April 4, 1980, to the date the sum is paid. Such sum is the amount of a court judgment in favor of Theda June Davis against a nonprofit Arizona corporation based upon a finding of sex-based discrimination. The Arizona corporation is totally funded by Federal grants from the Department of Labor.

SEC. 2. No part of the amount provided for in the first section of this Act in excess of 10 per centum thereof shall be paid to or received by an agent or attorney on account of services rendered in connection with the claim described in the first section, and the payment or receipt in excess of 10 per centum of the amount provided for in the first section shall be unlawful, any contract to the contrary notwithstanding. Violation of the provisions of this section is a misdemeanor punishable by a fine not to exceed $1,000.

With the following committee amendment:

Page 1, line 6: Strike "at the rate" and all that follows through "paid." on page 2, line 2 and insert: "in accordance with the provisions of section 1961 of title 28."

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

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

There was no objection.

The committee amendment was agreed to.

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

FRANK L. HULSEY

The Clerk called the bill (H.R. 719) for the relief of Frank L. Hulsey.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

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

There was no objection.

CARLOS MEBRANO GATSON

The Clerk called the bill (H.R. 724) for the relief of Carlos Mebrano Gatson.

There being no objection, the Clerk read the bill, as follows:

H.R. 724

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Carlos Mebrano Gatson, the father of a citizen of the United States, shall be deemed to be an immediate relative within the meaning of section 201(b) of such Act, and the provisions of section 204 of that Act shall not be applicable in this case.

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

HARRY CHEN TAK WONG

The Clerk called the bill (H.R. 932) for the relief of Harry Chen Tak Wong.

There being no objection, the Clerk read the bill, as follows:

H.R. 932

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provision of section 212(a)(9) and (10) of the Immigration and Nationality Act, Harry Chen Tak Wong may be issued a visa and admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of that Act: *Provided,* That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

With the following committee amendment:

Page 1, line 3, delete the words "(9) and",

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

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

There was no objection.

The committee amendment was agreed to.

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

HANS ROBERT BEISCH

The Clerk called the bill (H.R. 2087) for the relief of Hans Robert Beisch.

There being no objection, the Clerk read the bill, as follows:

H.R. 2087

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Hans Robert Beisch shall be held and considered to have satisfied the requirements of section 316 of the Immigration and Nationality Act relating to required periods of residence and physical presence within the United States and, notwithstanding the provisions of section 310(d) of that Act, may be naturalized at any time after the date of enactment of this Act if otherwise eligible for naturalization under the Immigration and Nationality Act.

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

JUAN ESCOBAR RODRIGUEZ

The Clerk called the bill (H.R. 446) for the relief of Juan Escobar Rodriguez.

There being no objection, the Clerk read the bill, as follows:

H.R. 446

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Juan Escobar Rodriguez may be classified as a child within the meaning of section 101(b)(1)(F) of such Act, upon the approval of a petition filed in his behalf by Mario Rodriguez-Illobre and Helen Elsie Rodriguez-Illobre, citizens of the United States, pursuant to section 204 of such Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

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

TOMOKO JESSICA KYAN

The Clerk called the bill (H.R. 1152) for the relief of Tomoko Jessica Kyan.

There being no objection, the Clerk read the bill, as follows:

H.R. 1152

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Tomoko Jessica Kyan, the daughter of William Jack Easterly, Junior, a United States citizen, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, from the total number of such visas which are made available to such natives under section 202(e) of such Act.

With the following committee amendment:

Strike out all after the enacting clause and insert:

That, for the purposes of sections 203(a)(1) and 204 of the Immigration and Nationality Act, Tomoko Jessica Kyan shall be held and considered to be the natural-born alien daughter of William Jess Easterly, Junior, a citizen of the United States: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.".

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

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

There was no objection.

The committee amendment was agreed to.

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

MARGOT HOGAN

The Clerk called the bill (H.R. 1072) for the relief of Margot Hogan.

There being no objection, the Clerk read the bill, as follows:

H.R. 1072

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Margot Hogan shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, from the total number of such visas and entries which are made available to such natives under section 202(c) of such Act.

With the following committee amendment:

Strike out all after the enacting clause and insert:

H.R. 1072

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Margot Hogan shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, from the total number of such visas and entries which are made available to such natives under section 202(e) of such Act.

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

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

There was no objection.

The committee amendment was agreed to.

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

Mr. BOUCHER. Mr. Speaker, I ask unanimous consent that the further call of the Private Calendar be dispensed with.

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

There was no objection.

SELL-OUT: PRESIDENT REAGAN IN JAPAN

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

Mr. RAHALL. Mr. Speaker, the pictures were beautiful. The pageantry was gallant. The preparation for such splendor, I am sure, was long, hard, and difficult; but, Mr. Speaker, I submit that President Reagan during his recent trip to Japan again totally ignored the American unemployed worker and he has sold out U.S. coal interests.

Despite the President's rhetoric that his mission to Japan would include protecting U.S. trade interests in order to counter increased protectionistic sentiments here, he has instead legitimized a dramatic reduction in the amount of U.S. coal being purchased by the Japanese.

During the first 7 months of 1983, U.S. coal exports to Japan declined by 45 percent. The United States has traditionally supplied Japan with approximately 30 percent of its coal requirement. Today, this figure has dropped to below 16 percent.

The United States-Japan Energy Working Group has met on several occasions to discuss this situation. However, the Japanese have refused to make any concessions.

As such, it is my understanding that the President accepted a Japanese position not to make any commitment on metallurgical coal purchases from the United States. At best, the Japanese have indicated that they would try to keep the United States in the market.

In 1982, the United States exported almost 26 million tons of coal to Japan. In 1984, U.S. coal producers will be lucky to ship 10 million tons.

In light of the $22 billion trade deficit this Nation has with Japan, I find the President's action to be incredible. Does he not realize that Japan is spending $500 million in the U.S.S.R. to develop a coal-hauling railroad line. Does he not realize that the Japanese export-import bank has approved a $2 billion financing package to China for the development of new coal mines. Does he not realize that a number of Japanese firms, including Nippon Steel, are considering becoming involved in a surface coal mine/coal slurry project in Mongolia.

At this time, not a single long-term coal contract exists between a United States coal producer and Japan. Members of both the House and Senate coal groups have contacted the President, urging him to seek to maintain the traditional U.S. share of the Japanese coal market at 30 percent. This request, instead, has fallen on deaf ears.

So I would suggest to the President, next time you visit with the Japanese, do not do the coal industry any favors. No agreement would be better than the type your administration has struck.

THE EQUAL RIGHTS AMENDMENT AND VETERANS PREFERENCE

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

Mr. MONTGOMERY. Mr. Speaker, several veterans organizations have contacted me as chairman of the Committee on Veterans' Affairs in reference to the impact, if any, of the proposed equal rights amendment on vet-

erans preference in employment. These organizations are concerned with statements made by some supporters during Judiciary Committee hearings that, should the equal rights amendment be adopted, certain veterans preference laws would be challenged in the Federal courts.

As my colleagues know, veterans preference has been in existence for more than a hundred years. The constitutionality of such preference has been challenged and upheld by the U.S. Supreme Court on more than one occasion. The latest challenge came in the case of Massachusetts against Feeney. In that case, the U.S. Supreme Court, by a vote of 7 to 2, upheld a veterans preference statute which insured that veterans would receive consideration for employment ahead of nonveteran applicants, no matter when the veteran applied for a position.

Mr. Speaker, since the equal rights amendment is being brought up under suspension of the rules there may not be time to ask questions to determine whether it would have an impact on veterans preference. Therefore, I want to share with you my concern on this particular issue. First, I would like to know whether or not the proposed legislation will adversely affect the 5- and 10-point preference now available for veterans who seek employment with the Federal Government. Next, I would like to know whether or not the proposed legislation would adversely affect the educationally disadvantaged Vietnam veterans who can now be appointed, under the Vietnam veterans readjustment appointment authority (VRA), to a position without having to compete with nonveterans for certain positions in the Federal Government. Finally, Mr. Speaker, I want to know what impact the proposed legislation would have on current State laws such as the case of Massachusetts against Feeney which was recently upheld by the U.S. Supreme Court.

The reason I raise this issue, Mr. Speaker, is that, if the intent is to change the status of veterans preference laws, Members should know that the 28 million veterans who have answered our Nation's call in time of war will work hard in every State throughout the country to insure that the amendment is not ratified.

I hope in this debate my concerns can be addressed.

SEEKING A BALANCE CONSISTENT WITH EQUAL RIGHTS FOR WOMEN AND PROFAMILY VALUES

(Mrs. LLOYD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. LLOYD. Mr. Speaker, I am dismayed that those of us who want to support an equal rights amendment will be denied the opportunity to fashion such an amendment that is consistent with both equal rights for women and profamily values.

The decision to pursue a serious effort to enact a fundamental realinement of the social and family values that underlie our society and our American tradition, with no consideration of the impacts and, ramifications of this change, clouds the chances for passage.

For those who have in the past supported profamily legislation in such matters as abortion and homosexual rights, we stand in jeopardy of undoing in 40 minutes all that we have accomplished over the years.

I believe that a majority of this House would support abortion-neutral language. I believe a majority are opposed to drafting women and/or committing them to combat, or requiring religious institutions to alter their treatment which distinguishes between men and women on the basis of doctrine, and many other issues which we will not be able to address.

Finally, Mr. Speaker, I want to raise with my colleagues a number of concerns which I have over the potential impact of the equal rights amendment if it is adopted in an imprecise form. Let me point out that my intention is to develop a version of the ERA which will have broad-based support both in the Congress and in the American public. I think I speak for a great many women when I say we want to see an equal rights amendment that corrects discrimination now faced by women, but does not rend the fabric of family life, or the institutions which this society has developed to protect a basic set of values that are commensurate with family life. We want very much to be a constructive voice in protecting those values while acting positively and responsibly to remove existing barriers to full and equal opportunities for women.

First, I would urge that the House make explicit that nothing in the proposed amendment be construed to expand, endorse or secure either the right to abortion, or the right to, or granting of, Federal funds for the performance of abortion, except in those limited instances which the Congress has already defined. The concern in this instance is not in the language of the proposed amendment itself, but rather that in interpreting the amendment the courts may so define "sex" as to overturn the Hyde amendment. This concern is reinforced by the Supreme Court decision in the *Newport News Shipbuilding and Drydock, Co.* v. *Equal Employment Opportunity Commission* (77 L. Ed. 2d 89, June 20, 1983) in which Justice Stevens writing for the majority noted that "discrimination based on a woman's pregnancy is, on its face, discrimination because of her sex."

Second, there is confusion over how the amendment in its present form would apply to homosexuals, particularly in the case of homosexual marriages. My personal feeling is that the legislative intent of the Congress does not extend to including sexual preference as part of the definition of "sex" as the word is used in the amendment. Nonetheless, by failing to clearly exclude homosexuals from the ERA, the Congress has left a decision on this matter up to the courts, and the result may not be consistent with the interpretation of the legislative intent as I understand it, and as I believe most in this body understand it. This exclusion should be explicit thus ending any uncertainty.

Third, the ERA must not be construed by the IRS or the courts to deny tax exempt status to schools, seminaries, and churches which treat men and women differently. Specifically, those religious institutions which do not ordain women, could run the risk of losing their tax exempt status for their schools or seminaries. If the courts choose to interpret sex discrimination in the same way that they interpret race discrimination, then the Bob Jones University case makes very clear the potential risk to these institutions.

Fourth, provision should be made to clarify that the amendment does not require the drafting of women into the Armed Forces of the United States, nor should it be construed as requiring women members of the Armed Forces to be assigned to combat duty. The concern in this instance is that in the absence of such clarifying language, the ERA may be interpreted in such a manner as to overturn the decision in Rostker against Goldberg which upheld the exemption of all women from the military draft, and provided for the exclusion of woman from military combat.

Fifth, supporters of the equal rights amendment in its present form have argued that it would overturn the Supreme Court decision in Massachusetts against Feeney, which held the existing veteran's preference procedure as constitutional. The concern in this instance is similar to that in the case of abortion. Since 98 percent of all those receiving veterans preference are male, the preference appears to discriminate against women. Just as abortion, becuase it is performed exclusively on women, discriminates on the basis of sex. Language should be adopted to prevent the ERA from being construed in any way which affects any benefit or preference given by a State or the Federal Government to veterans.

Sixth, amendatory language is necessary to prevent the amendment

from being construed in such a manner as to deprive wives, or widows, of rights or benefits granted to them by the States, or to interfere with State laws that obligate husbands to support their wives. This provision is of crucial importance for those women who choose a career in the traditional role of homemaker. These women provide a very valuable, but generally financially uncompensated service to their husbands and families.

These women are entitled to, and the courts have recognized their legal claims upon, their husbands earnings in the event of divorce or separation. To the extent that the existing ERA is ambiguous on this point, it must be clarified to assure that the traditional legal rights of wives are protected.

Seventh, the equal rights amendment should specifically provide for the continued distinction between the sexes where such distinction accommodates personal modesty. This stipulation would protect such institutions as private schools, hospitals, prisons, and other public accommodations from being placed in the position of having to implement sex-integration policies that contravenes the policies that were created to protect the privacy and modesty of the individuals served by these facilities.

Finally, because of the nature of this amendment, that is, because it seeks to remove legal impediments to the full opportunities for women, it of necessity addresses itself to existing law; Federal, State, and local. To transfer the responsibility for correcting these laws and for properly enforcing them to the Federal Government in lieu of the States will make the amendment less effective. The majority of the concerns that I have raised in my statement relate to areas which have traditionally been the province of the States; such items as divorce, alimony, child custody, homosexual rights, private and public schools, public accommodations and so on. The inclusion of section 2 of the proposed amendment effectively removes the States from these decisions by transferring authority for implementation to the Federal Government. I believe that this is both unwarranted and less effective than reliance on the States.

I appreciate this opportunity to express the concerns which I have about this amendment. I believe that my concerns on most, if not all of these matters are shared by many in this House. However, my particular concern is that despite our intentions, if we fail to make clear the meaning of the equal rights amendment we must bear the responsibility for future interpretations that run contrary to the understanding and intentions that we had in the drafting and consideration of this amendment.

□ 1230

BAN "COP KILLER BULLETS"

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

Mr. BIAGGI. Mr. Speaker, a recent letter I received leads me to believe that the administration's top two law enforcement agencies are deliberately sabotaging my effort to outlaw armor-piercing "cop killer bullets."

The Justice Department said in April that they would complete a research project on this crucial issue and submit legislation to Congress banning the armor-piercing handgun ammunition by this summer. However, in a letter I received this week, the Justice Department reported that they had run into difficulties and now were unsure when, or if, any such proposal would be submitted to Congress. The U.S. Treasury Department, or Nation's firearms regulatory agency, has been even less responsive, despite previous statements of concern.

I have authorized a bill, H.R. 953, to outlaw armor-piercing handgun ammunition. As a former law enforcement officer, I challenge this administration to stop their bureaucratic double talk and dilatory tactics, and lend their support to the most important police protection initiative in recent years—a ban on cop killer bullets. But, with or without their help, this is a problem the Congress must soon address—the lives of our Nation's police officers depend on it.

THE TIME IS RIGHT FOR THE ERA

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

Mr. RATCHFORD. Mr. Speaker, for reasons of equity, economic opportunity, and educational access, history will judge that the time is right for passage of the equal rights amendment.

From the point of view of fairness, I think it is clear that women will not achieve real equity without the support of the U.S. Constitution, and the equal rights amendment is long overdue.

Second, the concept of economic opportunity also compels the enactment of the ERA, for in 1983, women are earning only 59 cents for every dollar earned by men doing similar work.

Finally, too many educational doors are still closed to women, and this is a national tragedy of wasted human potential.

Mr. Speaker, some Members may not like the procedure by which the amendment was brought up, but clearly, the American principles of equity, economic opportunity, and educational opportunity cry out for a yes vote in favor of the ERA.

I hope my colleagues will cast that yes vote, for it may be our only opportunity this session.

IN SUPPORT OF THE EQUAL RIGHTS AMENDMENT

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

Mr. GEJDENSON. Mr. Speaker, later today we will be voting on House Joint Resolution 1, the equal rights amendment. As you know, this will not be the first time that this body will act to approve this constitutional amendment, but hopefully it will be the last. The time of the ratification of the equal rights amendment is long overdue. Since 1972, when the ERA was approved by Congress and sent to the States for ratification, a very important educational process has taken place.

The debate on the equal rights amendment has changed dramatically since the early seventies. Opponents, though they may believe it, will not say on the floor of the House today, that women should not have equal opportunity, that they already have it better than men or that the ERA will destroy the American family. I predict that not one person will argue against the substance of the ERA. Such arguments have become political suicide, as well they should. Women and those who support equal rights for women have become a powerful political force in this country.

Instead, what we may hear today from opponents is that they are for the "E and the R, but not the A." This is President Reagan's excuse for not supporting the ERA. He says that we can change our laws so that there is no longer any discrimination against women, without messing up our Constitution. Well, I think the President's record since he has been in office shows just how serious he and others who will use his argument today are about insuring that sex biased laws are repealed. The record is dismal. Luckily, however, the American people have learned something during the last 10 years of debate. They have learned that if you are for equal rights for women you support the equal rights amendment. I intend to do so proudly today.

IT IS NOT TOO SOON TO GRANT EQUAL RIGHTS TO WOMEN

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

Mr. PATTERSON. Mr. Speaker, I rise today to urge my colleagues to support the equal rights amendment.

We have discussed this issue on the merits, but allow me to talk about what the debate will be focused upon today.

There will be argument on the procedure. Some will say, it is too soon to take up the issue. Some will say the length of the debate is too short, and some will say no amendments are to be allowed. Let us address those issues very briefly.

Is it too soon? Is it too soon to pass the equal rights amendment? Have we not debated this over 15 years, not only in this Chamber and in the Senate, but also in 50 statehouses across the country. The length of the debate is only 40 minutes. If you look in the CONGRESSIONAL RECORD, you will find pages and pages and pages of points of view on the equal rights amendment. I do not think that individuals will change their votes as a result of the shortness of the length of the debate today and we do have equal time on either side of the debate.

The fact that no amendments are allowed. Most of the amendments that are intended to be tacked on to the equal rights amendment are not clarifying but rather they are destructive, contrary amendments that would in effect make the amendment ineffective or unpassable.

There will also be an argument that this is a "political" tactic of Democrats to embarrass Republicans. You can help insure that this is not a political issue by merely joining with us on our side of the aisle and vote for the equal rights amendment to show that it is a people issue and not a party issue.

EQUAL RIGHTS AMENDMENT WILL SECURE FUTURE FOR WOMEN AND AMERICA

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

Mr. SIKORSKI. Mr. Speaker, the most difficult, thankless yet most noble struggles in American history have been those to achieve simple equality.

Traditional discussions of those struggles have focused on the great numbers: 200,000 killed in our Civil War, 25 million blacks, 70 million Catholics, 120 million women. But as I began my day this morning, as I washed my 2½-year-old daughter's face and combed her hair and fixed her Cheerios and tied her sneakers, I thought of her future.

Without equal rights for women protected by our Constitution, she can and will be denied an equal education. She can and will be cheated of 41 cents of every dollar of her rightful compensation for a job well done. She can and will be discouraged from certain careers, like sitting in this body. And she can and will be dispossessed of her rightful future.

God gave her certain talents, certain intelligence, and God knows America needs the unfettered contributions of all its children.

This amendment for equal rights will help secure it.

Women's poverty is due to two causes that are basically female—women are disadvantaged in the labor market and women must often support and pay for child care for their children mostly if not totally on their own. Women often bear the economic as well as the emotional burden of rearing their child or children or caring for an older parent.

Many poor women must also deal with a social welfare system that was originally designed for men, a system which often exacerbates rather than reduces women's poverty.

The equal rights amendment will stimulate an examination of the disadvantaging impact of government welfare programs on poor women; it will stimulate the beginning of the process of creating a welfare system that will help reverse the feminization of poverty and help create new economic opportunities for women. The equal rights amendment will help strengthen prohibitions against discrimination in the marketplace. And in domestic relations law, under the equal rights amendment, laws and court orders will be based on the principle that each spouse contributes equally to the marriage; it will validate the view of marriage as a social, emotional, and economic partnership.

We are experiencing a crisis. An increasing number of the poor are women maintaining households alone. The equal rights amendment will help to curb the feminization of poverty. It offers new hope for women who are experiencing the stigmatizing and isolating effects of poverty.

I urge my colleagues to vote for its passage.

ERA AND THE FEMINIZATION OF POVERTY

(Mrs. COLLINS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. COLLINS. Mr. Speaker, if wives and female heads of households were paid the wages that similarly qualified men earn, about half of the families now mired in poverty would not be poor. The equal rights amendment offers hope for women in poverty and their children.

We are all aware of the dramatically increasing numbers of single women heading households and its accompanying phenomenon—the feminization of poverty. More than half of the total number of poor families in this Nation are maintained by women, and almost three-quarters of minority children in female-headed households live in poverty.

ACTIVITIES OF COMBAT AND INTELLIGENCE UNITS ARE SUBJECT OF PHOTO EXHIBITION

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

Mr. MINETA. Mr. Speaker, and Members of the House, I rise to announce the opening of a very significant historical photo exhibition in the Cannon House Office Building Rotunda. The display documents the activities of the most highly decorated fighting unit in the history of the U.S. military.

The Go For Broke/Yankee Samurai exhibition is the story of some of America's bravest soldiers. Members of the 442d Regimental Combat Team, which included the 100th Infantry Battalion, were awarded more than 18,000 individual decorations, including 1 Congressional Medal of Honor, 47 Distinguished Service Crosses, 350 Silver Stars, 810 Bronze Stars and more than 3,600 Purple Hearts.

The exhibition also includes the work of the Military Intelligence Service, whose interpreters and translators greatly contributed to shortening the length of World War II by as much as 2 years and thus saved 1 million lives.

It is appropriate that the dedication of these proud and loyal Americans to the freedom which built our Nation be recorded and understood by all. The irony which underlies the actions of this heroic group is that they were Americans of Japanese ancestry. Many of these soldiers had families locked up behind barbed wire and guarded by machineguns in relocation camps established by our Government during an era of prejudice and war hysteria.

It is my hope, Mr. Speaker, that after viewing the exhibit, my colleagues will all reflect on the significance of its presence here in our Nation's Capital. The contribution which these Americans made, despite overwhelming odds and tremendous sacrifice further demonstrated their loyalty and dedication to their home, the United States of America.

Mr. Speaker, it is my hope that every person sees this exhibit in the rotunda of the Cannon House Office Building.

AMERICAN FORCES CAN BE REMOVED FROM GRENADA BY DECEMBER 24

(Mr. NELSON of Florida asked and was given permission to address the

House for 1 minute and to revise and extend his remarks.)

Mr. NELSON of Florida. Mr. Speaker, I would like to share with the House the conclusions that I have drawn after having just returned from a trip to Grenada, which I shared yesterday with Speaker O'Neill, concerning the December 24 withdrawal deadline. I believe that we can remove our combat troops by December 24.

□ 1240

The only qualifier there would be that there are presently 30 to 40 Cuban armed guerrillas operating in the mountains that should be neutralized before our combat troops would be withdrawn. Thereafter there will need to be administrative and advisory military support as the Grenadians transition through a provisional government until they ultimately hold elections.

I would hope that the British Commonwealth of Nations will supply those administrative and advisory troops. If they refuse, then that is a role that the United States will have to consider.

I am very optimistic about the future of Grenada, having seen the smiles and the happiness on the faces of the people there. I think they have a brilliant future in freedom, an economically brilliant future thanks to the Cuban-built runway, because tourism will flourish in that tiny jewel in the Caribbean.

SUPPORT THE EQUAL RIGHTS AMENDMENT

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

Mr. LEVINE of California. Mr. Speaker, I rise in strong support of the equal rights amendment. Passage of the equal rights amendment is long overdue. Its ratification remains one of the most important issues now facing the Congress and the Nation.

The laws of this Nation embody the principle of equality for all citizens. Yet historically equal justice has been denied to women. Without this amendment to our Constitution, women in America will continue to be second-class citizens.

Women are not afforded equal protection under our current laws. The statute-by-statute approach advocated by the Reagan administration and ERA opponents has not succeeded in eliminating sex discrimination.

Passage of the ERA will prompt local, State, and Federal governments to end practices and policies that discriminate against women.

A constitutional amendment remains essential to insure that women in America will be guaranteed fair and equal opportunities. If Congress wishes to confirm its commitment to equal rights for women, we must do so by approving the ERA today.

HOUSE NEEDS CHANCE TO FULLY DEBATE EQUAL RIGHTS AMENDMENT

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

Mr. ROEMER. Mr. Speaker, on the equal rights amendment, leave aside the questions of Federal funding of abortions or of women fighting on the frontlines and all of the rest; let us talk instead about amending the most important legal document in America, our Constitution, without the people's body, the House of Representatives, having a chance to either fully debate it or to consider a single amendment, not one.

Some in the House submit that the amendment has already been debated ad nauseum. Yes, it has been debated and defeated. I would point out.

A strong statement on equal rights for women is necessary, but it must be carefully crafted so as not to destroy more than it builds.

Obviously the American people were telling us something when they defeated the ERA as written. They were telling us to take another look; construct it more carefully they said.

Today we will answer their concerns. I hope we will turn down the ERA as written, not to kill it, but to reconstruct it and modify it for the common good.

When we modify our Constitution we make law. We do not send messages or paint pretty perceptions. We make law and such law ought to be fully debated and carefully constructed.

Vote no on this attempt to quick pitch an amendment to our Constitution.

THE EQUAL RIGHTS AMENDMENT IS AN ISSUE OF FAIRNESS

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, I cannot help but respond to my good friend from Louisiana (Mr. ROEMER). We have been debating the question of equal rights for 200 years, and we have been debating specifically the equal rights amendment for more than 12 years.

Every State of the Union, our Congress has a complete record of hours and hours and hours of testimony for the last 12 years. The Committee on the Judiciary has had very comprehensive hearings and they reported out a bill.

So let us not buy the argument that we have not given equal time in terms of debating this issue. The time is now to vote for an issue that affects the quality of life of more than 50 percent of the population, and to be fair. That is the issue at hand, not the issue of squelching debate.

We have been debating this ad infinitum. Let us get on with the issue.

Mr. Speaker, I am proud of the men who support the equal rights amendment. I am especially proud of the support of my senior Senator from Ohio, Senator JOHN GLENN, who has been so helpful in attempting to get the ERA passed. I wish to publicly thank him for his efforts. The following is the text of his remarks to us:

THE IMPORTANCE OF PASSING H.J. RES. 1, THE EQUAL RIGHTS AMENDMENT

Mr. Speaker and Members of the House of Representatives, passage of H.J. Res. 1, The Equal Rights Amendment and its eventual ratification by the States is one of the most important items on the agenda in the 98th Congress. I commend and encourage my colleagues in this House for taking the initiative of bringing ERA to the House Floor today.

More than one half our population is not Constitutionally guaranteed equal access to the basic rights on which our country was founded and prides itself. Fairness, justice and equality should touch the lives of all our citizens. Unfortunately, the women of this country have been denied basic rights in education, job training, hiring and payment practices, insurance, and retirement coverage. Existing laws which have been passed in a piecemeal fashion on the federal and state levels have proven ineffective in adequately protecting women against discrimination. The results are a simple but sad fact of life. Women are the fastest growing segment of our poor population. It is especially true that poverty is become a reality for two out of three women over 65.

Passage of ERA can only improve a deteriorating situation for women. If, as Representatives of the people of the United States, we are truly committed to the concept of equal rights for all, then ERA will pass. I believe that it is a necessity for the women of today and for the success and improvement of our future. I urge adoption of the Equal Rights Amendment.

POINT OF ORDER

Mr. EDWARDS of Oklahoma. Mr. Speaker, I make a point of order.

I noticed in the recognition of Members as they sat around the room here to be recognized for 1-minute speeches that one Member was just recognized who had not been sitting in order to participate.

I would inquire of the Speaker if it is his intention now to continue to recognize the Republican Members before accepting any more Democrats who are not currently sitting to be recognized.

The SPEAKER pro tempore (Mr. WRIGHT). The Chair would state that this is not really a point of order. Recognition is within the discretion of the

Chair, and the Chair is attempting to be fair.

It was the Chair's present intention to recognize a minority Member gentleman from Ohio, who stands seeking recognition at this time. This is what the Chair intends to do.

WRONG PROCEDURE FOR CONSIDERATION OF THE EQUAL RIGHTS AMENDMENT

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

Mr. KINDNESS. Mr. Speaker, the failure of leadership in the majority party in this House of Representatives is nowhere more apparent than it is in the attempt to create a partisan political issue of the equal rights amendment by bringing that matter to the House floor today, after so much delay, under suspension of the rules.

Suspension of the rules is the legislative equivalent of martial law in a civilian setting. We amply complain about the imposition of martial law in other nations around the world, about the suppression of human rights that occurs in those circumstances. But where are the ranting, raging liberals today as martial law is imposed upon the House of Representatives? Are they protesting against the failed leadership that had to resort to martial law to get the equal rights amendment considered by the House?

Where has this matter languished since the beginning of this session 11 months ago? Why did the subcommittee not report it before last week? Is martial law the only way to get what you want around here? Legislative dictatorship is no better than any other dictatorship.

I am sorry for your suppressed followers.

THE EQUAL RIGHTS AMENDMENT

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

Mr. LOTT. Mr. Speaker, by bringing this constitutional amendment on equal rights to the House under this restrictive procedure, suspending all the rules of the House, the proponents of this amendment subvert the very cause which they claim to espouse—equality of rights under the law.

The proponents of this amendment for some reason think it is necessary to suspend all the usual legislative procedures and rights and protections under our rules in order to pass this amendment. To say that we must deny and abridge the rights of Members of the U.S. House of Representatives in order to insure the rights of others is to make a mockery of our democracy. This is akin to the general who was quoted as saying he had to destroy a village in order to save it. Do we really have to destroy the democratic rights and procedures of this institution in order to save the Republic from the perceived wrongs this amendment purports to remedy? I think not.

Mr. Speaker, at the very heart of this institution's rules is the parliamentary law laid down by Jefferson in his manual, the preface to which includes the maxim that the rules of proceeding are "the only weapons by which the minority can defend themselves" against the wanton abuse of power by large majorities.

Proceeding in this manner on such an important issue as amending the Constitution of this Republic demeans and disgraces those democratic principles and protections which we claim to hold so dear. Suspending the rights of our legislators in the name of extending further rights to our citizens can only ultimately lead to the demise of the very governmental institutions which were designed to secure those rights in the first place. No issue, no matter how sincere and well-intentioned, is worth sacrificing the most basic rights of Members of Congress to freely debate and amend important legislation as elected Representatives of the people.

OPEN RULE TO BE OFFERED FOR HOUSE JOINT RESOLUTION 1

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

Mr. FISH. Mr. Speaker, the procedure for considering House Joint Resolution 1 does not do honor to this body nor to our Constitution. The procedure will not permit the 404 Members who are not members of the House Judiciary Committee to consider the merits of amendments many of us thought reflected legitimate concerns.

For those of us who favor equal rights, I am later today introducing a rule providing for the consideration of House Joint Resolution 1.

□ 1250

It is an open rule with 4 hours of debate, the way this measure should be considered by this body.

I invite cosponsorships.

In the meantime, Mr. Speaker, pull the suspension now.

I URGE A "NO" VOTE ON THE SUSPENSION OF THE RULES

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

Mr. DEWINE. Mr. Speaker, I am a supporter of the equal rights amendment, yet I rise today to urge a "no" vote on this amendment. If the ERA is passed in its current form it is clear from testimony we heard that women, No. 1, will have to be drafted; No. 2, will have to be used in combat; and that Federal funds will have to be used for abortion.

I do not think the majority of my constituents nor the majority of the American people support that.

So if we are serious, if we really want to make the ERA a part of the Constitution, if this is not just some statement we are making today, if we want to see it in the Constitution, then the vote is "no."

Let us bring this back, let us get the amendments in there, let us clean it up. There is a reason it failed before. Let us not send it out and have it defeated again.

Those of us who are deeply committed to the ERA should think long and hard about our vote today. A "no" vote is really a vote for ERA.

REAFFIRMING SUPPORT OF THE POLISH LEGION OF AMERICAN VETERANS

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

Mr. BILIRAKIS. Mr. Speaker, yesterday, when the House considered H.R. 29, legislation to grant the Polish Legion of American Veterans a Federal charter, I was not able to speak on behalf of the bill. I was at the Supreme Court demonstrating my support for prayer in our public schools by supporting the efforts of the Mobile, Ala., school board to have the High Court consider and, hopefully, overturn an unfavorable appellate court decision.

So, I want to take this opportunity to reaffirm my strong support for H.R. 29. I was a cosponsor of this legislation and testified on its behalf during subcommitee hearings on the bill I have said it before and I will say it again—the Polish Legion of American Veterans is an exceptional organization whose members have made and are making significant contributions to the spirit and well-being of the Nation through their patriotism and service. The Legion and its auxiliary are 14,000 strong and are engaged in a variety of patriotic, educational, and charitable activities across the Nation. A Federal charter will help PLAV further these worthy efforts and I was proud to join my colleagues in unanimously passing H.R. 29.

A USURPATION OF LEGISLATIVE RESPONSIBILITY FOR POLITICAL PURPOSES ON ERA

(Mrs. VUCANOVICH asked and was given permission to address the House for 1 munute and to revise and extend her remarks.)

Mrs. VUCANOVICH. Mr. Speaker, it is impossible in 1 minute to express all the reasons why the women's movement and the American people are being cheated by this blatant abuse of parliamentary procedures on the equal rights amendment. I am a freshman, new to this game, but I never really thought it was a game until today.

It is inconceivable to me, that this body, charged with the duty of Government of the world's strongest, most productive, most successful nation, will allow itself to be denied the ability to debate the merits of a constitutional amendment, and clarify it as we all know a majority wish to do.

To allow only 40 minutes of debate, and no amendments on a proposed change in our Constitution that is perhaps as far reaching and significant as any ever considered is nothing more than an attempt to deliberately circumvent the legislative process. The very existence of proposed amendments to this measure, that possess sufficient strength for passage mandates that this body and the American people be allowed to fulfill our desire and responsibility to provide clear, well-thought-out legislation to the people of this country. Neither the women's movement, nor the American people are well served by the usurping of legislative responsibility for political purposes.

THE RAIL SHIPPER PROTECTION RESOLUTION

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

Mr. MARLENEE. Mr. Speaker, today I am introducing the rail shipper protection resolution.

This resolution will require the Interstate Commerce Commission to rethink and review its policies and Congress intent on market dominance, rate setting, and abandonments and report back to Congress within 60 days.

The ICC has taken the Staggers Rail Act of 1980 for a dead-end ride. There exists market dominant areas in many States where predatory ratesetting and drastic branch line abandonment go on unchecked.

There is no protection by the Commission to insure equitable or fair branch line abandonment in areas where there is a lack of effective carrier competition.

There is the eminent threat to shippers and the public of increasingly high shipper rates due to a combination of an improving economy, a lack of effective carrier competition, and lethargic regulation by the ICC.

In my own State of Montana, the railroad is bleeding shippers to death while the ICC watches. The ICC has the tourniquet and the skill to apply it. I want them to use it.

SUSPENSION OF RULES ON ERA IS AN ARROGANT ABUSE OF POWER

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

Mr. MACK. Mr. Speaker, for those who take their role here seriously, let me ask you to stop and reflect for 1 moment on the actions of the majority leadership.

The decision to bring a constitutional amendment to the floor under suspension of the rules is a grave mistake.

First, it may ultimately bring about the defeat of the amendment in State after State because of the failure to address serious questions through the amendment process.

Second, because it is another display of the arrogant abuse of power.

It is an arrogant abuse of power to gag the minority's right to dissent on an equal rights amendment.

It is an arrogant abuse of power to refuse to debate the issues which have been raised through national debate.

It is an arrogant abuse of power to cut off the amendment process.

However, it comes as no surprise since the majority leadership has already gaged the full House on the immigration reform bill.

The arrogant abuse of power is not new and history has shown that those who misuse power lose power.

SUSPENSION OF RULES ON ERA IS BLATANT HYPOCRISY

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

Mr. EDWARDS of Oklahoma. Mr. Speaker, there is no equality for women; there is unfair discrimination against women. I work with an advisory committee in my district on issues of concern to women and by whatever means we choose to pursue, we should all dedicate ourselves to eliminating that inequity.

But it is blatant hypocrisy to profess one's concern for people's rights and at the same time to cut off debate and prohibit consideration of any amendment by the people's Representatives in the consideration of a proposed revision of the U.S. Constitution.

The comments in this morning's Washington Post were just a beginning of the public reaction that you will see, Mr. Speaker.

Democrats laughed and hooted last night but you have made a serious political blunder and you will not laugh last.

FLAWS SEEN IN THE EQUAL RIGHTS AMENDMENT

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

Mr. McCOLLUM. Mr. Speaker, the equal rights amendment is flawed. For this reason, after its initial passage by Congress in 1972, efforts for more than 10 years failed to achieve ratification by the requisite 38 States.

I know of no Member of Congress who is opposed to the concept of equal rights for women. However, years of debate over the specific language of the equal rights amendment have raised grave and justifiable concerns on the part of many Americans that the adoption of this amendment would lead to court decisions going far further than the noble and simple goals its early advocates indicated were embodied in the language of the amendment.

In my judgment, were Congress to adopt five clarifying amendments which were proposed unsuccessfully in the markup before the Judiciary Committee the amendment would pass Congress easily and be very quickly ratified by the requisite number of States. These five amendments are as follows:

First, a provision that "nothing in this article shall be construed to affect any law, regulation, or policy relating to the draft for military service."

Second, a provision that "nothing in this article shall be construed to affect any law, regulation, or policy relating to the utilization of persons in military combat."

Third, a provision that "nothing in this article shall be construed to grant or secure any right relating to abortion or the funding thereof."

Fourth, a provision that "nothing in this article shall be construed to relate to private or parochial educational institutions." And

Fifth, a provision that "nothing in this article shall be construed to affect the right of Congress or any State to enact laws concerning veterans' benefits."

These five proposed amendments would do no more than clarify the fact that the equal rights amendment is not intended to change or control the laws of this country regarding drafting women, women in combat, questions of abortion, the tax-exempt status of single sex private and parochial schools, and laws relating to veterans' benefits.

One can argue forever about whether the present ERA language would

result in court decisions making major changes in the areas affected by these clarifying amendments, but the very fact that there is great dispute on these points is reason enough to demand that clarifying language be drafted onto the ERA before it is sent back again to the States for ratification.

Sadly, the leadership in the ERA movement and the House Democratic leadership have joined together to prevent a full House vote on any clarifying amendments to the ERA. As a consequence, Members will only be provided the opportunity to vote for or against the same unmodified ERA amendment, which failed ratification by the States. To say the least, the House leadership decision to bring the ERA up under suspension of the rules and thus prevent any amendments from being offered and gag opponents with a 40-minute debate limit is unfair and unconscionable. Under the circumstances, there is no choice but to vote "no" on ERA.

In visiting the issue of the ERA, I cannot let the opportunity for discussion pass without commenting on a theme some ERA advocates have been stressing during debate. Some are saying that women in America have never asked for special privileges and imply that they would be most happy if the results of the adoption of the ERA were to be to destroy all special status and privilege that women have had in this country. Perhaps this theme is at the heart of why such a strong effort is being made to prevent amendments which would clearly keep the ERA from introducing into the areas which pose grave concerns for many. I strongly disagree with those who assert this antiprivilege theme, and I believe that most American women and men would also disagree.

While I firmly believe that women should have the equal opportunity to compete with men in all endeavors in American life, and receive equal treatment in virtually every situation, I for one believe we should preserve a great American cultural heritage of giving special privilege to women in certain areas of our society. Women are the childbearers. Women are the mothers. Women who choose to be homemakers and mothers should not be subjected to the draft. American women should have the right to choose to compete physically with men and, to the extent of their physical abilities, allowed to achieve positions comparable to those of any man. However, we should not force combat on any woman, and we should not require women to be subjected to the same physical training and conditioning men are. If a woman wants to avoid the rigors of military service she should be allowed in America to do so. Such should be the privilege of women in America.

□ 1300

THE EQUAL RIGHTS AMENDMENT

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

Mr. MICHEL. Mr. Speaker, most of us have spent more time in line to see a movie than we have been given today to debate an amendment to the Constitution of the United States.

The majority is engaging in an abuse of power that would bring a blush to the cheeks of the most absolute despot of antiquity.

It has been argued that because we have had ERA before us for 10 years, there is no need for debate. We are told that we have heard all the arguments.

But it is precisely because we have heard so many arguments in the past 10 years that we need time to sort them out, to set them forth in the clear, cold light of legislative deliberation.

What puzzles me is this: Is there any political gain that is worth the damage being done to the House and to the Constitution today? I know of none.

We are presented with a shoddy piece of procedural business that clouds the important issue before us and brings shame upon the House.

I know how terribly embarrassing this is for many on both sides of the aisle. I especially offer my condolences to Members on the other side of the aisle who realize how degrading all of this is to the great traditions of their party.

No matter when we came here—a generation ago or 2 years ago—none of us ever thought we would be asked to debate an amendment to the Constitution of the United States in such a manner.

No matter how we feel on the issue—do not let this House sink into disgrace by going along with this procedure, which is a combination of low farce and high tragedy.

Surely if this constitutional amendment is worth considering, it is worth considering fairly. Surely if matters of grave importance are embodied in the issue before us, we owe it to the people to deliberate. This is not the "eight items or less" cashier's lane at the supermarket.

We are in no hurry. We need time to judge. You are not giving us time to think.

Just ask yourself one question: Is this the way you really believe an amendment to the Constitution should be presented to the American people?

Answer that question, and then vote your conscience.

VOTE "NO" ON ERA

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

Mr. SMITH of New Jersey. Mr. Speaker, I rise to urge all Members who oppose taxpayer funding of abortion to vote "no" on suspending the rules to pass ERA. I say this as one who supports ERA, but only if clarifying amendments are included.

It is abundantly clear, Mr. Speaker, that if unamended, the ERA would be used by the abortion lobby to strike down the Hyde amendment. Compelling testimony presented to DON EDWARDS, Judiciary Subcommittee—and Mr. EDWARDS supports an open rule, I might point out—clearly established the abortion/ERA connection. Inclusion of an abortion neutral amendment would disconnect the two issues and literally take abortion out of the ERA.

Mr. Speaker, no party has the right to demand that a Member abdicate his or her fundamental convictions, principles or conscience. Yet many of my friends who oppose funding of abortion because of the violence it inflicts upon an innocent unborn child are being pressured to do just that today.

By precluding amendments to the ERA, Mr. Speaker, you have put your own friends in your party in a compromising, awkward position.

By precluding amendments to ERA, you have done more to undermine ultimate passage and ratification of the ERA than any one in the United States.

I urge all Members who are appalled and sickened by this blatant misuse of power to vote no. Do not be intimidated my colleagues, ERA will be back if you vote "no," under a procedure that permits amendment and adequate debate.

DEBATE IS NEEDED ON ERA

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

Mr. LUNGREN. Mr. Speaker, some advocates of the process that we are utilizing today have suggested that this has been debated and debated and debated and there is nothing to be gained by further debate.

The fact of the matter is the world is different today than when this same language was debated on this floor a decade ago. Roe against Wade has come down from the Supreme Court requiring this particular House to act on the question of Federal funding of abortions. That question at least ought to be discussed on this floor and not ignored. It is begging the issue to say that we do not have to debate something because it was debated last

time, when it was not even relevant to the debate last time.

Second, we have questions of veterans' preference. We have questions of women in the draft and combat. Things that ought to be decided on this floor by a vote of the people, not by skirting the issue and passing it off to the Supreme Court.

Third, those who say we have already debated it in subcommittee and committee and therefore we do not need to debate here have not found the report. You know why you have not found the report? Because this is coming under the Suspension Calendar. All the rules are suspended. We have no report. You cannot read of the testimony we have. You cannot read of the deliberations. And a request by minority staff of the majority staff earlier as to whether we will ever have a report was answered with the resounding, "We do not know, we are under no obligation to give it to you."

If you think that changing the Constitution in ignorance is what you were sent to do here, then God help this country.

THE EQUAL RIGHTS AMENDMENT

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

Mr. MOORHEAD, Mr. Speaker, I want to join with my colleagues and register my personal objection to the use of an abbreviated procedure for the consideration of a constitutional amendment.

The equal rights amendment raises important and significant issues which the House of Representatives deserves to analyze in detail. When the House Judiciary Committee debated the subject for a full day last week, numerous amendments were offered in the full committee. These amendments dealt with such important issues as:

First, abortion rights and the funding of abortions;

Second, the impact on the military draft;

Third, whether women should be required to serve in combat;

Fourth, the effect on private and parochial schools;

Fifth, veterans' preferences; and

Sixth, the ratification period.

These are but examples of the sincere and important concerns raised in connection with the language of the ERA. Another such issue which deserves full debate and analysis is the impact that the ERA could have on gender-based insurance classifications. As my colleagues know, the issue of discrimination in insurance is currently being considered in the House Committee on Energy and Commerce. I have been provided with a legal memorandum on this subject by the law firm of Patton, Boggs, & Blow. Having read this memorandum, I am convinced that the language of the equal rights amendment will not prohibit gender-based insurance classifications, if it is properly interpreted by the courts. Nevertheless this issue should be made clear in the amendment itself. The memorandum reads as follows:

GENDER-BASED INSURANCE CLASSIFICATIONS AND THE EQUAL RIGHTS AMENDMENT

INTRODUCTION

The Equal Rights Amendment as reintroduced this year provides that: "Equality of rights under law shall not be denied or abridged by the United States or by any State on account of sex."

H.J. Res. 1, 98th Cong. 1st Sess. (1983). The most significant limitation upon the extent to which the amendment would affect existing gender-based actions and practices is that the amendment would apply only to the actions of the federal government or the various state governments. As in the case of the First and Fourteenth Amendments, conduct would become subject to the amendment's prohibitions only if the conduct constitutes "state action" as that term has been construed by the courts. See Brown, Emerson, Falk, and Freedman, "The Equal Rights Amendment: A Constitutional Basis for Equal Rights for Women," 80 Yale L.J. 871, 905–07 (1971). The activity of a private party may be "state action" and thus subject to constitutional prohibitions directed at the state depending upon the nature of the relationship between the state and the private activity. Thus, the use of gender-based classifications by private insurance companies would be within the scope of the amendment if the activities of such companies rose to the level of "state action."

ISSUE

Whether the use of gender-based classifications by private insurance companies constitutes "state action" such that the proposed Equal Rights Amendment would be applicable to private insurance companies.

CONCLUSION

The Supreme Court has not addressed the state action issue in the context of gender-based insurance practices. Recent Supreme Court cases, however, have limited the extent to which the activities of private parties can be challenged on constitutional grounds. Moreover, two recent lower court cases have held that gender-based insurance or pension classifications did not constitute state action for purposes of the equal protection clause even where the state approved the contracts of the private insurers. The only holding to the contrary is in a case decided prior to the Supreme Court's most recent opinions. The likelihood that gender-based insurance practices will constitute state action under the proposed Equal Rights Amendment depends upon the exact degree of state involvement with such practices. However, if current case law in the due process and equal protection areas carries over to state action analysis under the Equal Rights Amendment, then there is a strong basis for concluding that gender-based insurance practices will not be found to constitute state action.

DISCUSSION

Recent case law strongly suggests that the use of gender-based classifications by insurance companies would not constitute state action for purposes of the Equal Rights Amendment. At least two lower courts have held that the use of gender-based classifications by private companies in the insurance or pension areas does not constitute state action for purposes of the equal protection clause of the Fourteenth Amendment. The Supreme Court has not yet addressed the state action issue in terms of the practices of insurance companies; however, recent Supreme Court cases apparently have narrowed the boundaries of the state action doctrine in the context of the due process clause.

A. Supreme Court cases

Of particular import for the issue of gender-based insurance classifications is the Supreme Court's decision in *Jackson* v. *Metropolitan Edison Company*, 419 U.S. 345 (1974). In *Jackson*, a privately-owned and operated utility company terminated the petitioner's electrical service for non-payment of bills. The company held a certificate of public convenience issued by the State of Pennsylvania, and the company was subject to extensive regulation by the state. The company's right to terminate service was included in a provision of the company's general tariff which was filed with the state. The petitioner contended that the company's termination of her service constituted state action and that the termination represented a deprivation of property without due process.

The Court rejected the argument that the termination of service was state action. The petitioner advanced several reasons why state action was involved. Two of these arguments have been repeated in cases challenging gender-based insurance classifications under the equal protection clause and likely will be repeated in cases challenging such classifications under the Equal Rights Amendment. First, the Court dismissed the argument that state regulation, even if extensive, transformed the actions of the regulated private party into state action. According to the Court, "[t]he mere fact that a business is subject to state regulation does not by itself convert its action into that of the State for purposes of the Fourteenth Amendment. Nor does the fact that the regulation is extensive and detailed. . . ." *Id.* at 350 (citations omitted).

Second, the Court rejected the argument that the termination of service was state action because the state had approved or authorized the practice. In rejecting the argument, the Court relied in part on an assessment of the facts surrounding the state's action in approving the company's tariff. According to the Court, the state never considered the termination provision in approving the company's tariff. Although hearings were held on the tariff, the termination provision was never a subject of inquiry.

More importantly, the Court went on to imply that even if the state had focused specifically on the termination provision, state action still might not have been present. The Court noted that heavily regulated utilities often are required to obtain approval for more practices than less extensively regulated businesses. The Court concluded that approval by the state utility commission where the commission "has not put its weight on the side of the proposed practice by ordering it" does not elevate the practice to state action. According to the Court, Pennsylvania merely determined that the termination practice was authorized if the utility company chose to adopt it. The state

did nothing to encourage or initiate the company's choice. The Court concluded that the company's "exercise of the choice allowed by state law where the initiative comes from it and not from the State does not make its action in doing so 'state action'. . . ." *Id.* at 357.

In short, the Court appeared to slide from a factual determination that Pennsylvania had not directly approved the company's termination provision to a legal determination that even direct approval would not be sufficient to trigger a finding of state action. If, in fact, the Court intended the latter determination as a statement of law, it would represent a significant restriction on the state action doctrine. The activity of a private party would constitute state action only if the state actually required that activity.

In *Flagg Brothers* v. *Brooks*, 436 U.S. 185 (1978), the Court arguably confirmed that the state must in some manner compel private activity in order for the activity to become state action. The Court held in *Flagg Brothers* that there was no state action where a warehouseman proposed to invoke its authority under a state statute permitting the sale of goods entrusted to a warehouseman when storage charges are not paid. The Court rejected the argument that the state statute authorized and encouraged the warehouseman to act in a manner which would deprive the respondent of her due process rights. The Court stated that the state's acquiescence in a private action does not transform the private activity into state action. Moreover, the Court in several places indicated that there is no state action unless the state compels or orders the private activity. *Id.* at 164–66. Although the Court stopped short of pronouncing that state compulsion must be shown to establish state action, the clear intent of *Flagg Brothers* appears to be to establish such a rule. See the Supreme Court, 1977 Term, 92 Harv. L. Rev. 57, 124 (1978).

Taken together, *Jackson* and *Flagg Brothers* strongly indicate that the Supreme Court would not find the activity of private insurance companies to be state action even if a state regulatory commission approved the practices of the companies. *Jackson* makes clear that state regulation of an insurance company, even when extensive, is not by itself sufficient to support a finding of state action. Moreover, *Jackson* intimates and *Flagg Brothers* apparently confirms that state approval of insurance rates or other practices may not support a finding of state action unless there is evidence of state compulsion.

B. Lower court cases

Both *Jackson* and *Flagg Brothers* involved challenges under the due process clause as opposed to equal protection challenges, a context more directly analogous to the proposed Equal Rights Amendment. At least two lower court cases have found in equal protection cases that genderbased insurance or pension practices do not constitute state action. Both of these cases have relied explicitly on *Jackson*, and one of the cases also specifically invoked the decision in *Flagg Brothers*.

In *Spirt* v. *Teachers Insurance and Annuity Association*, 475 F.Supp. 1298 (S.D.N.Y. 1979), aff'd in part, rev'd in part on other grounds, 691 F.2d 1054 (2d Cir. 1982), vacated and remanded, 51 USLW 3937 (1983), the district court held that the use by two private companies of sex-segregated mortality tables in determining retirement benefits did not constitute state action.[1] The court noted that under *Jackson* detailed state regulation did not transform private activity into governmental activity. Rather, the proper test under *Jackson* is whether "there is a sufficiently close nexus between the State and the challenged action of the regulated entity so that the action of the latter may be fairly treated as that of the state itself.'" *Id.* at 1311 (quoting *Jackson*, supra, at 351).

According to the court in *Spirt*, the Supreme Court in *Flagg Brothers* added as a gloss to *Jackson* that the state must order the private activity before that activity becomes state action: "Subsequent to *Jackson*, in *Flagg Brothes, Inc.*, v. *Brooks* . . . the Supreme Court unequivocally pronounced that the acts of a private entity will not be attributed to the state unless the state actually compels the action." *Id.* at 1312. The *Spirt* court stated that, even though the state approved the contracts and certificates of the defendants, there could be no claim that the state *required* the private companies to use sexbased mortality tables. The court thus concluded that "under the rationale of *Jackson* and *Flagg Brothers*, there is no state action." *Id.*

The court, however, went on to consider whether *Jackson* and *Flagg Brothes* might not be controlling because both cases were due process cases while an equal protection challenge was at issue in *Spirt*. The court noted that in the Second Circuit it is necessary to consider the nature of the right alleged to be violated in analyzing the state action issue. Less state involvement might support a finding of state action when race or sex discrimination are alleged than when a deprivation of due process is at issue. *Id.*

The court nonetheless concluded that even under a less stringent test, no state action was involved in the defendants' use of sex-segregated mortality tables. Under the alternative tests, the claimant must show at least that the state has fostered or encouraged the alleged discrimination.[2] The court noted that in the instant case the state had no role in establishing or enforcing the use of sex-based mortality tables nor did state law overtly or covertly foster or encourage sex discrimination. Most importantly, the court stated that the state's approval of the defendants' contracts and certificates in no way indicated encouragement for the particular provisions of the contracts and certificates. The private companies merely had excercised a lawful choice regarding contract terms, and the excercise of that choice does not constitute state action where the initiative derives solely from the private parties. *Id.* at 1312–13.

The *Spirt* case contains the most detailed analysis of the state action doctrine in the context of gender-based insurance and pension practices. The case ememplifies the ways in which *Jackson* and *Flagg Brothers* narrowed the state action doctrine. Equally important, *Spirt* suggests that even where discrimination is at issue as it would be in cases under the Equal Rights Amendment, the practices of insurance companies do not constitute state action.

At least one other lower court case has reached the same result as in *Spirt*. In *Reichardt* v. *Payne*, 396 F.Supp. 1010 (N.D. Cal. 1975), the court examined a claim brought against the state insurance commissioner and several private insurers based on the allegation that the insurers offered disability insurance on a sexually discriminatory basis. The court relied on *Jackson* to conclude that the practices of the companies did not constitute state action. According to the court, although the state must review and approve insurance policies before they may issue, tacit approval of allegedly discriminatory insurance practices did not create an adequate nexus between the state and the activity of the insurers to support a finding of state action. *Id.* at 1015–16.

The lower court in *Richardt*, however, did find that the state insurance commissioner's activities in reviewing and approving insurance policies constituted state action and that consequently an equal protection claim could be brought against the commissioner. According to the court, the commissioner has the authority to disapprove discriminatory policies. Thus, if the policies at issue in the case are found to be discriminatory, the commissioner would have played an active role in the discrimination. The court stated that the commissioner could not rely on *Jackson* because that case dealt only with a claim against a private party and not with the actions of a state official. *Id.* at 1014–15.

On appeal, the Ninth Circuit reversed the lower court's holding regarding the activity of the state insurance commissioner. *Life Ins. Company of North America* v. *Reichardt*, 591 F.2d 499 (9th Cir. 1979). The appellate court found *Jackson* apposite and stated that the commissioner's approval of the insurance policies was as pro forma as the approval process in *Jackson*. According to the court, the commissioner's approval did not place an official imprimatur on or compel the allegedly discriminatory practices. The court thus concluded that there was an insufficient connection between the state's role and the private activity to find that the commissioner's activity constituted state action for purposes of the Fourteenth Amendment. *Id.* at 501–02.

Outside the context of equal protection challenges to gender-based insurance classifications, there have been several cases which have held that the practices of insurance companies do not constitute state action. *See Freier* v. *New York Life Insurance Co.*, 679 F.2d 780 (9th Cir. 1982); *Masel* v. *Industrial Commission of Illinois*, 541 F.Supp. 342 (N.D. Ill. 1982); *Pino* v. *Protection Maritime Insurance Co.*, 454 F.Supp. 210 (D. Mass. 1978). These cases do not analyze the state action issue in any depth; they merely rely on *Jackson* for the principle that regulation of a business by the state does not transform the business' activities into state action. These cases, however, support the conclusion that *Jackson* represents a significant obstacle to contending that the activities of insurance companies are state action.

In fact, the only reported case finding state action in the context of gender-based insurance classifications was decided before

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[1] Neither the appellate court nor the Supreme Court reached the state action issue and thus did not question the district court's holding. The central issue in the case on appeal was the applicability of Title VII.

[2] The Spirt court derived this alternative "foster or encourage" test from the Supreme Court's opinion in *Moose Lodge No. 107* v. *Irvis*, 407 U.S. 163 (1972). In *Moose Lodge* the Court held that there was no state action where a club licensed by the state pursued racially discriminatory policies. The Court in part stated that the detailed regulatory scheme cannot be said to "foster or encourage" racial discrimination. *Id.* at 176–77. The *Spirt* court's approach of stepping down from a "compel or require" test in the due process context to a "foster or encourage" test in the equal protection context represents a reasonable approach to the issue of varying state action analysis according to the nature of the right at stake. The Supreme Court has not yet addressed the issue.

the opinion in *Jackson*. In *Stern* v. *Massachusetts Indemnity and Life Insurance Co.*, 365 F.Supp. 433 (E.D. Pa. 1973), the plaintiff challenged gender-segregated disability insurance policies on equal protection grounds. The state insurance commissioner was named as defendant along with the private insurance company. The court found that the activities of both defendants constituted state action because the state pervasively controls and extensively regulates the insurance industry. In particular, the state must approve the terms, conditions, and premium rates used by insurance companies as well as license such companies. With respect to the state insurance commissioner, the court concluded that "[s]uch pervasive control by the Commonwealth establishes its intimate involvement in the alleged discriminatory conduct of defendant Insurance Company." *Id.* at 438. With respect to the defendant insurance company, the court stated, "In light of the pervasive regulatory scheme extant here, we find that the allegations of the Complaint sufficiently set forth the requirement of state action." *Id.* at 439.

Because the holding of the *Stern* court rested so heavily on the fact of pervasive state regulation, the *Stern* opinion may not survive *Jackson*. As indicated above, it is clear after *Jackson* that pervasive state regulation by itself is not sufficient to trigger a finding of state action. The post-*Jackson* cases discussed above in all likelihood represent the better view of the current status of the state action doctrine. *Stern*, however, does represent one caveat to the conclusion that the practices of insurance companies do not constitute state action.

REJECT CHEMICAL WEAPONS FUNDS

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

Mr. PORTER. Mr. Speaker, on behalf of Dorothy Bush, the Vice President's mother and millions upon millions of other Americans who can not understand what on Earth we need with more nerve gas, I will be offering a motion this afternoon to instruct our defense appropriation conferees to eliminate from the conference report money for this unnecessary and costly weapons system.

Instructions really should not be needed. The House has twice in the last 4 months voted overwhelmingly to reject resumption of chemical weapons production. The other body has put a provision in both its authorization and appropriation bills only because the Vice President twice cast tie-breaking votes to do so, causing his mother's anguish. There is not a majority of elected Members in either body that favor more nerve gas production and it would be unconscionable for the conferees to include it.

To insure that they get the message, however, please vote to instruct them to reject chemical weapons funds. The key vote will probably come on rejecting the previous question, so that my instruction can be offered.

NATIONAL ENERGY INDEPENDENCE

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

Mr. BOUCHER. Mr. Speaker, twice in the last decade—in 1973 and again in 1979—the economy of this Nation was held hostage by our overreliance on imported oil. With continued political instability in the Middle East, it is more important than ever that America commit itself to national energy independence through greater use of our most abundant energy resource—American coal.

For this reason, I have joined with the gentleman from West Virginia (Mr. RAHALL) in introducing the National Coal Science, Technology, and Engineering Development Act. This legislation affirms the Federal responsibility to assist coal research and development.

We have a choice: 5 years from now we can be well on the road to energy independence through a greater utilization of American coal, or we can retreat to the energy crises of 1973 and 1979.

I strongly urge my colleagues to assist our efforts to rejoin the fight for national energy independence.

PASSAGE OF ERA LONG OVERDUE

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

Mr. PENNY. Mr. Speaker, I rise in support of the equal rights amendment. As a prolife Member of Congress, I am committed to the protection of life—a protection that extends from the very beginning of life to its final stages—and a protection which includes the inalienable rights of life. One of the most basic of those inalienable rights is the right to be free from discrimination on the basis of our race, our faith, our ancestral heritage, or our sex.

The U.S. Constitution is the blueprint of our society. When the question is posed, "What does America stand for?", we point to that document. Can we then say we stand for equal rights under the law, regardless of gender, and refuse to place that fundamental statement within the Constitution for all the world to see?

As a member of the Pro-Life Caucus, I have been strongly urged to withdraw support for this constitutional guarantee of equality under law, unless that guarantee is amended. We are asked to eliminate the possibility that the ERA could be used to further abortion or its funding by placing an amendment on it. I do not believe such an amendment is necessary. Nor do I believe it wise to embroil the principle of sexual equality in a debate over abortion funding, military subscription, or sexual preference.

I state clearly for the record that, by my support, I intend the ERA to remain separate from the issue of abortion and its funding. I believe that the legislative and judicial history of the ERA demonstrates this distinction. The history in Congress is clear. Congress does not favor abortion funding. In this very session we have consistently voted to prohibit the use of Federal funds for abortions except to protect the life of the mother. Passage of the ERA is not inconsistent with that policy. I could not support the increased protection of the rights of women at the sacrifice of the rights of the preborn.

Passage of the ERA is long overdue. The U.S. Constitution is almost 200 years old. It is time the rights of over half the population of this country are recognized in that document.

□ 1310

EQUAL RIGHTS AMENDMENT

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

Mr. MORRISON of Connecticut. Mr. Speaker, today the House will consider the equal rights amendment. We should make no mistake—the issue before us is not one of procedure but one of substance. We will be voting on the question of whether or not the States and the United States shall treat men and women equally under the law. Mr. Speaker, I believe that to deny to women equal treatment under the law is to deny the essence of what we should stand for as a nation.

In recent years we have passed many laws to remedy different aspects of discrimination against women. Many other important measures are pending before us. But legislation alone is not enough. Women still find themselves paid less than men for comparable work. Women are still denied educational and economic opportunities. We will not break down those barriers completely—nor will the real gains that women have made be secure—until we insure to women the fundamental right to be treated equally under the law, until we recognize in the fundamental document of our Nation that women are not second-class citizens. Mr. Speaker, it is past time that we put women into the Constitution. I ask all my colleagues to vote "yes" on ERA.

ERA SHOULD HAVE FULL DEBATE

(Mr. MOLLOHAN asked and was given permission to address the House

for 1 minute and to revise and extend his remarks.)

Mr. MOLLOHAN. Mr. Speaker, those of us who truly believe in equal rights for the women of America are finding themselves trapped in a difficult and unfair position today.

We are being asked to consider an amendment to the Constitution of the United States—the document that breathes life into our rights as Americans—with our hands tied. This equal rights amendment is the same amendment with the same language that has been proposed before, and which unsuccessfully ran the gauntlet of ratification by our States.

I believe it failed in its ratification effort because the leaders of our State governments had deep concerns, not about the equal rights of women, but because of issues that unfortunately will again go unaddressed here today.

This amendment is being considered under the suspension of rules with a mere 20 minutes of debate for each side of the aisle. This precludes us from adequately addressing the legislative concerns that has kept the amendment from being a part of our Constitution.

I am speaking of two issues in particular—the concern that women, as a result of this amendment, would be subject to military conscription and combat duty, and the concern that an amendment without abortion-neutral language could lead to legal quagmires.

Now, because of the restrictions on the need to air our concerns and consider alternatives to the amendment, Members such as myself who truly believe in equal rights, are placed in an unreasonable position. We are being asked today to either vote in favor of an unamended ERA and ignore convictions that important issues be considered, or voting against the ERA and transmitting the inaccurate impression that we oppose equal rights for women.

I submit that this is wrong legislative procedure. There should be a full complete airing of all implications, and consideration of all concerns. Only through full debate can measures so vital to public policy be decided.

Equal rights for women? Most definitely. Women in combat and legal quagmires over abortion? These are public policy questions which should only be decided after clear airing through adequate debate.

ERA

(Mrs. BOXER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOXER. Mr. Speaker, my colleagues on the Republican side of the aisle have bitterly complained of gag rules and shutting off of debate. How quickly they forget. Just yesterday the Democratic majority leader offered 2 additional hours of debate on ERA, more than doubling the allowable debate time.

My friends, who objected to this request? Was it the Democrats? No; not at all. The Republicans objected, many of those same Republicans who are complaining bitterly here today.

So let us set the record straight. If you are for ERA, then vote for it. If you are against ERA, then vote against it. And explain it in any way you want, but do not blame the process, because the people of America will see right through it.

Mr. LUNGREN. Mr. Speaker, will the gentlewoman yield?

Mrs. BOXER. I yield to the gentleman from California.

Mr. LUNGREN. Mr. Speaker, does the gentlewoman recall that I had made a unanimous-consent request for more time, and also for an amendment, and there was objection on the gentlewoman's side of the aisle yesterday?

Mrs. BOXER. There was no objection from our side when the distinguished majority leader offered 2 hours. You wanted to open up the rule.

EQUAL JUSTICE UNDER LAW FOR ALL AMERICANS

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

Mr. YATES. Mr. Speaker, I am pleased that the equal rights amendment is being considered today. I am very pleased to be a cosponsor of that amendment. I look forward to its speedy enactment.

To my mind, the equal rights amendment stands for a simple proposition, fulfillment of our basic judicial tenet of equal justice under the law for all Americans.

We made great strides in fighting sexual discrimination, but we must have the strength of a constitutional amendment.

The promise of our Constitution of liberty and justice for all should be brought to reality for all Americans. Passage and ratification of the ERA will provide that assurance to provide women and men equal status and dignity under the law.

I urge my colleagues to vote for the equal rights amendment.

ECONOMIC RIGHTS FOR WOMEN

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, let us remind ourselves that it was 60 years ago, in 1923, when this very same equal rights amendment was introduced into this House. Let us remind ourselves that it contained the same words we have in front of us today. And let us remind ourselves that it took until 1971, on a discharge petition, to even get the ERA out of committee. It has been a long time.

Here we are, 60 years later. After 60 years we now know what the ERA means, and everybody in America knows what it means. Paul Harvey, in last Saturday's broadcast, came out for it. He knows what it means.

It means economic rights for women.

In these 60 years what has happened is that States all over America, including mine, have passed the exact same language in their State constitutions. We have State court decisions explaining precisely what those words mean. So for the first time we are dealing with a constitutional amendment in which there are prior court cases, legislative action, and everything else. The ERA is not a surprise. We know exactly what it means.

We hear many Members saying, "Well, we ought to put in everything it does not mean." Well, if we put in everything the ERA does not mean, it would be 800 pages long. We have never put in the Constitution what it does not mean. We did not do it under the freedom of speech, under the freedom of religion, or any other amendment to the Constitution.

We are asking for equal treatment for our equal rights amendment. We want our amendment to be treated in the same manner as all other amendments to the Constitution. We know more about what it means than any other amendment because the delay at the Federal level has been so long. Too long. Let us act.

ALL PEOPLE ARE CREATED EQUAL

(Mrs. BURTON of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BURTON of California. Mr. Speaker, the Declaration of Independence says that all men are created equal. Do you not think that it is time to say that all people are created equal?

It has been over 200 years, and I think it is about time. I do not understand the fear of having women in the Constitution. We are in the 20th century, and almost into the 21st. It is about time women be in the Constitution. After all, we constitute more than half of the population in this Nation.

Please, gentlemen. And I will say "gentlemen" because I think most of the women here are for ERA. Those of you who are not, think. Put us in the

Constitution. It will not hurt, I assure you.

A FULL PARTNERSHIP

(Ms. MIKULSKI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. MIKULSKI. Mr. Speaker, during the 1-minute speeches today there have been many who rose to say they do not like the process under which we are considering the equal rights amendment.

I have to bring to their attention that we, the women of the United States, have not liked the process for 200 years and the way women have been treated in this country. From Abigail Adams to Betty Ford, we have asked the leaders of this country to remember the ladies and include us in a full partnership. The only way we will be included in a full partnership is to be included in the Constitution of the United States.

So for 200 years there have been parliamentary tricks and procedural excuses to either keep us out or leave us out of the Constitution.

For those who say that this is a gag rule, I would also like to remind them that for 130 years women were being gagged in this country by the failure to give us the right to vote.

And, finally, now, after 60 years of considering this same amendment, with the same language, we feel that the debate is enough, that now it is no longer the time for continued debate. It is now the time for action.

I hope that when the resolution comes up on suspension that we will, finally, after 200 years, remember the ladies and include us in that Constitution.

AN ARROGANCE OF POWER

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, I hope there is a better understanding of what is being done here than there is of the Constitution, based upon the remarks we have just heard. There is no language in the Preamble of the Constitution saying anything about all men being created equal. I hope that at least we have a better understanding of this amendment than that.

But few would deny that we have a proposed equal rights amendment to the Constitution and it is one of the most important issues to have faced this Congress and the Nation over the past decade. The emotion and deep conviction on both sides of this issue often make debate on this amendment spirited and intense.

This morning we are asked to consider this major issue under suspension of the rules, a procedure traditionally reserved for noncontroversial measures. Debate will be limited to 20 minutes on each side. Twenty minutes, that is about the same amount of time we typically use to cast one vote. That is arrogance of power, it is an arrogance of power that prevails here when a gag rule is imposed.

Mr. Speaker, no major constitutional amendment in the history of this body has ever been considered under anything less than an open rule, let alone under suspension. The use of the Suspension Calendar for such a major issue is both ludicrous and outrageous. But that is your choice. The Democratic leadership has opted for a procedure which says that you can explain the whole case for ERA in 20 minutes.

As a supporter of the ERA concept, I think the case deserves better treatment. But since you have chosen that process, I intend to help see to it that you live with the process that you have chosen.

□ 1320

LORD ACTON'S VINDICATION

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

Mr. HYDE. Mr. Speaker, this action today on ERA ought to be called Lord Acton's vindication. The process is contemptuous of this institution, it brutalizes the deliberative process, and I would remind some of my friends that the right to vote is more important than the right to speak.

The women, after all, of this country could speak for 130 years, but they could not vote. They wanted the right to vote, and so do we want the right to vote.

I want to make it clear to anybody who thinks they can vote for the ERA without an abortion-neutral amendment and retain their credentials as a pro-lifer is absolutely wrong. There is not a single pro-life organization in the country, from the Catholic bishops to the National Right to Life Committee, that does not say a vote for the ERA without the Sensenbrenner abortion-neutral amendment is a pro-abortion vote.

So let that be clear. The ACLU has said it in three cases where they filed briefs. The National Organization of Women has said it in the Harris-McCrae case where they filed a brief. So vote as you wish, but do not assume you can have it both ways.

ERA-ABORTION CONNECTION

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

Mr. WEBER. Mr. Speaker, I rise to amplify the remarks of my colleague who preceded me in the well, the gentleman from Illinois (Mr. HYDE).

We have, indeed, as the supporters of ERA have pointed out today, learned a great deal about the ERA in the last 10 years. It has been debated thoroughly, and one of the things we have learned very clearly is that there is a direct, irrefutable connection between abortion and the equal rights amendment.

In view of that proven connection, one of the most cynical exercises we have seen today is the parade of allegedly pro-life Members of Congress coming into the well declaring that there can be no connection between their vote in favor of the ERA and their stand on the issue of abortion.

It simply is not true. Every pro-life scholar has indicated clearly that there is a connection between the ERA and abortion. Many feminist and pro-abortion scholars have indicated that they accept a connection between the ERA and abortion. The National Right to Life Committee sees a connection, the Christian Action Council sees a connection, the U.S. Catholic Conference sees the connection, the National Association of Evangelicals sees a connection, the American Life Lobby sees the connection.

Our colleague from Colorado Mrs. SCHROEDER, said in another context and I quote, "This is not a surprise; we know what it means." Let me say to my pro-life colleagues who intend to vote in favor of the ERA today that the same thing applies to them. Their pro-life constituents know what it means. A vote for the ERA today is clearly a pro-abortion vote.

ABSOLUTE POWER CORRUPTS

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

Mr. CRAIG. Mr. Speaker and Members of this body: To address ERA under suspension and under the procedure that has been so corruptly outlined by the leadership of this House is in itself a major travesty. If we talk about rights, then we have to talk about rights for all people.

We are today denying a large group of people in this House the very right that we are attempting through this legislation to extend to a group of people in our country. We are denying the unborn the opportunity to speak and be heard. Although it is not a new phrase, Mr. Speaker, absolute power corrupts, and this is a very corrupt process. Shame on you, Mr. Speaker. Shame on you.

11-059 O-87-25 (Pt. 23)

PHILOSOPHICAL AND POLITICAL CATCH-22

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

Mr. GUNDERSON. Mr. Speaker, I am one of those Members of this body who is a sponsor of the equal rights amendment and also a sponsor of the human life amendment, so I am one of those who finds myself today caught in both a philosophical and a political catch-22 situation.

Yet I resolve that by saying that we were elected to make tough political and philosophical decisions and that is why we are here. In the end, today, I will probably vote for the equal rights amendment.

But who are the real losers today? I suspect the real losers are not those of us who are committed to a deliberative process in any ordinary consideration of legislation, and particularly a constitutional amendment. And I suggest that the losers today are not those groups such as the pro-life movement and the veterans' organizations and others who have legitimate concerns about the implications of this amendment; that ought to have the right to debate this amendment and what it means in those areas. I must tell you I think the real losers today will be the cause of women's rights, because we are giving an already controversial amendment additional controversy, additional baggage, that I am afraid it cannot carry through the States in the ratification process. That, my friends, is the real loss.

ERA, BUT NOT THIS WAY

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

Mr. RUDD. Mr. Speaker, the reality of today's 40-minute debate on passage of a constitutional amendment for ERA is a major injustice being committed by this institution that is supposed to be a free and open forum for ideas and national policy decisions.

The House leadership's action to ramrod the ERA through this body is a travesty, an abrogation of our responsibilities to the people of the Nation, and they expect more than that from its officials. So I urge rejection of the resolution (H.J. Res. 1) and would encourage all Members, whether for or against the equal rights amendment, to support open debate and not pass our responsibilities to the judicial branch of the Government that is not equipped nor delegated with that role of legislating.

I oppose ERA, but I especially oppose the manner in which this is being brought up and I commend to you the editorial in the Washington Post of today. Normally, that newspaper favors the ERA, but in this case it emphasizes the wrongness of today's action and I include that editorial for your consideration:

ERA, BUT NOT THIS WAY

The signs are that the House will be asked today to do something unnecessary, potentially risky and loaded with unpredictable political consequences. The leadership has decided to bring the Equal Rights Amendment to the floor under a suspension of the rules. That's a procedure usually reserved for noncontroversial matters. Very limited debate is allowed—only 20 minutes to a side—and no amendments can be considered.

We have always supported the adoption of the Equal Rights Amendment and continue to do so. But it is certainly one of the most controversial amendments to the Constitution proposed in this century, having been passed by large margins in Congress once but not ratified by the required three-quarters of the states before it expired last year. It is fine that that a new start has been made and that both Congress and the state legislatures—bodies that are continually changing—will have another opportunity to consider this important subject. But ramming it through the House using this extraordinary procedure is wrong on a number of counts.

First, a constitutional amendment is serious business. Debate should be encouraged, not stifled. Amendments, including those we have strongly opposed, should be considered and voted upon. A single sentence that alters our nation's basic charter and affects the lives of hundreds of millions of Americans is worth more than a 40-minute discussion when it is formally considered by one house of Congress.

Second, it is not at all certain that there will be a sufficient number of votes to pass the proposal under these procedural conditions. Many who support the ERA are said to resent the gag rule and to be unable, in conscience, to vote to impose these conditions. If pro-ERA forces lose this vote, they will suffer a serious psyschological setback that is completely unnecessary. The votes are there to pass the amendment after full and free debate.

Finally, one wonders how much of a part pure unadulterated politics plays in this ploy. Some liberal Republicans, supporters of the amendment, believe that those who have devised this tactic care less about getting the ERA through the House than creating a political issue so that many who object on procedural grounds to voting without full debate or consideration of amendments can be charged with abandoning the amendment.

A 40-minute shuffle in the hectic closing days of the congressional session is the wrong way to conduct important constitutional business. The amendment should be approved, but not under these extraordinary and unnecessary conditions.

WE ASK NO QUARTER AND WE GIVE NONE

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

Mr. NIELSON of Utah. Mr. Speaker, this amendment has been before us for over 10 years. It has been accompanied by a lot of controversy, and economic sanctions against States which have not passed it. It has caused a lot of division in our country. The fact that there were no new States which adopted it in the last 3½-year extension should convince us that changes should be made before again offering it to the people.

Unless we can come up with something new, something different, which would pass, I think we should set it aside.

Senator Ervin of North Carolina, one of the greatest constitutional attorneys we had in the Senate, proposed three simple amendments when this amendment was offered by Representative Griffiths in 1971. Those amendments were to recognize the physical differences, to take care of the military situation, and also to provide that the husbands would take care of their wives financially if the marriages were to be dissolved.

Mrs. Griffiths' answers to Senator Ervin were. "We ask no quarter and we give none." Had she been willing to allow these reasonable requests by Senator Ervin we would have had the equal rights amendment 10 years ago.

The attitude that she had and the supporters had at that time still prevails today. They will not give us a chance to amend it so it could be passed, and I think we should resoundingly defeat it.

CYNICAL POLITICAL MANEUVER ON ERA

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

Mr. GINGRICH. Mr. Speaker, today's cynical political maneuver on ERA is another example of the bankrupt symbolism of the left. The symbolic ERA amendment had 10 years to be ratified and failed. There are serious questions about drafting women, about requiring women to be placed in combat, about the issue of abortion.

A symbolic ERA that would be rushed through the House without amendment and with inadequate debate is a step down the road to 10 more years of frustration and defeat. The Washington Post hit the nail on the head today in an editorial entitled "ERA But Not This Way." It said, and I quote:

The signs are that the House will be asked today to do something unnecessary, potentially risky, and loaded with unpredictable political consequences. Ramming it through the House using this extraordinary procedure is wrong on a number of accounts.

If pro-ERA forces lose this vote, they will suffer a serious psychological setback that is completely unnecessary. The votes are there to pass the amendment after full and free debate.

A 40-minute shuffle in the hectic closing days of the congressional session is the wrong way to conduct important constitutional business. The amendment should be approved, but not under these extraordinary and unnecessary conditions.

If you are serious about curing the problems of women's equal status in the legal system, you should vote "no" today. A "yes" vote today is a vote to exploit women's concerns at the expense of real reform. It is a vote for defeat in the State legislatures.

□ 1330

THE BOTTOM LINE ON ERA

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

Mr. EDGAR. Mr. Speaker, we can argue about the procedure that is here today, but I ask my colleagues in the waning moments of the 1-minute speeches just to listen to the words of the equal rights amendment:

The equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex. The Congress shall have the power to enforce by appropriate legislation the provisions of this article. This amendment shall take place two years after the date of ratification.

The bottom line, after all of the arguments and after all of the discussion today, is, are you for our against the equal rights amendment? Today the House will consider this important resolution. I urge my colleagues to support it.

Mr. Speaker, for over 10 years, women and men have struggled together to insure that equal rights for women are protected by our Constitution. My home State of Pennsylvania has a State ERA, and it has been a resounding success. In Pennsylvania and other States, the ERA has eliminated discriminatory laws and prohibited the enactment of discriminatory gender-based legislation.

It has not been our experience in Pennsylvania that the horror stories circulated about the ERA have come true. The equal rights amendment in Pennsylvania has led to a greater degree of equality for women, particularly in the areas of education and employment. Unfortunately, a State ERA cannot address all of the inequalities faced by women; for this reason I am an original cosponsor in the House of the Federal equal rights amendment.

Mr. Speaker, existing laws have not been adequate to eliminate discrimination on the basis of sex. The appropriate time to pass an equal rights amendment to our Constitution has long since passed. Let us stop dragging our feet—I urge support of the ERA when it comes before the House today.

PARLIAMENTARY INQUIRY

The SPEAKER pro tempore. The Chair recognizes the distinguished minority leader, the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, I rise to propound a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. MICHEL. In the short time available to us, Mr. Speaker, I have reviewed the precedents on the subject of the consideration by this House of a proposed amendment to the Constitution under a motion to suspend the rules.

Mr. Speaker, precedents are rare on this question, although I believe it to be of profound significance to the deliberations we are about to embark upon.

The question which I would like the Chair to address is the question as to whether those Members voting present on any proposed constitutional amendment are included in determining whether two-thirds have voted in the affirmative. With the indulgence of the Chair, I would like to review the applicable provision under which this question is raised.

Mr. Speaker, there are no precedents, at least none available to this Member, under the provisions of rule XXVII of the rules of the House—the so-called suspension of the rules provisions—which address the question of counting those Members voting present on the passage of a constitutional amendment.

There are no precedents under the provisions of article V of the Constitution, the article which delineates the manner and mode of proposing and ratifying amendments to the Constitution.

There is only one precedent which is available on this question, Mr. Speaker, and that precedent occurred on August 13, 1912. I refer specifically to section 1111 of volume 7, Cannon's Precedents of the House of Representatives, which states:

The two-thirds vote required to pass a bill notwithstanding the objections of the President is two-thirds of the Members voting and not two-thirds of those present.

That precedent addressed the question of whether those answering "present" should be taken into consideration or excluded in determining whether two-thirds have voted for passing a bill over the president's veto. That question should be considered separate and distinct from the one we have before us today.

If the Chair were to examine that one precedent to which I refer, he will find that it is based wholly on the language of article I, section 7 of the Constitution, which states in part:

If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by Yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively.

Matters of law are measured and judged on every word, comma, and period of our great Constitution.

The provisions providing for the passage of a vetoed bill and only those voting for and against being entered upon the Journal of the House are substantially different from the provisions of article V dealing with those instances "whenever two thirds of both Houses shall deem it necessary" to propose amendments to our Constitution.

I think this question requires the closest examination, as do all matters involving our Constitution.

I will state my inquiry one more time, if I might, Mr. Speaker.

On the question of the House of Representatives proposing an amendment to the Constitution, should those answering "present" be taken into consideration in determining whether two-thirds shall have deemed it necessary to propose such an amendment?

And the most important language upon which our only precedent is based is that which states:

But in all such Cases the Votes of the Houses shall be determined by Yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal . . .

That is a profound distinction from the procedure required under the provision of article V dealing with constitutional amendments. The one precedent is founded on the requirement of a yea and nay vote, and that only those votes be entered on the Journal. Article I, section 7, does not contemplate "present" votes, but article V is silent on this question, and because we have no precedent, at least that this member could find, we need a ruling that would apply to the situation we are facing today.

That is why, Mr. Speaker, I have propounded this parliamentary inquiry.

The SPEAKER pro tempore. The distinguished gentleman from Illinois, the minority leader, has requested the Chair to interpret the requirement of article V of the U.S. Constitution that a two-thirds vote of the House is necessary to propose an amendment to the Constitution.

It is a well-settled rule, as indicated by the precedents cited in section 192 of the Constitution and House Rules and Manual, that the vote required on a joint resolution proposing a constitutional amendment is two-thirds of those voting, a quorum being present, and not two-thirds of the entire membership.

The Supreme Court of the United States has addressed the same issue and concluded in 1920, in the National Prohibition cases, volume 253 of the U.S. Reports, page 386, that—

The two-thirds vote in each House which is required in proposing an amendment is a vote of two-thirds of the members present—assuming the presence of a quorum—and not a vote of two-thirds of the entire membership, present and absent.

Now, as to the status of Members who vote present on a rollcall vote on a proposition which requires a two-thirds majority for passage, the Chair has no doubt that under the rules and under the practices and precedents of the House, and under parliamentary law in general, Members who indicate their presence only and do not vote either yea or nay on a question of this type are not to be counted, as they are not counted on any other question, in determining whether the proposition has been approved by the appropriate or required majority.

Speaker Champ Clark delivered an extensive ruling in 1912, in the 62d Congress, on that precise issue. It involved the passage of a bill over Presidential veto. Although the passage of a bill over Presidential veto requires a vote by the yeas and nays, the two-thirds majority which is required for that action, under article II, section 7, clause 2 of the Constitution is the same, identical two-thirds majority required to propose a constitutional amendment. In 1912 the issue before the Chair was stated as follows:

On a roll call on passing a bill over the President's veto, in determining whether two-thirds have voted for it, should those answering "present" be taken into consideration or excluded therefrom?

Speaker Clark ruled as follows, and I quote from his ruling:

The Constitution does not provide for a Member voting "present," but the rules of the House in order to eke out a quorum, have provided that they can vote "present." They have to answer "aye" or "nay" on the roll call in order to be counted on passing a bill over the President's veto. That is a requirement of the Constitution, and if the contention were on a proposition which required only a majority it would be the same way. In fact, that is one unvarying rule of procedure whenever the roll is called on any proposition. The Chair announces: "so many ayes, so many nays, so many present; the ayes—or nays, as the case may be—have it." Those voting "present" are disregarded except for the sole purpose of making a quorum.

Speaker Clark went on to say:

These gentlemen were here simply for the purpose of making a quorum. It is clear that to count them on this vote would be to count them in the negative, and the Chair does not believe that any such contention as that is tenable.

□ 1340

Now, the distinguished gentleman from Illinois has emphasized the requirement of article I, section 7, that the names of the persons voting for and against a bill over Presidential veto be entered on the Journal, in order to distinguish the status of Members only recording their presence on a veto override as opposed to Members only recording their presence on passage of a constitutional amendment.

It appears to the Chair that the requirement of the Journal entry on veto override merely emphasizes that the vote in that circumstance must be taken by the yeas and nays, with the names of the Members recorded. If the yeas and nays are ordered by one-fifth of the Members present on any other question, article I, section 5, clause 3 requires that the yeas and nays of the Members be entered on the Journal, and makes no mention of Members who are present for the vote but do not cast their votes on one side or the other. The fact that the House has determined to authorize Members to be present and record that fact without taking a position affords no constitutional status to such a decision except to be counted for a quorum.

The Chair would also point out that the present Speaker, Mr. O'NEILL, has ruled on the status of Members who vote "present" on a motion to suspend the rules. On December 16, 1981, Speaker O'NEILL ruled, in response to a parliamentary inquiry, following a rollcall vote on a motion to suspend the rules and pass H.R. 5274, that a motion to suspend the rules may be agreed to by two-thirds of the Members voting yea or nay, a quorum being present, and Members voting "present" are only counted to establish a quorum and not to determine a two-thirds majority.

Thus, as stated in chapter 21, section 9.21 of Deschler's Precedents of the House of Representatives, a motion to suspend the rules is an appropriate parliamentary method for consideration of a constitutional amendment, and has previously been utilized for that purpose.

Mr. MICHEL. Mr. Speaker, I thank the Chair for responding to my parliamentary inquiry and I am sure that will clarify much more clearly and demonstrate a precedent for the future.

I thank the Chair.

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES RELATIVE TO EQUAL RIGHTS FOR MEN AND WOMEN

Mr. RODINO. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 1) proposing an amendment to the Constitution of the United States relative to equal rights for men and women.

The Clerk read as follows:

H.J. Res. 1

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

"SECTION 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

"SECTION 3. This article shall take effect two years after the date of ratification.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New Jersey (Mr. RODINO) will be recognized for 20 minutes and the gentleman from Wisconsin (Mr. SENSENBRENNER) will be recognized for 20 minutes.

The Chair now recognizes the gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. Mr. Speaker, I ask unanimous consent to revise and extend my remarks.

The SPEAKER pro tempore (Mr. WRIGHT). Is there objection to the request of the gentleman from New Jersey?

Mr. WALKER. Mr. Speaker, I reserve the right to object.

The SPEAKER pro tempore. The gentleman from Pennsylvania reserves the right to object.

Mr. WALKER. Mr. Speaker, I reserve the right to object, because a process was determined here and the process says that there is going to be 20 minutes for the entire case to be made. There are many of us in this House who feel that that was not an appropriate kind of a decision to be made.

So therefore, I am reserving the right to object to tell the Members that I am going to object to all unanimous-consent requests, both to revise and extend remarks, as well as for the purpose of getting general leave, so that the entire debate on this matter will take place on the Democratic side within the 20 minutes allotted.

Mr. Speaker, I do object.

The SPEAKER pro tempore. Objection is heard.

The Chair recognizes the gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. Mr. Speaker, I yield myself 2½ minutes.

Mr. Speaker, there has been a great deal of hand-wringing about the process by which House Joint Resolution 1 has arrived here today on the floor of this Chamber. Members will brandish excerpts of my own past statement, statements which I made in the con-

text of opposing discharging the Judiciary Committee from the further consideration of a constitutional amendment with only 1 hour of debate. That is a totally different problem, and I still support a rules change to correct that.

Today, however, we consider a constitutional amendment reported out by the House Committee on the Judiciary, after many years of consideration. It is not a precedent-setting action we are engaged in. The 24th amendment to the Constitution was approved and sent out for ratification on the suspension calendar on August 27, 1962.

I do not lightly propose amendments to our fundamental law. The Constitution is, above all else, a document that guarantees basic rights and freedoms for the infinite future.

I am not one to urge precipitous action on constitutional issues. Amending the Constitution is, indeed, a slow and difficult process, one made so deliberately and rightly by the Founding Fathers, to provide time for serious public discussions; but the debate on this issue has gone on for 60 years and that, I think, is long enough.

Before us today is a very simple proposition: Whether the House of Representatives agrees that equality of rights under the law shall not be denied or abridged on account of sex. What does this proposition mean? Quite simply, it means that sex shall not be a factor in determining the legal rights of men and women. This is not new. This is what our predecessors meant when the amendment was first introduced in Congress in 1923. This is what we meant in 1970 and 1971 when the House passed the amendment by overwhelming majorities. This is what we meant in 1978 when we extended the period of time for ratification.

To be sure, there has been progress toward equality for women; but, just as certainly, invidious discrimination persists against women in jobs, wages, education, pensions, social security, and that is what this amendment is all about.

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

Mr. RODINO. Mr. Speaker, I yield myself 30 more seconds.

It is about enhancing these opportunities for women by strengthening their legal rights. And for this reason, the equal rights amendment, Mr. Speaker, is one that speaks out eloquently. It guarantees clearly and for all time that equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

That is a promise that fairness demands. It is a promise that has been too long delayed and too often denied.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself a minute and a half.

Mr. Speaker, I rise in opposition to the motion to suspend the rules. Placing an important and controversial constitutional amendment upon the Suspension Calendar makes a mockery of the rules of fairplay as well as the spirit of the Constitution itself.

□ 1350

We Republicans place no obstacles in the way of the Judiciary Committee consideration of the ERA upon the express promise that House Joint Resolution 1 was to be considered under an open rule. Those promises have now taken a back seat to partisan politics. The suspension procedure makes it impossible to consider two critical amendments: One would make the ERA abortion neutral. Make no mistake about it, if the ERA passes in this form, the Hyde amendment is doomed and taxpayers will be funding elective abortions.

The second would prevent women from being drafted and sent into combat. On this issue, all of the witnesses who appeared before the subcommittee agreed that the ERA would have this effect.

The American people oppose these two results of the ERA, and their Representatives should have at least a chance to debate and vote on these amendments.

Mr. RODINO. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. EDWARDS).

Mr. EDWARDS of California. Mr. Speaker, these past 24 hours there has been much fiery rhetoric about the procedure under which we are operating.

We have heard hot words, words not spoken or heard very often in this Chamber. Unsaid by our colleagues in opposition, however, is that the issue comes to 26 words:

> Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

These 26 words say quite simply that American woman shall have their legal rights. That is all it says, American women shall have their legal rights.

This is not a vote on whether we debate this issue an hour, for a day, for a week, for a month or even for that matter for 60 years.

It is not a vote on procedure. This is a vote on whether you oppose or support equality. Supporters will vote yes. Opponents will vote no and the American people will be watching.

Mr. SENSENBRENNER. Mr. Speaker, I yield 30 seconds to the gentleman from Ohio (Mr. DEWINE).

Mr. DEWINE. Members of the House, the question is not that simple.

I support ERA, and I submit to you today, we need to look at our priorities. What are we trying to do today? Are we not trying to put the ERA in the Constitution? If you vote yes today, without amendments, without an abortion-neutral amendment, without taking care of the question of women in combat, without taking care of the question of the drafting of women, this ERA is dead.

You are consigning it to the same fate that it had last time. If you really want to support the ERA, if you really want to not just make a statement, but put it in the Constitution, vote "no." Get an open rule, get the amendments, get it cleaned up and let us go pass it.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentlewoman from Maine (Ms. SNOWE).

Ms. SNOWE. Mr. Speaker, I rise in support of the equal rights amendment.

I only regret that I must compress the effects of over 200 years of constitutional omission into 1 minute. As a Republican and as a woman, my support for this amendment is unassailable, but I believe the process we have resorted to is wrong. The equal rights amendment is one of the most important issues to come before the 98th Congress, and to prevent meaningful consideration is to retreat from our position of strength and to succumb to those who want to defeat this amendment. However, I ask my colleagues not to allow the time limitation to prejudice the significance of this issue. The equal rights amendment is simply a matter of fairness, fairness for more than one-half of the population in America.

Today we must take action not on the myths of the equal rights amendment but on the realities. Those realities are that 20 years after the passage of the Equal Pay Act, there is still a widening of the wage gap between men and women. Nine years after the passage of title 9, we still have to reaffirm today that we restate our support that we stated in 1972.

Finally, when all is said and done, American women in 1983 are going to face discrimination in employment, education, wage and retirement plans, credit through marriage, divorce, and old age. Those of us who support the equal rights amendment support it for just that reason, equal rights for all Americans.

Mr. RODINO. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Speaker, the long and extensive hearings that we have had on the Judiciary Committee prove that Paul Harvey was right in his Saturday broadcase when he said:

> Yes, even though the law says equal pay for equal work, the law is not enough. We need the equal rights amendment to finally end the feminization of poverty and to finally bring women into the Constitution and give them an equal break.

There are many people who have been going around saying to women, "Look, if you do not have equal rights, you will never have equal responsibilities and all human beings would much rather talk about rights than responsibilities."

But do not let anyone kid you. There was not a witness who did not admit that the equal rights amendment, not having it would be a total defense to being asked to do your responsibilities.

Those who were saying that are trying to get women into a position where they will be asked to do their responsibility but not be given equal rights.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. LUNGREN).

Mr. LUNGREN. Mr. Speaker, if the soothing siren song heard from the lips of the chairman of the committee and the subcommittee were in fact correct, I would be here speaking very strongly for the equal rights amendment.

They repeat the words and they say, "Something this simple should not be voted down."

Then I ask you, Mr. Speaker, why did not House Joint Resolution 1 come to us on the second day of our session? If it is so simple, if the words are so easy to interpret, if there can be no mistake about it, why did we have to go through the subcommittee and committee process? Why was there so much difficulty in the other body by the major proponents even explaining what it should mean?

We had in our committee deliberations the elevation of a new theory of interpretation, a responsibility in this House. It was the "trust me" theory; that is, trust the courts to tell us what we mean. We had a peroration from one Member of the other side for 15 minutes, telling us all we are supposed to do is throw some nice sounding words up there and not worry about what they really mean because the courts will tell us.

We took an oath to the Constitution. We are as obligated to uphold the constitutional prerogatives as are the courts. If in fact this is the way we should proceed, why, Mr. EDWARDS, chairman of the Subcommittee on Civil and Constitutional Rights, wrote to someone in California on June 27 of this year with these words:

"Should the legislation receive subcommittee or full committee approval, we will bring it to the House floor under an open rule," not "I will try to bring it," not "it might be," but "we will bring it to the House under an open rule."

"I agree with you," Mr. EDWARDS said, "that any bill as important as the proposed constitutional amendment should have an open rule."

The distinguished chairman of the committee, Mr. RODINO, on the two previous occasions that we have on this floor dealt with questions of constitutional amendments, has told us that if we limit ourselves to an hour, not 40 minutes, an hour with no time for debate, what we would do is create a spectacle which would demean our Democratic system, this legislative body and each of us. Amending the Constitution is an extraordinary action. We are not saying that those who support the ERA do not have legitimate concerns. They may be right, even though I may disagree with them. If we are the people's House, if we have the opportunity and the obligation to bring forward ideas and debate them, why do we shrink from that responsibility when we are going to amend the most sacred document in our civil land, the Constitution?

Does it not need more than 40 minutes? Some say well, we could have had 2 hours but 2 hours additional debate without the opportunity to actually vote on amendments is nothing. It says that you can talk, but you cannot vote.

It is saying that the voting rights does not extend to those of us who serve in this Chamber to make decisions that we are elected to make. I do not think anyone can stand here and say if we had an up or down vote, that we would affirmatively vote to draft women.

This amendment creates that possibility, and as a matter of fact, if you review all the testimony of all the witnesses who appeared before the subcommittee, they say it is a finality. It is a finality, so we ought to at least stand up and discuss that openly and not hide behind a procedure that the chairman of the Judiciary Committee on previous occasions has said is demeaning.

Mr. RODINO. Mr. Speaker, I yield 1 minute to the gentlewoman from Louisiana (Mrs. BOGGS).

□ 1400

Mrs. BOGGS. Mr. Speaker, whether one agrees or disagrees with the parliamentary procedure, and as one of the 70 Members of this body who has a strong consistent prolife voting record and is one of the cosponsors of this resolution, I rise in support of the resolution because American women need the Equal Rights Amendment.

During my 10 years in Congress I have participated in the enactment of strong laws that protect women's opportunity to equitable education, credit, housing, employment, and economic status. But I have also witnessed an erosion of many of these gains because antidiscriminatory statutes can be deregulated, deauthorized, underfunded, or simply ignored.

American women need the Equal Rights Amendment as a guarantee that the deep traditional, systematic and pervasive discrimination that has burdened them will be eliminated.

ERA is good for working women. ERA is good for homemakers. ERA will help older women and retired women. The ERA is good for all women and all girls of all ages and all races, and I urge its adoption.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. SHAW).

Mr. SHAW. Mr. Speaker, under the banner of equal rights for all, the Democrat majority of this House has allocated only 40 minutes to debate an amendment to the oldest Constitution in the world today. How will history judge those who would smother creativity and the freedom to vote on what could be a substantial improvement to the equal rights amendment.

There are those here in this Chamber who would oppose any change to this amendment. To them I say the language of the ERA was not carved in stone by God. It was authorized by men and women and contains their imperfections.

Among these imperfections, this amendment would require this Congress not only to draft women in time of war but to subject them to combat.

Mr. Speaker, let us work together in the spirit of the framers of the Constitution and bring this matter back to this body with an open rule that will allow debate and votes; for that, Mr. Speaker, is the fcundation of our democracy and equal rights for all.

Let us not make the fatal mistake of turning out such an important piece of legislation affecting the rights of so many people in this country under this dark cloud.

Mr. RODINO. Mr. Speaker, I yield 1 minute to the gentlewoman from Maryland (Ms. MIKULSKI).

Ms. MIKULSKI. Mr. Speaker, I am proud to be from a State that has adopted its own ERA. Maryland and other States have ERA's very similar to the proposed ERA before us today. These States have shown that the ERA can make a real difference in the economic lives of women, especially homemakers.

Where there are State ERA's, courts have started to recognize the economic value of the contributions of the homemaker. In Pennsylvania the courts have used the State ERA to show that a husband is not the owner of all household goods used by both spouses. Before that the wife had to prove she had made a financial contribution to their possessions.

The Pennsylvania Supreme Court said by limiting contributions solely to financial contribution, the homemaker was not given any credit for her nonmonetary contributions to the marriage. State courts in Pennsylvania, Colorado, and Texas have determined under their State ERA's the value of a

custodial parent's services in raising and caring for a child is equal to the financial contribution for child support.

Mr. Speaker, State ERA's have been important tools in recognizing that the services performed by homemakers have economic value.

We need a Federal ERA so that homemakers in all States will have that recognition.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. GEKAS).

Mr. GEKAS. Mr. Speaker, the majority leadership has committed legislative robbery today in the process that we are adopting, robbery in broad daylight, of the rights of the American people to fully debate this very serious issue.

But what is more is that that robbery extends to stealing the rights of the American veterans, the veterans whom we praised just a few days ago on this very floor for their magnanimous contributions to our Nation, robbing them of the opportunity to have full debate on veterans' preference. And this veterans' preference which we have accorded our esteemed soldiers, sailors, marines, of male and female sex, that which we rob them of today will come back to haunt us and it will hurt mostly the Vietnam veterans, and the most recent veterans whom again we have praised on this floor, those who have sacrificed in Lebanon and Grenada.

I support the equal rights amendment but my support is now tarnished.

Mr. RODINO. Mr. Speaker, I yield 1 minute to the gentlewoman from New York (Ms. FERRARO).

Ms. FERRARO. Mr. Speaker, I am not going to discuss the procedure. I want to discuss the substance of the equal rights amendment.

Today America's older women have a more than equal right to be poor. Today 2.7 million women over the age of 65 live in poverty, almost triple the number of poor men in that age group.

The reason why older women are poorer is a lifetime of economic discrimination. Unequal education leads to unequal pay leads to unequal retirement income, in or out of the work force. Divorce or the death of a husband can plunge the lifelong homemaker and mother into an old age of poverty.

The laws which govern pensions are neutral on their face but they are based unfairly on men's traditional work patterns and ignore those of women. In theory we exalt the woman who stays home to raise her family; in practice, we punish this woman by denying her economic contribution.

The ERA will strike overtly discriminatory laws from the Federal and State statute books. It would help us challenge supposedly sex-neutral laws which actually discriminate against women.

In the name of economic equality for all Americans I urge a vote of yes on the equal rights amendment.

Mr. SENSENBRENNER. Mr. Speaker, in the spirit of bipartisan cooperation, I yield 1 minute to the gentlewoman from Tennessee (Mrs. LLOYD).

Mrs. LLOYD. Mr. Speaker, I rise in opposition to House Joint Resolution 1 in its present form and in particular to this extraordinarily inequitable procedure which prevents full discussion of the equal rights amendment. It denies many of us who want to support an equal rights amendment the opportunity to correct the imprecision of the existing language and fashion an ERA that can be passed in this Congress and one that can be ratified in the States.

Now, proponents of the amendment argue that this issue has been debated for the past 15 years and this is certainly true. But rather than acknowledge the depth of the public concern about the language which has led to the 15-year debate, they want to railroad the very same language through the House. And the concerns that are being raised today are precisely the very same concerns that will be raised in the State legislatures during a ratification process.

Now, if we fail to deal with these issues now at the outset of the process we are going to sow seeds of confusion, misinterpretation and quite likely defeat for the ERA.

Let us not settle for a meaningless victory on a hollow symbol. Let us pass an equal rights amendment that can become a part of the Constitution.

Mr. RODINO. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut (Mrs. KENNELLY).

Mrs. KENNELLY. Mr. Speaker, I rise here today in support of the ERA as a woman who chose to remain home as a woman, a wife, and a mother for 16 years. The ERA will protect these women who make this same choice.

The ERA will protect women who stay home as homemakers but suddenly, by cruel twists of fate, they become widows without pensions.

The ERA will help those women who chose to be homemakers, good wives and mothers and suddenly after 10, 12, or sometimes even 30 years are told they are about to be divorced.

The ERA will recognize the economic partnership of marriage. It will acknowledge the homemaker as an equal contributor to the family.

During those years at home I raised three daughters, young women who are now 19, 21, and 23. Passage of the ERA will make it possible for these young women to choose whether they want to stay at home as a homemaker, do they want to be working women, do they want to be both. But they need that passage today to protect their future.

□ 1410

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON. Thank you very much, Mr. Speaker.

I have 1 minute and three points. First I am a Republican and I strongly support ERA. I will vote in favor of it today in spite of the worthy procedural concerns of my colleagues.

Second, I do not want the significance of the Democrats' procedural decision to be lost on the women of America. As a national party, they have flaunted their commitment to ERA. In this body they have the voting power to fulfill their commitment, and they cannot and do not act to send a fully debated, clean ERA forward because the Democratic Party, as the Republican Party, is deeply divided on both ERA and abortion.

The lesson is simple. It is a bipartisan coalition that is advancing the interests of American women.

Third, ERA is a dollars and cents issue for American working women. Discrimination has not been eradicated. Only a constitutional guarantee can attack the root of discrimination and I urge my colleagues to support the equal rights amendment though I regret the lack of full debate which alone would enhance its chances of future success.

Mrs. ROUKEMA. Mr. Speaker, will the gentlewoman yield?

Mrs. JOHNSON. I yield to the gentlewoman from New Jersey.

Mrs. ROUKEMA. I want to associate myself with your remarks, support the amendment, and ask unanimous consent to revise and extend my remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New Jersey?

There was no objection.

Mrs. ROUKEMA. Mr. Speaker, I rise in support of House Joint Resolution 1, the equal rights amendment, which is, once again, before the House of Representatives.

As a strong supporter of this measure, over the years, I see no need to stand before this body arguing for the merits of this most important legislation. Simple justice determined in my mind long before today that I would vote in favor of this measure.

However, while I stand firm in my support of the ERA, many of my colleagues may have benefited from additional debate of the amendment. Because the majority leadership has determined that House Joint Resolution 1 should be considered under suspension of the rules no such opportunity will be afforded them.

It is the tradition of the House of Representatives to consider only non-

controversial issues under the suspension of the rules. No one argues that the equal rights amendment is without controversy. Nevertheless, the leadership has allowed the equal rights amendment to come before us without proper debate.

Mr. Speaker and supporters of this resolution, today's actions will come back to haunt us in the future. When considering ratification of the ERA, will legislatures in your home States look at the expedited way in which it was considered at the Federal level and determine it not suitable as an amendment to our Constitution?

The procedure under which we operate today will simply be another impediment to an already controversial proposal. This was a terrible error in judgment, one which will make our opponents' job easier and ours more difficult.

I vote for the ERA today, but do so only with an expression of indignation over the procedure which is used to bring the amendment before us.

Ms. FERRARO. Mr. Speaker, I reserve the right to object to the unanimous-consent request.

The SPEAKER pro tempore. The gentlewoman from New York has been recognized, but the Chair would have to state that the gentlewoman's objection comes too late.

The Chair had already declared that the unanimous-consent request was agreed to and the Chair would so rule.

The Chair perhaps was not diligent in looking around but the Chair had so declared.

Mr. RODINO. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Mrs. BOXER).

Mrs. BOXER. Mr. Speaker, I am proud to speak for ERA and make no mistake about it that is what we are voting for today, the ERA, simply that. Some do not like it and that is their right. But here it is, 24 words of fairness. ERA is a fairness issue. Americans know this and support ERA 62 to 34 percent. According to a Business Week poll, 450 mainstream organizations representing over 50 million Americans have endorsed ERA. Women face occupational stagnation, exclusion from high wage jobs. ERA means that treatment under the law will not be related to gender and that helps men, too. Should the day come that women hold political power in this country, we will not be able to discriminate against men, and that is fair.

ERA is important for our daughters and our sons and the American people support it because Americans are a fair people.

Mr. ALBOSTA. Mr. Speaker, will the gentlewoman yield?

Mrs. BOXER. I am happy to yield to the gentleman from Michigan.

Mr. ALBOSTA. I ask unanimous consent, Mr. Speaker, to revise and extend my remarks.

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

Mr. HARTNETT. Mr. Speaker, I object.

Mr. WALKER. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The time of the gentlewoman from California (Mrs. BOXER) has expired.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. SAM B. HALL, JR.).

Mr. SAM B. HALL, JR. Thank you, Mr. Speaker.

I apologize for the way I sound but I have got something wrong with my throat.

I am the only one, I suppose, from the Committee on the Judiciary that will appear here today in opposition to the manner in which this matter is being handled.

A man in east Texas, a great district judge, told me, he said, "Son, I have more authority, I have more power than any person has and ought to have," but, he says, "I don't have the right many times to use that power."

We on the Democratic side today have the power to do what we are doing but I daresay that we have the right to handle this matter in the manner in which it is being handled.

Now, I was the only one of the members of the Committee on the Judiciary that voted against this matter last week.

At that time I was led to believe that we were going to have an open rule on this bill. Now, I do not know what has happened in the short period of time since we ruled on it and acted on it that has changed that procedure.

I wish I knew.

We have been told today that this amendment covers 26 words. Well, let me say this: We are sending this amendment, we are sending this ERA bill back to the American people in exactly this same way that it was there last year when it galvanized the legislatures of the States. If we had one or two amendments here there is no doubt in my mind that this matter would pass as it should pass.

Mr. RODINO. Mr. Speaker, might I inquire of the Chair how much time is remaining for both sides?

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. RODINO) has 10½ minutes remaining; the gentleman from Wisconsin (Mr. SENSENBRENNER) has 9 minutes remaining.

Mr. RODINO. Mr. Speaker, I yield 1 minute to the gentlewoman from Indiana (Mrs. HALL).

Mrs. HALL of Indiana. Mr. Speaker, I rise in very strong support of the equal rights amendment. Sex discrimination reflects and perpetuates discrimination which women face throughout their lives. Over 200 years ago our forefathers drafted and adopted a Constitution which served as the foundation of American government. I feel that it is very unfair and very tragic that they did not have the foresight to envision this problem and to do something about it.

In 1983 in the United States of America millions of women who comprise more than 50 percent of our population find that they are constantly confronted with discrimination. It is a fact that in the United States discrimination exists in our schools. Early in their years, boys and girls are taught different stereotyped roles. Boys are taught to be leaders and achievers; girls are taught to be mothers, housewives, secretaries and receptionists.

As they journey and continue their education process they find that this is a continuous problem. Our boys are taught to be scientists, our girls are taught to have the under-roles.

I urge the House to adopt this amendment, make equality under the law a reality of the United States of America in 1983.

Vote for ERA.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Kentucky (Mr. MAZZOLI).

Mr. MAZZOLI. Mr. Speaker, with great reluctance and because of my fondness for the committee chairman, I must oppose this procedure that we are engaged in today because it perverts and is contemptuous of the legislative process.

The suspension procedure should only be employed when the matter is noncontroversial or routine; neither case being present today.

This procedure, Mr. Speaker, trivializes the Constitution, the basic document of our land.

It is not feasible nor possible to gain an understanding of any constitutional amendment in one period of 40 minutes, much less House Joint Resolution 1.

Last, I was cosponsor of the original ERA and voted for it. I am a cosponsor of House Joint Resolution 1 and voted to report it from our committee last week.

Until last week's markup I did not believe there was a connection between ERA and abortion or female draft or single sex schools.

At the markup which I attended and debated in, I had my serious doubts; the experts are divided, the committee members are divided. Therefore, Mr. Speaker, I feel the House should today reject House Joint Resolution 1 under suspension so that it may come back before this full House with a rule establishing reasonable conditions for debate and amendment.

Mr. RODINO. Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio (Ms. OAKAR).

Ms. OAKAR. Mr. Speaker, we know that the thrust of the equal rights amendment is economic justice for all. To me it is an extension of my pro-life philosophy and I say to my pro-life friends State ERA's have not mandated abortion funding. In several States with ERA's, the State ERA was argued to the courts as a grounds for overturning restrictions on State funding for abortion. Not one of these cases was a State ERA used by the court in its decision to overturn the restrictions.

Now, if you are pro-life, you must be pro-ERA because you must be concerned not only with the unborn as we are but with the living. You must be concerned about the poverty among our older Americans who are female, who are the poorest people in this country because of the discrimination that they face with respect to the social security and their pensions.

□ 1420

If you are pro-life you must be concerned with the quality of life of working women and homemakers who are discriminated against in the work field and who are discriminated against in the insurance area. If you are pro-life you must be concerned with the women who are paid inequitably.

I ask the men who dominate this body to be concerned with their mothers, their sisters, their wives, their children and vote for the equal rights amendment.

Mr. SENSENBRENNER. Mr. Speaker, I yield 30 seconds to the gentlewoman from Nevada (Mrs. VUCANOVICH).

Mrs. VUCANOVICH. Mr. Speaker, I rise in opposition to the motion to suspend the rules and pass the ERA. I am truly saddened, as a mother, a woman, and an American, to witness today the political gamesmanship that this body is being subjected to.

I cannot imagine a greater insult to the American people than that of railroading this unpredictable and ill-conceived amendment to our Constitution through the Congress with no consideration for its real impact.

Stated quite simply, how can we call this the equal rights amendment, when it allows, even mandates, that the rights of one individual may cost another, the unborn, his or her life? There can be no equality in that.

Mr. RODINO. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. FIEDLER).

Ms. FIEDLER. Mr. Speaker, I rise in support of the equal rights amendment. I am a Republican. While I am very much opposed to the process that has been used here today, I think that the most important issue is equal rights for the women of this Nation. I think that not only have we gained the responsibility, but that it is time that we were given the opportunity through the law.

I yield to the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Speaker, I urge my colleagues on this side of the aisle to shun the procedural traps so cynically set for them and to vote for the ERA on the merits.

Ms. FIEDLER. Mr. Speaker, I yield to the gentlewoman from Nebraska (Mrs. SMITH).

Mrs. SMITH of Nebraska. Mr. Speaker, I am a Republican. I urge folks to vote for the ERA today as I intend to do.

Ms. FIEDLER. Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. ZSCHAU).

Mr. ZSCHAU. Mr. Speaker, I rise in strong support of the equal rights amendment, but in strong opposition to the procedure to consider it on the Suspension Calendar.

Amending the Constitution has such far-reaching consequences that those who truly favor this amendment ought to want to write the best possible amendment, language like the original Constitution itself will survive for centuries to come.

Unfortunately, with an eye to the 1984 elections, the Democrats have decided to bring this measure before the House under rules that preclude perfecting amendments.

And unfortunately, such an approach will probably make it less likely that this amendment will some day find its way into the Constitution.

But that is not their objective. What they seek is to put those of us who cherish both this institution, this democratic body, and equal rights, in a position to choose between the two.

Frankly, as a Republican, a member of the party that has had leadership throughout history in equal rights and opportunities in this country, I resent this partisan tactic.

On the merits of the amendment, we, as a Nation, should do everything possible to guarantee equal opportunity for all citizens. For two centuries, this Nation has grown and prospered because we have. Equality of opportunity has been our guiding principle and it has provided hope to millions of immigrants, people of all races and religions, and those from the most humble walks of life.

And so, accordingly, it is critical to the values of this Nation that we hold so dear that equality of right should not be denied on account of sex. Instead, the United States should do everything in its power to assure that women and all other citizens have the opportunity to be the very best they can be, at whatever they choose to be in life.

That is what this amendment would do and that is why it should be added to the Constitution.

Mr. RODINO. Mr. Speaker, I yield 30 seconds to the gentleman from New York (Mr. GREEN).

Mr. GREEN. Mr. Speaker, I realize that many of my Republican colleagues oppose today's limiting procedure as unfair, but I urge them to ignore the system and support the substance.

The substance is that women must have their right to choose their economic and their social roles.

I urge my colleagues to vote for the ERA, to close the economic gender gap, to equalize men and women under the law, and to stymie those who would make this a partisan issue.

Mr. RODINO. Mr. Speaker, I yield 30 seconds to the gentleman from Pennsylvania (Mr. GRAY).

Mr. GRAY. Mr. Speaker, nearly 200 years ago, our Constitution was written. It was a statement of an experiment in government that had lofty ideals, freedom, individual rights.

But my forebears were not in that Constitution. I was not there. Black people were not there. But I am now.

Is it not time that women be included and protected? That is the issue. Not abortion, not the draft, not procedures.

So when you vote today, let us vote to include women in the Constitution of the United States as we have done for other people.

Mr. SENSENBRENNER. Mr. Speaker, may I inquire of the gentleman from New Jersey (Mr. RODINO) how many speakers he has left on his side. I have just two.

Mr. RODINO. I have five, Mr. Speaker.

Mr. SENSENBRENNER. Mr. Speaker, I would prefer that the gentleman from New Jersey yield time.

Mr. RODINO. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin (Mr. KASTENMEIER).

Mr. KASTENMEIER. Mr. Speaker, I rise in support of the equal rights amendment as I have on many occasions in the past.

But at the outset, I would like to commend our chairman, the gentleman from New Jersey (Mr. RODINO), but particularly my subcommittee chairman, the gentleman from California (Mr. EDWARDS). For it was not only in 1983 that he supported this, but each and every year, in 1970 and 1971 and all the intervening years he has championed so hopefully, in the final analysis successfully, this endeavor.

Also, on the subcommittee, I would want to recognize the efforts of the gentlewoman from Colorado (Mrs. SCHROEDER), certainly a champion of this proposition.

Mr. Speaker, I regret, too, that the issue today seems to be procedural

rather than substantive. For my own part, I have no objection to a longer debate. But it does seem to me, Mr. Speaker, that as has been pointed out, the language of this amendment was the same in 1971, in fact, was the same in 1943, 40 years ago.

Mr. Speaker, I would only say in conclusion that whether we debate 40 minutes, 2 hours, or 12 hours, this is an idea whose time has come.

□ 1430

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. TAUKE).

Mr. TAUKE. Mr. Speaker, Members of the House, I am cosponsor and a supporter of the equal rights amendment, and I am livid with the leadership decision to kill the ERA with kindness.

No friend or supporter of the equal rights amendment would bring it up under these circumstances. Only those who are more concerned about partisan political advantage than about the future of the ERA would pull this kind of stunt.

It is the responsibility of Congress to present an amendment to the States. The States, not Congress, ratify that constitutional amendment. The States can only vote "yes" or "no" on the proposal we send them. Our responsibility is to perfect that proposal to the best of our ability. This procedure prohibits us from carrying out that responsibility.

By failing to follow proper procedure and by failing to do our best for the ERA, we are condemning that amendment to ultimate defeat. We severely undermine its chances for ratification. And, ladies and gentlemen, that is sad.

The ERA deserves better. It deserves better because the women of America deserve better. Discrimination exists in our Nation today, discrimination which affects virtually every American woman. We owe it to all Americans to finally apply the Constitution to women and do the very best we can to give women an equal opportunity.

We can fulfill that obligation by defeating this attempt to kill the ERA with kindness. We can do ourselves, the ERA, and all America a favor by getting the ERA off this dead end track and forcing this House to consider it in a thoughtful, deliberative manner, a manner which will give the equal rights amendment a chance for success.

The SPEAKER pro tempore. The Chair will announce that the gentleman from New Jersey (Mr. RODINO) has 5½ minutes remaining; the gentleman from Wisconsin (Mr. SENSENBRENNER) has 3½ minutes remaining.

Mr. RODINO. Mr. Speaker, I yield 30 seconds to the gentleman from Michigan (Mr. CROCKETT).

Mr. CROCKETT. Mr. Speaker, the carping we are hearing today about the procedure being followed is essentially the same carping that we heard a few years ago with respect to the Anti-Poll Tax Amendment. The procedure is the same, and the necessity for that procedure is the same.

The year is 1983, and our Union is more than 200 years old and the equal rights amendment itself has been around for over six decades.

How long must women wait to gain equal entrance into the Constitution?

The equal rights amendment says one simple thing: That the Constitution and Federal and State Governments shall not treat women differently than they treat men. It is a simple concept, a concept of justice. It does not need to be added to nor detracted from nor amended. It speaks for itself.

I urge my colleagues to speed this amendment on its way today.

Mr. RODINO. Mr. Speaker, I yield 30 seconds to the gentlewoman from Rhode Island (Mrs. SCHNEIDER).

Mrs. SCHNEIDER. Mr. Speaker, I rise today in total, unequivocal support of the equal rights amendment to the U.S. Constitution. This amendment is needed as much now, if not more so, than when it was first sent out to the States for ratification in 1972. We here in the Congress took a bold and courageous step then, and I call on all of my colleagues on both sides of the aisle to do the same today.

However, duty impels me to object to the manner and atmosphere in which this debate is being conducted today. First, I am upset by the shabby way in which the Democratic leadership of the House has chosen to deal with such an important piece of legislation. Pulling the measure out of the Rules Committee and then scheduling it at the last minute under the Suspension Calendar, removes the possibility of informed debate, which is the hallmark of the democratic process. Riding roughshod over this piece of legislation is not the way to instill respect and support for the measure throughout the country.

Second, I want all Members to understand the reason why we have to vote again on the ERA. This is because the amendment fell three States short of ratification, and that the burden for failure of passage lies with the State legislators in those five States which could have provided women with the rights we so urgently need. In 1982, five States were targeted for ratification: Florida, Illinois, Missouri, North Carolina, and Virginia.

I was hesitant to bring this up, as I prefer to work in an atmosphere of bipartisanship, but the Democratic leadership has already clouded what should be a nonpartisan issue by making it appear to be a referendum on the GOP and its relationship with women in this country. I want to ask my Democratic colleagues in this room from those five States, where were you when the ERA was facing its most important test? I know where I was—down in Florida working to change the minds of State legislators. But where was the congressional leadership then. If they had wanted, they could have exerted the much-needed pressure to pass this amendment in those various States.

Let us be fair, Mr. Speaker. I will grant you that the GOP has not been as strong on the national level for the ERA as it should be, and I am working hard to change that. But at that crucial moment, when the ERA could have been passed by the States, this Nation was let down by a small group of Democrats in those five States. I mention this only to set the record straight.

Once again, I call on my fellow colleagues to do the right thing, to take the same step as Congress did over a decade ago—pass the equal rights amendment.

Mr. RODINO. Mr. Speaker, I yield 30 seconds to the gentleman from California (Mr. DYMALLY).

Mr. DYMALLY. Mr. Speaker, as a California State Senator, I had the privilege of chairing the Joint Committee for Legal Equality of Women and was author of the resolution to ratify the equal rights amendment. Again today, I am pleased to join with my colleagues in urging strong support for the amendment.

Mr. RODINO. Mr. Speaker, I yield 30 seconds to the gentleman from California (Mr. DELLUMS).

Mr. DELLUMS. Mr. Speaker, I rise in strong support of the equal rights amendment, and in so doing I make the following point: Equal rights is not a women's issue; it is not a men's issue; it is a human question. And all Americans will benefit from the constitutional amendment which protects them from sex bias.

At stake in this debate are fundamental issues of equality, the importance we as society place on the protection of equal rights.

The amendment says nothing more or nothing less than simply equality of rights under the law shall not be denied or abridged by the United States or any State on account of sex. These 24 words are a basic affirmation of the best values of American society, the goal of equal opportunity we have struggled over, often painfully, for more than 200 years.

Mr. RODINO. Mr. Speaker, I yield 30 seconds to the gentleman from Florida (Mr. SMITH).

Mr. SMITH of Florida. Mr. Speaker, this issue has been debated. In committee, all of those amendments were debated, they have been debated before. Now is the time to let the people decide.

This amendment, this issue, transcends the debate here today. It requires that it be put to the people of the United States for the test. Not here. This is not the test. This issue requires that this amendment be ratified here and then be ratified in the United States of America. This issue deserves that attention.

I urge my colleagues to lay aside the differences regarding procedure and rely upon the substance, the transcendence of the principle of equal rights above every issue.

Mr. SENSENBRENNER. Mr. Speaker, I yield the balance of my time to the distinguished ranking minority member of the Committee on the Judiciary, the gentleman from New York (Mr. FISH).

The SPEAKER pro tempore. The gentleman from New York (Mr. FISH) is recognized for 3½ minutes.

Mr. FISH. Mr. Speaker, my feelings today are a mixture of genuine sorrow and outright anger. The decision to consider an amendment to the Constitution of the United States under suspension of the rules diminishes the role of each and every Member of this House. It is an affront to the deliberative consideration which should be accorded the constitutional amendment process.,

I say this as a Republican who has supported the ratification of the ERA in the past and who continues to support the basic principle that women should not be discriminated against solely on the basis of their sex.

I voted for the proposal in 1971 and worked actively for the extension of time in which to ratify in 1978.

In July of 1982, together with five colleagues in the Congress, following failure of ratification, I joined in cosponsoring in a symbolic move to demonstrate our continued commitment to equal rights. On House Joint Resolution 1 before us my name appears second, immediately following that of Chairman RODINO.

I regret that the procedure under which we are considering House Joint Resolution 1 puts me at odds with allies not only in pursuit of equal rights but in a broad range of companion civil rights issues.

Today, however, we face a cynical and partisan decision that undermines the bipartisan support the equal rights amendment has traditionally received. Democrats say that House Joint Resolution 1 had to be brought up either under suspension or under a closed rule permitting no amendments. Why? Clearly, any other procedure would allow amendments, amendments which might even pass.

And so we are asked to vote a change in our national charter without considering any alternative language. Is this properly discharging our responsibilities?

The language of ERA is not sacrosanct. There have been many different versions adopted by the other body and ourselves dating back to 1923.

□ 1440

Your Judiciary Committee considered no less than eight amendments, all of which raised legitimate and sincere concerns. The House deserves the right to evaluate them on their merits. Committee debate and consideration is not enough. We are but 31 Members. Under this suspension process, 404 Members of this House are being bypassed.

The Constitution was never intended to be amended in such a cavalier fashion. On the contrary, amendments are made difficult, requiring deliberation and consensus and extraordinary involvement requiring a two-thirds vote in both Houses of the Congress and ratification by three-quarters of the State legislatures. In witness of this purpose, we have the history: Since our first 10 amendments to the Constitution were adopted in 1791, only 16 amendments have been adopted in 192 years.

So what then is the purpose of the procedure we are engaged in, this denial of the deliberative role and the contribution of each one of the people's representatives? Women's groups active for ERA tell us that it was not their initiative. I suggest it is less a commitment to equal rights than it is more of what we have witnessed this fall, partisan politics in search of a campaign issue.

We should refuse to cooperate in this approach. A "no" vote, my colleagues, is not a vote against ERA, but a vote for respect for the U.S. Constitution.

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. RODINO) has 3 minutes remaining.

Mr. RODINO. Mr. Speaker, I yield the balance of the time to the distinguished Speaker of the House, the gentleman from Massachusetts (Mr. O'NEILL).

Mr. O'NEILL. Mr. Speaker, I rise in support of the resolution. I support it because I believe the only sure guarantee of equal rights in this country is a constitutional guarantee. The only sure way to insure equal opportunity for women in this country is to guarantee them in the Constitution.

This amendment would do that. If it is approved today, it would be the first step, and a strong one, in realizing once and for all the equal rights of American women. The fight for equal rights is not an easy one, but it is a necessary one. It is appropriate that it begins once again here in this House, the people's branch.

The resolution was filed at the beginning of the session and has received overwhelming support in the Judiciary Committee. I stated on January 3, after I took my oath and gave my remarks at the rostrum, that this would be House Joint Resolution 1, that I was interested in its passage, and its consideration would be one of the top priorities, and it is. Consequently, we are considering it today in the classic lean language that suits the amendment of the Constitution.

The power of the Speaker of the House is the power of scheduling. I take it upon myself that this resolution is here today.

Why is it here today? Because I have been asked by the people who are interested in this, that it not get logjammed, that it not be subject to amendment, whether it be the abortion amendment and you are for it, or whether it be the draft amendment and you are for or you are opposed to it.

In your hearts you know, those of you who have taken this floor, that there is no way this amendment would pass under an open rule with either one of those amendments. In fairness to the women of America, the thing to do is to send a lean, clean package.

There is nothing unusual about what we are doing. When you have the strength and when you have the leadership—oh, I remember the Gramm-Latta bill, when you had control of this House. You for a period of time had control of this House. You trampled on the rights of people. You trampled on the rights of people because I gave you the opportunity. I brought that bill to the floor. There were those in my own party that criticized me. The Gramm-Latta bill could not have gotten to the floor if the Speaker did not schedule it.

I am scheduling this bill today. There has been precedent for it. In 1962, your leader, myself, and other Members were here. We had the poll tax bill. We passed it exactly the same way as I am asking you to pass this bill today. I am asking you to consider it in the classic, lean language that suits the amendments of the Constitution.

Members have the opportunity to clearly, unequivocally register their support or their opposition to this amendment. If you want to hide behind something that we have done, the structure in which we have brought it up, you are not fooling anybody. In your heart you will never live it down. You were looking for the escape. If you think this is the escape, then vote "no." If you truly believe in a constitutional amendment for women's rights, now is the time and vote "yes."

● Mr. LEVITAS. Mr. Speaker, I intend to vote in favor of House Joint Resolution 1, the equal rights amendment. The words of the equal rights amendment are as follows:

Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

Those words are a statement of principle with which I think most people agree, namely that individuals, regardless of whether they are men or women, should be treated alike under the law.

If that is a principle with which most people agree, then surely there is no reason why that principle should not be put in writing. There is no reason why, in the last half of the 20th century, our Constitution should not contain a statement of principle that people should be treated equally under the law. Perhaps, it is worse to think that, in the last half of the 20th century, we might consciously decide that we are not willing to state that principle in our Constitution.

Frankly, in my opinion, the equal rights amendment will not accomplish all of the good things that its proponents claim that it will achieve nor solve all of the problems they think it will solve. I frankly do not think that all of the benefits will occur which its proponents say will come about with passage of the ERA. In fact, I think that most of the goals which the proponents anticipate the equal rights amendment will achieve either have been achieved or will be achieved through other statutory provisions or through other provisions in the Constitution.

On the other hand, I am absolutely convinced that the dire consequences which opponents of the equal rights amendment predict will occur with its passage are totally without foundation. The equal rights amendment does not affect the law relating to abortion nor will it require public funding of abortion. It does not have anything to do with homosexuality or so-called gay rights. It does not affect family relationships. It does not affect religious practices within religious orders, nor does it affect religious beliefs. It does not affect how people treat each other in society in terms of etiquette or courtesy. Nor does it have any effect on the right of Congress to conscript women or not to conscript women, or to have them play a role in combat or not to play a role in combat. It would not require any of this.

The equal rights amendment relates primarily to the economic rights of women and the principle that women shall be treated without adverse discrimination under the law just because they are women.

I think it would have been better to make changes in the language of the equal rights amendment for a variety of reasons. While I support the equal rights amendment and voted for its ratification when I was a member of the Georgia State Legislature, I think that after it had been through this ratification process, a change in the language might have been appropriate to deal with some of the objections, whether real or imagined, that opponents have raised. I could have supported some change in the language to deal with specious arguments or real arguments, if they exist, against the equal rights amendment, in order to make the clear statement of principle for our Constitution. Unfortunately, that opportunity does not exist at the present time under this motion. But if it is a question of voting for or defeating the equal rights amendment, then I feel we should adopt rather than defeat it.

I do not think the procedure we find today is the appropriate way to consider this issue, and I strongly disagree with the leadership's procedural decision. On the other hand should this effort fail today, I will immediately cosponsor the resolution which will be introduced by my good friend and colleague, the gentleman from New York (Mr. FISH), which will call for an open rule and 4 hours of general debate on the equal rights amendment, so that there can be full debate given to this constitutional amendment and so that any change which might be appropriate to accomplish the purpose of the equal rights amendment and avoid any real or imagined problems can be dealt with in the ordinary process. I will not only vote for, but will cosponsor, an open rule, and I will vote against a closed rule if that should be offered at some time down the line.

In conclusion, let me say that I think that the American people have demonstrated in poll after poll their support for the concept of equality of treatment for all people under the law regardless of their gender. That in my judgment is what this constitutional amendment would do. I believe that the time has come in the history of our country when we should put this principle in writing. That is what we will do by adopting the equal rights amendment.●

● Mr. HAMMERSCHMIDT. Mr. Speaker, veterans' preference in public employment is rooted deep in the legislative history of our country. It has existed in various forms for over 100 years. In the several States it has long been the law that those who have served our country honorably in the Armed Forces during periods of war are entitled to special assistance in hiring and retention in the public sector. On the Federal level the same has been true. The Congress has often expressed its will in this regard. The various Veterans' Preference Acts have been hallmarks of assistance to veterans, particularly those who have become disabled in service to their country. In my opinion the results have been good for our Nation, for those veterans employed in the civil service have served it well and I, for one, have been a long-time supporter of this valued benefit and I would be greatly distressed if it were to be suddenly eliminated. Yet, Mr. Speaker, there is a valid concern among many that that might well happen if the equal rights amendment to the Constitution were to be passed.

Mr. Speaker, on September 14, of this year the president of the league of women voters of the United States testified before a subcommittee of the House Judiciary Committee. She specifically testified that a Supreme Court decision in a Massachusetts case would fall if ERA became law. That statute, while broader in scope than many other such State laws, is not dissimilar to many aspects of Federal law and they too might well fall to a court challenge if ERA is enacted.

Mr. Speaker, my great concerns are that ERA would very possibly:

Eliminate preference in hiring and retaining veterans in the Federal public service, particularly those who are disabled.

Eliminate many preferences given to veterans all across the country in State, city or county hiring and retention.

Eliminate the Federal preferences given to disadvantaged Vietnam veterans.

Mr. Speaker, I want to be absolutely assured that my concerns about the ERA as it affects veterans' preference in employment are unfounded. In that connection, I inform the House that my concerns are fully shared by each of the major veterans' organizations.

Thank you, Mr. Speaker.●

● Mr. COURTER. Mr. Speaker, I rise to express my great reservations about the way this measure is being brought before us today. My position has consistently been to support efforts to provide equal protection and opportunities for all Americans, regardless of sex. The ERA attempts no more and no less than to insure these essential rights, and, for this reason, I feel it is my duty to vote in favor of House Joint Resolution 1.

However, I feel the House leadership has committed a grave error in bringing the equal rights amendment to the House floor under suspension of the rules. Not only does this decision show a reckless disregard for the integrity of House procedures. It also undermines the credibility of the amendment we are debating. Our vote on the ERA is one of the most important votes we will make in the 98th Congress. As an amendment to the Nation's basic charter, it has the potential to affect the lives of each and every American citizen. We have a duty to clarify what we want the ERA to mean and how we expect it to be interpretted by the courts. But, by limiting debate to a paltry 40 minutes, and by eliminating the opportunity for the Chamber to consider each concern

about the ERA's repercussions, the leadership has done a great disservice to this initiative. The leadership has also restricted our ability to express and represent all our constituents' views.

In view of these restrictive procedures, let me take this opportunity to reaffirm my commitment to limiting the Federal funding of abortion. The convictions evidenced by my consistent voting record in opposition to Federal involvement in the abortion issue remain unchanged. My support for the principle of equal rights for all citizens must not be perceived as rising above my belief in the sanctity of human life. Protection of each individual's rights under the law can and should coexist with protection of the lives of the unborn. By voting for the ERA we will insure men and women are afforded the same legal treatment and opportunities. This will not affect our struggle to provide equal opportunities to those yet to be born.●

● Mr. CONTE. Mr. Speaker, I rise in support of House Joint Resolution 1, the equal rights amendment to the Constitution.

Since the first consideration of the ERA in 1972, I have been committed to its passage in the Congress and its ratification by the States. As an original cosponsor of this resolution, I am still convinced that the ERA is the only way to insure equal rights for all Americans. Over the past 20 years, the Congress has approached the issue of women's rights haphazardly. Several laws have been enacted in an attempt to eradicate discrimination based on sex. The Equal Pay Act, the Civil Rights Act of 1964, and the Educational Amendments of 1972 all contain provisions prohibiting sex discrimination in certain federally funded programs. Although these are steps in the right direction, this approach is slow and not sufficient to correct all the defects in State laws or to prevent all discrimination at the Federal level.

Even though I am committed to the ERA, I am concerned about the parliamentary procedure used today for the consideration of this constitutional amendment. Last January, I spoke on the floor in support of the ERA when the joint resolution was introduced. At that time, I emphasized the serious nature of amending the Constitution of the United States. I do not take lightly this act of amending the fundamental law of our land. The suspension of the rules procedure precludes the offering of perfecting amendments, and this closed rule severely limits congressional debate on this important civil rights issue. It only benefits all those concerned about the impact of the ERA to have a clear legislative history of congresssional intent for such an amendment on issues like the draft, veterans preference, and abortion. I am particularly concerned about the ERA and abortion.

As an original cosponsor, it is my sincere belief that the ERA is an economic and civil rights issue and not an issue concerning lifestyles and basic human rights. Case law and legal precedents have ruled that the ERA and abortion are separate, distinct issues. Abortion cases have always been decided by the State and Federal courts either under the constitutional principle of right to privacy or due process. In Massachusetts, for example, the State Supreme Court ruled that the State ERA and the abortion issue were separate. In 1981, State medicare restrictions on abortion were challenged under the ERA. The court rejected the ERA argument, but struck down the restrictions based on the State due process provision. In Connecticut, the ERA-abortion right claim was also rejected by the courts. It is clear to me that the grounds of the court's finding have nothing to do with equal rights for women.

As my constituents well know and many in the House are aware, I strongly disagree with the courts ruling against abortion restrictions on any basis. Just last month, I offered the Hyde language to the Labor/HHS/Education appropriations bill for fiscal year 1984. My convictions on the issue of abortion have not changed. The record clearly reflects this assertion.

I am sure that Members opposed to the ERA will argue that there is a connection between abortion and the ERA. But the history in the States—the precedent that has been set—forcefully indicates that the courts will not tie the two issues. There is no reason to conclude that the Supreme Court will broaden the basis of its previous rulings on abortion related issues.

I hope that this statement clearly expresses this sponsor's intent for the impact of the ERA. Although the legislative history—so important to the interpretation of any constitutional amendment—will be brief, the issue of abortion and the ERA remain distinct and separate in my mind as I vote in favor of House Joint Resolution 1.●

● Mr. FRENZEL. Mr. Speaker, the equal rights amendment is based on a principle whose time should have come long ago. Because it is designed to equalize opportunity for about one-half of our population, ERA has become the most prominent U.S. symbol of equality.

I believe in the ERA. I sponsored the resolution which passed and presented the question to States. I sponsored the time-extension for State consideration. I am a sponsor of House Joint Resolution 1, which brings ERA to us today. I have strong feelings in favor of vocational equality, and in favor of the ERA.

A principle as important as ERA should be treated with the utmost care. Hearings, discussion, debate, and amendment should be straightforward, bipartisan, and in accordance with regular and open parliamentary procedures.

Unfortunately for ERA, and for those who believe it, we do not have regular procedure today. The House leadership has given us the worst process possible, a gag rule with no amendments and restricted debate.

No friend of ERA would handle the amendment this way. No friend of ERA would jeopardize the ultimate adoption of the amendment by untimely, partisan, and highly restricted consideration of this bill. Any person who has a consistent devotion to the integrity of the legislative process is likely to vote against House Joint Resolution 1 today. Such a vote would be hard to criticize because of the outrageous procedure.

The process is awful. It is a violation of responsible procedures. It will surely damage the chances that ERA will ever be passed and ratified. The extent of those damages cannot be ascertained now, but the responsibility for them can clearly be laid at the feet of the House Democrat Caucus and its leadership.

Despite all the reasons the House leadership has given us to vote against ERA, my feelings in support of it are too strong for me to cast a negative vote. The ERA is too important to be put off by partisan Democrat games.

I shall vote therefore for House Joint Resolution 1. Perhaps its passage and ratification will help to create an environment in which future Congresses will not succumb to partisan urges to employ gag rules.

ERA represents equality. It is a step toward perfecting our society. It is the very least we can promise our daughters. I hope it will receive the two-thirds vote of approval required.●

● Mr. BILIRAKIS. Mr. Speaker, there is no question that women in this country are not accorded equal treatment, most particularly in terms of comparable pay for comparable work. However, the equal rights amendment, as reported to this body, is not the appropriate forum to make the necessary corrections.

Rather than amending the Constitution of the United States, we should aggressively address legislatively those areas in which inequality exist. I am proud to say that I am the sponsor or cosponsor of a number of measures which seek legislative remedy for inequality.

Therefore, let no one consider my vote against the equal rights amendment before us today as a vote against providing women with the equal protection that our Constitution and traditions demand. Rather, as so clearly

pointed out in this morning's Washington Post editorial, it is a vote against the manner in which this important issue is to be considered—without the opportunity for detailed discussion and clarifying amendments. The equal rights amendment raises almost as many questions as it was designed to answer—most notably whether the congressional prohibition against Federal funding of abortion can remain intact, whether funding for single-sex private and parochial schools will be allowed, and whether the veterans' preference in hiring will be permitted to remain.

Since there is no way, in the scant 40 minutes of debate allowed under the rule imposed by the Democratic leadership, that these issues can be discussed fully, let alone resolved—there is no way a thinking Member can support ERA today. For that reason, I must oppose the ERA and continue my efforts to make our laws apply equally and equitably to both sexes.

[From the Washington Post, Nov. 15, 1983]

ERA, BUT NOT THIS WAY

The signs are that the House will be asked today to do something unnecessary, potentially risky and loaded with unpredictable political consequences. The leadership has decided to bring the Equal Rights Amendment to the floor under a suspension of the rules. That's a procedure usually reserved for noncontroversial matters. Very limited debate is allowed—only 20 minutes to a side—and no amendments can be considered.

We have always supported the adoption of the Equal Rights Amendment and continue to do so. But it is certainly one of the most controversial amendments to the Constitution proposed in this century, having been passed by large margins in Congress once but not ratified by the required three-quarters of the states before it expired last year. It is fine that a new start has been made and that both Congress and the state legislatures—bodies that are continually changing—will have another opportunity to consider this important subject. But ramming it through the House using this extraordinary procedure is wrong on a number of counts.

First, a constitutional amendment is serious business. Debate should be encouraged, not stifled. Amendments, including those we have strongly opposed, should be considered and voted upon. A single sentence that alters our nation's basic charter and affects the lives of hundreds of millions of Americans is worth more than a 40-minute discussion when it is formally considered by one house of Congress.

Second, it is not all certain that there will be a sufficient number of votes to pass the proposal under these procedural conditions. Many who support the ERA are said to resent the gag rule and to be unable, in conscience, to vote to impose these conditions. If pro-ERA forces lost this vote, they will suffer a serious psychological setback that is completely unnecessary. The votes are there to pass the amendment after full and free debate.

Finally, one wonders how much of a part pure unadulterated politics plays in this ploy. Some liberal Republicans, supporters of the amendment, believe that those who have devised this tactic care less about getting the ERA through the House than creating a political issue so that many who object on procedural grounds to voting without full debate or consideration of amendments can be charged with abandoning the amendment.

A 40-minute shuffle in the hectic closing days of the congressional session is the wrong way to conduct important constitutional business. The amendment should be approved, but not under these extraordinary and unnecessary conditions.

MIKE BILIRAKIS' EFFORTS FOR WOMEN

There is no doubt that there are many areas which must be ameliorated in an effort to provide equity and assurance that women will be treated equally. I abhor discrimination of any kind and I am committed to securing equal rights under the law for women and for all Americans. I believe the actions listed below show my commitment.

INDIVIDUAL RETIREMENT ACCOUNTS

The present law controlling contributions to spousal IRAs restricts the full $2250 tax deduction to those couples including a nonworking spouse. If that nonworking spouse earns even $1 of compensation during the tax year from serving as an election official, a juror, or a babysitter and reports it, the law bars the couples from claiming the full $2250 deduction; instead, they could claim only a maximum of $2001. I have cosponsored H.R. 2468 which provides that a spouse earning less than $250 annually would not be disqualified from the benefits of a spousal IRA.

As a member of the House Aging Committee I have been made keenly aware that this nation has a poverty class primarily composed of elderly women, which is a sad reward for homemakers who devoted their lives to providing for their families. To remedy this injustice, I have cosponsored H.R. 3266 which permits spouses to combine gross incomes to determine the amount that can be contributed to each spouse's IRA. This bill will increase the amount individuals can contribute based on a formula, from the present $2000 to $5000 over a three year period.

Again because I feel strongly about the need to expand the ability of women to provide for their retirement years, I am a cosponsor of H.R. 2099. This legislation, which is part of the omnibus Economic Equity Act, would allow the earning spouse to deposit up to $4000 a year in an IRA on behalf of both spouses. The present limit is $2250—$2000 for the earning spouse and just $250 for the non-earning spouse, usually the homemaker. This bill would also permit a spouse who earns a very small amount of money each year—less than $2000—to open her own IRA in an amount based on the earnings of the higher-earning spouse. This will be particularly good to those women who hold down low-paid part-time jobs outside the home and are presently denied the full advantages and future security of an IRA. This legislation would allow alimony to be defined as income for purposes of opening an IRA.

WIVES OF CIVIL SERVICE EMPLOYEES AND MEMBERS OF THE MILITARY

As the divorce rate has increased and the number of poor, elderly women continues to grow, a number of inequities in the laws governing benefits for surviving and divorced spouses of civil servants and members of the military have come to light. With this in mind, I have been deeply involved in seeking legislative remedies.

Under current law, divorced spouses of civil servants are denied any civil service survivor benefits after the termination of a long marriage and this has left many divorced spouses who were married 20 or 30 years in desperate financial straits. I am cosponsoring H.R. 2300, the Civil Service Spouse Retirement Equity Act which establishes, for the benefit of a former spouse who was married at least ten years, a presumption of entitlement to a pro rata share of the survivor and retirement annuities based on years of marriage during creditable years of service. The bill allows the courts to modify or reject the presumption depending on the circumstances of each individual case. I might also add that I testified on behalf of this legislation on Thursday, October 20th, before the appropriate subcommittee.

Long-term military spouses who become divorced are also unfairly penalized by the present system. I am a cosponsor of H.R. 2715, the Uniformed Services Former Spouses Health Care Act, which provides medical coverage for former spouses who have a disease or disability attributable to the service of the armed forces member.

Two other bills of interest which I am cosponsoring are H.R. 433, which provides elderly veterans' widows who remarry after age 60 with the same entitlement to continued dependency and indemnity compensation as Civil Service and Social Security beneficiaries, and H.R. 1376, which clarifies the law so that a surviving military spouse will not have her survivor benefits offset by the amount of her social security benefits if those benefits are based on her own work history.

I introduced the Forgotten Widows legislation, H.R. 3686, which would provide benefits under the Uniformed Services Survivor Benefit Plan to the widows of servicemen who retired or died prior to enactment of the Survivor Benefit Plan in September 1972. This group of forgotten military widows have been denied the recognition and compensation they have earned through their years as a military wife and are now elderly and many are living in poverty conditions. There is a precedent for this change, since the Civil Service SBP was made retroactive 25 years ago. Our military wives deserve no less. The costs of providing benefits to these elderly women will decrease in future years.

WOMEN VETERANS

As a member of the House Veterans' Affairs Committee, I was actively involved in having legislation passed by the House which I sponsored, that will establish within the Veterans' Administration and Advisory Committee on Women Veterans. This Committee will have the responsibility of addressing the serious problems of female veterans that have largely gone unrecognized because of the emphasis placed on male veterans. In order to create greater awareness of the contributions and needs of women veterans, I have introduced legislation to designate September 14, 1984 as National Women Veterans Recognition Day.

EDUCATION

Title IX of the Educational Amendments of 1972 provides the federal commitment to educational opportunities for men and women alike. Title IX was designed to provide broad coverage to those men and women who attend educational institutions receiving federal funds. However, the courts have recently interpreted the regulations in a significantly more restrictive manner.

Thus, I have cosponsored H. Res. 190 reaffirming support for the enforcement of Title IX as the Congress originally intended and that is equality in education and a prohibition on gender discrimination.

I recently voted for passage of the appropriations bill which provides funds for Department of Education activities. Among those programs which I supported is the Women's Education Equity program which supports national, state and other projects designed to promote educational equality for women through guidance and counseling activities, preservice and in-service training for educators, and courses for underemployed and unemployed women. This legislation clearly instructs the Department of Education to take no action which will undermine the integrity of the program. In this same bill were funds for vocational education programs, which provide women an opportunity to seek non-traditional jobs once they have completed their education. It is this sort of commitment that has encouraged women to seek non-traditional training and also professional degrees, which increase their earning power.

CIVIL RIGHTS AND DISCRIMINATION AGAINST WOMEN

I voted for passage of H.R. 2230, the Extension of the Civil Rights Commission, which is of paramount importance in ferreting out discrimination as it applies to the elderly, handicapped women, minorities and voters. Efforts were made to politicize this independent commission through legislative maneuvers; however, I supported legislative language which will ensure that this commission will be able to carry out its mandate without pressure to adopt the civil rights views of any Administration whether Republican or Democrat.

SOCIAL SECURITY BENEFITS

Statistics indicate that women tend to outlive their husbands. In addition to the grief of the survivors, the present Social Security law does not provide any benefits for the month in which the Social Security beneficiary dies. For instance, if a male beneficiary died at 11:57 p.m. on the last day of a month, his widow would be required to return his Social Security check to the government. I am cosponsoring H.R. 951, which would permit the survivor to have access to the expected income based on a prorated share taking into consideration the number of days the beneficiary lived during the month of his or her death. I believe the present system adds insult to injury and requires immediate change.

CHILD SUPPORT ENFORCEMENT

This is a critical economic issue to women who head single parent families. In many instances when absent fathers shun their financial responsibility, the taxpayer is left to assume the father's child support obligations. Because working women usually earn less than men, regular child support payments are crucial to their children's economic stability. It is estimated that between a quarter and a third of fathers never make a single court-ordered payment and the mothers lack the resources to pursue legal remedy through the courts. I was a cosponsor of legislation which would designate a month as National Child Support Enforcement Month, which would serve to stimulate much needed public attention on the issue of child support as every child's right and every parent's responsibility. This bill has been signed into law.

In addition to raising the public's sensitivity to child support, I am a cosponsor of legislation which would mandate that state court-ordered child support payments be automatically withheld from wages, including arrearages. The language in this legislation is geared toward reciprocity between states so the absent parent cannot skip his or her responsibility by moving to another jurisdiction. My decision to support this legislation is based on the extreme difficulties faced by single parents trying to raise their children alone, and by the numbers of elderly individuals who are using their meager incomes to contribute to their grandchildren's economic well-being.

RECOGNITION OF THE WOMEN'S MOVEMENT FOR EQUAL RIGHTS

Seneca Falls, New York, was the site of the first women's rights conference in 1848, and it is here that the National Women's Hall of Fame was established to provide a permanent place of honor for America's most outstanding women. I am cosponsoring a bill which would provide a Federal charter to the Hall of Fame.

DISPLACED HOMEMAKERS

I have introduced legislation, H.R. 4208, which will provide an ongoing targeted jobs tax credit to employers who hire a displaced homemaker, and I am also a cosponsor of another displaced homemakers bill. An example of the displaced homemaker is: Mrs. Smith has two children. Her husband and the sole support of the family died when she was 45 years old. She had never handled family finances nor had she worked outside of the home; thus, she had few job skills. She is a displaced homemaker in need of an income producing job, which will be difficult in view of her lack of professional job skills. Under my bill, an employer will be given an incentive to hire her and thus assure that she and her children will be self sufficient and not be dependent on the society for financial assistance.●

PASS ERA WITH CLARIFYING AMENDMENTS

● Mr. SMITH of New Jersey. Mr. Speaker, I rise this afternoon against the unfair, undemocratic procedure under which we are today considering the proposed equal rights amendment.

That procedure precludes any Member from offering any amendment whatsoever to the ERA and restricts debate on this vital issue to a mere 40 minutes.

I point out to my colleagues that even the chairman of the House Judiciary's Subcommittee on Civil and Constitutional Rights—a Member who opposes all amendments—has stated that he wants an open rule on the ERA.

In a letter dated June 27, 1983, Chairman Edwards wrote: "we will bring it (ERA) to the House floor under an open rule. I agree with you that any bill as important as a proposed constitutional amendment should have an open rule."

The distinguished chairman of the full Judiciary Committee, Mr. RODINO of my home State, has spoken eloquently to the question of open debate for constitutional amendments. When the House was considering limiting debate to 1 hour on a busing constitutional amendment in 1979 Mr. RODINO declared: "* * * Such a spectacle, I must suggest, would demean our democratic system, this legislative body, and each of us." (CONGRESSIONAL RECORD, July 24, 1979, 20361)

The ERA has 40 minutes today, Mr. Speaker; 40 minutes.

I rise as a Member who would very much like to support the ERA. But I consider it my duty, in conscience, to insist that it be properly amended with clarifying language in some fundamental areas of law to prevent sweeping reversals of important public policy by the courts.

I strongly support clarifying amendments that would have been offered here today had the House Democratic leadership not imposed an absolute closed rule on such amendments.

I want to point out to my colleagues that: even Lane Kirkland, president of the AFL-CIO has recognized the need for clarifying amendments. In his testimony before a House subcommittee he said:

> Finally, while we recognize that a few substantial issues have been raised—such as the effect, if any, of the ERA on the right to an abortion and the status under the ERA of restrictions on the role women may play in the military services—we believe Congress may, and should, provide authoritative guidance to the courts in these areas.

In order to provide the House with a full and open debate on the ERA, and to allow amendments to ERA, I have cosponsored the open rule resolution introduced earlier today by ERA supporter Representative HAMILTON FISH of New York.

That resolution would allow 4 hours of debate—not 40 minutes—and amendments to ERA would be made in order. Mr. FISH's resolution is a fairness rule—and I sincerely hope it helps facilitate prompt consideration of the ERA in this House.

Mr. Speaker, the first amendment this body could and should have considered would have effectively taken abortion out of the ERA. It reads: "Nothing in the article (ERA) shall be construed to grant or secure any right relating to abortion or the funding thereof."

The abortion neutral amendment would eliminate the distinct possibility that the ERA, If unamended, would strike the Hyde amendment as unconstitutional.

According to prominent ERA advocates the main legal effect of ERA would be to turn sex-based classifications into suspect classifications under the Constitution—just as race-based classifications are now. Thus under the ERA, sex-based classifications would receive the same so-called strict judicial scrutiny—a rigid constitutionality test employed by the Court—which race-based classifications now receive.

Representative HENRY HYDE, author of the Hyde amendment stated before

a Senate Subcommittee on May 26, 1983:

Since 1970, the ERA advocates have emphasized that the Amendment's principal legal effect would be to make sex a "suspect classification" under the Constitution. The most important "suspect classification" at present is race. If sex discrimination were treated like race discrimination, government refusal to fund abortions would be treated like a refusal to fund medical procedures that affect members of minority races. Suppose the Federal Government provided funding for procedures designed to treat most diseases, but enacted a special exclusion for sickle-cell anemia (which affects only black people). The courts would certainly declare that exclusion unconstitutional.

On October 20, 1983, the Congressional Research Service—a branch of the Library of Congress—issued a legal analysis of the ERA-abortion connection. The CRS report included this conclusion:

* * * if strict scrutiny, the most active form of judicial review, is the standard applied [under ERA], then the answer to the question whether pregnancy classifications are sex-based classifications would seem to be affirmative. It would then follow that the ERA would reach abortion and abortion funding situations. It is very difficult for the government to meet the burden of showing that the classifications in question serves a compelling state interest, thus, classifications subjected to active review are almost always invalidated as being violative of the Constitution.

Mr. Speaker, put another way, the Hyde amendment and other pro-life initiatives would be decimated by the Court.

Mr. Speaker, another important amendment—that I support—would have prevented the Supreme Court from striking as unconstitutional current law barring women from assignment to combat-duty roles. This amendment is supported by numerous organizations including the Veterans of Foreign Wars (VFW). The amendment reads: "This article [ERA] shall not be construed to require the assignment of women to military combat."

In a scholarly Yale Law Journal article entitled "The Equal Rights Amendment: A Constitutional Basis for Equal Rights for Woman," four constitutional experts—Brown, Emerson, Falk, and Freedman—wrote "women will serve in all kinds of military units and they will be eligible for combat duty."

Senator ORRIN HATCH, chairman of the Senate Judiciary Committee, states in his book, "The Equal Rights Amendment, Myths and Realities":

Not only would men and women likely be drafted on equal terms, but they would likely be assigned to all military duties on equal terms, including combat duty. This would alter current law in which women are excluded from most combat positions, including infantry and armor specialist, field artillery, and air defense.

ERA proponents frequently minimize the difficulties involved in equal combat roles by emphasizing that only "qualified" men and women would be assigned to combat. This is a deceptive argument. It is deceptive in that recent civil rights history repeatedly shows that where eligibility standards and tests fail to result in "representative" proportions of minority individuals in employment positions, or in colleges and universities, the customary response of civil rights proponents has been to call into question the eligibility standards and tests themselves—in other words, to blame the messenger for the message.

If military requirements establish minimum levels of upper body strength or physical endurance, for example, and almost all males satisfy that standard and almost no women do, the validity of the standards themselves will be challenged in court rather than feminist organizations conceding that the neutral application of these requirements simply results in fewer female than male troops. This is not pipe-dreaming or speculation; it is already taking place. It is taking place, for example, at the military academies where women are no longer subject to the same standards as men in the arts of boxing or wrestling or in developing upper body physical strength. It is taking place in the military itself where women are exempt from some of the most rigorous physical tasks. And it is taking place in a similar outside the military where requirements for police and firefighters and prison guards are being altered where they lead to "under-representation" for women. If women are unable to satisfy a firefighting test of being able to drag a 300 pound body 100 yards, then demands are made for tests of 200 pounds and 75 yards.

* * * The realities of life, as Brigadier General Elizabeth Hoisington has described them, are that:

Women cannot match men in aggressiveness, physical stamina, endurance, and muscular strength in long-term situations. In a protracted engagement against an enemy, soldiers with these deficiencies would be weak links in our armor. We cannot build a winning army if the soldiers in it have no confidence in the long-term mental and physical stamina of their comrades.

The Equal Rights Amendment would effect a revolution in the way that the military does service for this country. It is far from clear that this revolution is one desired by the American people; that it is consistent with their values; or that it would not undermine the primary responsibility of a free government—the preservation of the national security.

Mr. Speaker, another important amendment that I believe should be added to the ERA would protect veterans preference from being invalidated as unconstitutional. The amendment reads: "This article shall not be construed to affect any benefit or preference given by the United States or any State to our veterans."

Indeed the threat to veteran's preference is real but little discussed. The Women's Defense Fund, for example, has argued that "veterans preference programs, by which veterans are given strict hiring preference in civil service positions, are in violation of the Constitution because more men than women are veterans."

Again, as in the abortion-funding issue and women in combat, the application of a strict judicial scrutiny court test—the acknowledged aim of the ERA lobby—would result in veterans preference being invalidated by the courts.

Mr. Speaker, just as clarifying language is necessary to protect women from being forced into combat roles, this amendment enjoys the support of key veterans organizations including the Veterans of Foreign Wars (VFW).

As a matter of fact, VFW National Commander Clifford G. Olson has stated that it is imperative that the ERA contain these two important amendments. In a letter to Members of Congress dated November 10, 1983, he wrote: "If these amendments are not made to the legislation, it will be wholly unacceptable to the more than 2.6 million members of the Veterans of Foreign Wars of the United States and our Ladies Auxiliary and I would urge you in the strongest terms to vote against the passage of H.J. Res. 1 (ERA)."

Mr. Speaker, I would like to speak to another amendment that was to be offered here on the floor today, but you would not allow, an amendment which was narrowly defeated in the full Judiciary Committee last week. The amendment would have protected single-sex schools—seminaries, all-boy or all-girl high schools, colleges, and the like—from being attacked as discriminatory. The amendment reads: "Nothing in this Article [ERA] shall be construed to relate to private or parochial educational institutions." Prof. Jeremy Rabkin, the director of the program on public policy and the courts at Cornell University, testified before the Senate Subcommittee on the Constitution that: "it seems inescapable that all single-sex institutions must be denied tax exemptions. Thus, ERA would not only make all-women colleges ineligible for tax exemptions, but also Catholic seminaries, for example, unless they admit women for training to the priesthood." He further stated: "it seems inescapable that an institution like Yeshiva University of New York, which does have coeducational programs, must still forfeit its tax exemption if it maintains separate seating for men and women in religious services."

Prof. Mongan of Columbia Law School stated in testimony before the House Subcommittee on Civil and Constitutional Rights said: "I think you could also revoke the tax exemption of even a theological school or seminary that was discriminating."

I think it should be clear that the ERA proposal is in need of some meaningful amendment to strengthen it. But that vital deliberative process, again let me say, has been frustrated by the Speaker of the House.

Mr. Speaker, a constitutional amendment is indeed a sober undertaking. The consideration of the ERA by the

House of Representatives has been trivialized by its treatment here today. It is my earnest desire, Mr. Speaker, to see the ERA passed in this Congress and ratified by the States in a meaningful, responsible form, absent its present liabilities.

The Speaker of the House has denied us that opportunity today.

Mr. Speaker, lest anyone be tempted to simple-minded conclusions, let no one misconstrue my vote here today.

Today, I vote against an unfair procedure—a procedure that forbids clarifying amendments. I vote for the right of Members to offer amendments to clearly define the ERA. After all, Mr. Chairman, I support all the major initiatives, past and present, to insure equality under law for women.

To illustrate and underscore the point, I point out to my colleagues that I strongly support the following:

First, Equal Pay Act—prohibits discrimination on the basis of sex in the payment of wages for equal work performed.

Second, title VII—prohibits discrimination on the basis of sex with regard to hiring, job classification, promotion, compensation, fringe benefits, and discharge.

Third, title IX—prohibits discrimination on the basis of sex in education programs that receive Federal support.

Fourth, revenue acts—provides for the deduction of child-care expenses, allows IRA's for nonworking spouses, and eliminates estate tax for widows.

Fifth, Manpower Act—prohibits discrimination on the basis of sex in regard to Federal jobs programs.

Sixth, Housing and Community Development Act—prohibits discrimination on the basis of sex in housing and mortgage lending.

Seventh, title VIII—prohibits discrimination on the basis of sex in rentals and home selling.

Eighth, Equal Credit Opportunity Act—forbids discrimination on the basis of sex in any aspect of credit transactions.

Ninth, Pregnancy Disability Act—requires employers to include coverage of maternal benefits within the scope of health insurance programs.

Tenth, Executive Order 11246 (as amended)—prohibits discrimination in employment on the basis of sex on the part of governmental contractors.

Mr. Chairman—pending legislation that I have cosponsored and support which would aid women includes:

First, H.R. 2090; Economic Equity Act—an omnibus bill aimed at eliminating sex discrimination in such areas as tax and retirement matters, dependent care, insurance and child support and enforcement. I am proud to be a cosponsor of this legislation.

Second, House Resolution 109—a resolution expressing the sense of the House on the need to maintain guidelines which insure equal rights with regard to educational opportunity. I am a cosponsor.

Third, H.R. 1527; Federal Equity Act—a bill to amend the laws of the United States to eliminate gender-based distinctions throughout the United States Code. I have cosponsored this legislation.

Fourth, H.R. 4280, revision of H.R. 2100, women's pension equity—a measure that seeks to remove inequitable restrictions on women currently sanctioned by Employee Retirement Income Security Act (ERISA). Would improve credit for maternity leave; expand IRA contribution; insure survivors pensions if spouse dies before annuity starts. I have cosigned letters to six committee leaders urging favorable and expeditious consideration of this legislation.

Fifth, H.R. 4325, Child Support Enforcement Amendments of 1983—a bill that insures that children will be able to receive financial support from delinquent parents. Encourages interstate enforcement, and requirement of spousal support as well. I have cosponsored another bill, H.R. 3354 which would go even further than the new bill, to protect the rights of spouses and their children. However, H.R. 4325 was reported from committee and is presumably the bill that we will consider on the floor. This legislation also has my support.

Mr. Chairman, the ERA must be amended. I urge my colleagues to defeat the motion to suspend the rules and support an open rule—the fairness rule—so that this House will be able, at some not too distant future date, to properly address and debate the ERA and consider several rational, substantive amendments to it.●

● Mr. NIELSON of Utah. Mr. Speaker, over the past decade we have witnessed one of the most divisive political battles this country has ever seen. The so called equal rights amendment, after a 7-year consideration period, and an unjust and illegal extension period, was soundly defeated according to the wishes of the American people. The elected officials of each State had ample time in which to consider this amendment to the Constitution. At the end of the 10-year period, the American people had spoken. The ERA was defeated. Why has this misguided amendment resurfaced when the American people have clearly spoken. Across this Nation there is practically zero interest in this amendment. It is only here, in the Congress, that this amendment is still a hot issue.

When the ERA came before the Utah State Legislature, I was speaker of the house at the time. Many States had passed this amendment almost without debate. In those days, few had really considered some of the far reaching effects of this seemingly innocent group of words. When Utah became the first State to stop ERA, many who had previously given little thought to the implications of the amendment, began to study it more carefully to determine just what effect ERA would have on our society. Since that time, a mountain of objections has surfaced. Many who previously considered the amendment to be a good step have now recognized the many serious dangers to our society that the amendment poses.

Just what would ERA do? When the 14th amendment to the Constitution was passed, it insured that all persons would receive equal protection under the law. This means that all laws would be especially scrutinized to make certain that they would not be discriminatory on a racial basis. Race became a special classification by which laws were subject to extra examination. Sex, too, became a special classification. Laws which discriminate on the basis of sex came under special scrutiny. With very few exceptions, laws that discriminate on the basis of sex became unconstitutional The only exception became when an excellent and logical case could be made for different treatment of the sexes. When a law is challenged under the 14th amendment, two key questions are asked by the courts: First, is there a strong and compelling reason for such a difference in treatment? And second: Is there any other way that the legislature could have achieved its purposes other than by treating men and women differently? This has proven, over the years, to be a rational, reasonable, and effective approach to public policy. What ERA would do would be to make sex a suspect classification for judicial review just as race now is. Under the absolutist and unyielding language of the ERA, there would be no possibility, under the U.S. Constitution, for ever making any differentiation, reasonable or not, between the sexes. No argument, no matter how compelling, would allow any law or policy to distinguish between men and women.

The effects of making sex a suspect category would be far reaching and devastating:

First, since no differentiation could be made between the sexes in the military, women would be drafted and sent into combat on the same basis as men. In the past, this policy has been debated in Congress many times. If ERA became a part of the Constitution, there would be no debate. Even though the American people overwhelmingly oppose drafting women or placing them in combat situations, the Constitution would mandate it. The people would lose the right to make that decision.

Second, family law would be seriously affected. Husbands would no longer

be under legal obligation to support their wives. Since homemakers would be eligible for separate social security benefits, family taxes would have to be raised to cover the cost of this. There are those that have even argued that ERA would require government-supported child day-care centers in order to insure that men and women have a genuine "equality of right" to enter the work force. Child custody laws would be seriously affected in order to guarantee that absolute equality of custody would be achieved. Property rights in marriage, which have been decided by State laws, would be totally decided on the basis of equal treatment, throwing out any special protection laws that States may have afforded to homemakers. The presumption of family names might be affected, leading to countless problems in property title searches, location of heirs, and identification of familiar status of individuals for a variety of formal and business purposes. Because of the extra financial and legal pressures placed on the family by ERA, the traditional role of homemaker will become an increasingly difficult choice for women to make. Many women still wish to choose homemaking as a career. ERA would effectively work to eliminate this choice for women.

Third, present labor laws would be affected. Special protection laws which women's unions have worked for years to achieve would be thrown out in one fell swoop. Laws which require minimum sanitary conditions in the workplace for women, maximum hour laws for women, laws limiting the physical exertions of women, and laws providing minimum rest periods for women could all be found unconstitutional. Since the many professional women which applaud ERA are rarely if ever confronted with situations that apply to these laws, they feel rather differently about abolishing these laws than blue-collar women do. Elimination of such laws would cause an increased physical and emotional burden on women working in factory jobs and other physically demanding jobs. Under ERA, no matter how compelling a case could be made for some protective labor law, they would be constitutionally prohibited.

Fourth, since sex would become a suspect category under ERA, laws which related to abortion would come under judicial scrutiny. Under the 14th amendment, the right to an abortion or the public funding of abortion has always been denied. Under ERA if surgery for men's disorders were funded under medicaid, all women's operations, including abortion, would have to be funded. Abortion would become a constitutional right and so would the public funding of abortion. Let me stress to my colleagues that public funding of abortion would become a constitutional right. If you believe, as I do, that abortion, except to protect the life of the mother, is the shedding of innocent blood, you cannot support ERA. If you believe that there should be no public funding of abortion on demand, you cannot support ERA. You cannot be pro-ERA and pro-life at the same time.

Fifth, insurance practices would be completely changed. Since there could be no distinction based on sex for setting rates, gender could not be used as a determining factor. In that event, women, who have better and safer driving records, and live healthier, and longer lives, would lose the advantage they now enjoy in insurance. Women, who now pay lower insurance premiums, would be forced to pay higher premiums, subsidizing men who cause the majority of accidents and live less healthy and shorter lives. Since I have been a professor of statistics for over 20 years and have taught actuary classes, I assure you that gender is a perfectly reasonable criterion for determining insurance rate tables. Women should have the right to reap the benefits of their superior records. I fail to see how any woman who is paying lower insurance premiums is being discriminated against.

In addition, group insurance plans would be required to provide abortion insurance. That is to say that all employers would be forced to provide abortion insurance for their employees under ERA, regardless of how these employers feel about abortion. This means that churches, such as the Catholic Church or the Mormon Church, would be compelled by the Constitution to provide abortion insurance for their female employees.

Sixth, under ERA, private organizations and churches that treat men and women differently would likely lose their tax-free status. Church schools with separate dormitories could be forced to change their policies or pay crippling taxes if it were determined that these policies were in conflict with public policy. Churches that deny women the priesthood or treat women differently in some way could be in danger of losing their religious freedom if their policies were against public policy.

Seventh, as gruesome as these few aspects of ERA seem, probably the most objectionable part of ERA is this. ERA will take considerable power away from the elected officials of the people in both the States and the Congress and give this power to the courts. Literally thousands of issues of public policy will have to be decided by the Supreme Court with no possibility of input from the people of the United States. Because of ERA's absolute mandate of a sex-neutral society, there could be no debate except in the Supreme Court. Nine upper-class lawyers would be deciding the fate of over 200 million Americans on a vast range of issues. I ask you. Are we really willing to trust the fate of this great nation to nine individuals who sit in the Supreme Court and are accountable to no one? Are we, as a Congress, willing to relinquish our power and duty to carry out the wishes of the American people? Are we willing to take the right to determine thousands of family and community policies away from the States, taking the power of States away, to a great degree and turning State legislatures into bodies that are powerless to respond to the desires of their constituents? This devastating transfer of power away from States and legislative bodies to the courts is probably the most compelling reason to oppose ERA.

These several objections that I have stated here are only the tip of the iceberg. The list could go on and on. Evidently, proponents of ERA believe that everything, even our entire civilization, is to be sacrificed on the "altar of equal rights." National security, labor protection laws, personal privacy, and over 200 years of cultural tradition and social mores pale next to the necessity of creating a sex-neutral society.

Distinguished colleagues, you and I know that the type of society that this misguided amendment would create is against the interests and desires of the American people. Time after time, proponents of ERA have declared that 66 percent of the American people support the passage of ERA. This is very misleading. Whenever polls are conducted on the effects that ERA would have, that is, drafting women, placing women in combat, et cetera, the American people overwhelmingly respond negatively to the type of society that ERA would create.

When ERA was originally sent to the States, many States passed the amendment without proper debate and consideration. Upon further consideration, five States, Nebraska, Tennessee, Kentucky, Idaho, and South Dakota, rescinded their vote for ERA. When the States of Wisconsin, New York, New Jersey, Florida, Nevada, and Iowa placed ERA on a State referendum, ERA was soundly defeated by overwhelming margins.

While it is true that there are still some laws on the books which discriminate against women, these laws must be carefully carved out with the precision of a surgeon. Let us not hack our society to death with the "meat-ax" approach of ERA. To say that ERA is the solution to the remaining few inequities our civilization faces is like a doctor telling a patient that he or she has a cold and that the cure is to amputate the head. The cold will be cured but the patient will be dead.

Ten years of ERA is enough. ERA has had its turn. It has been defeated. The American people have spoken. ERA is dead. Let us not resurrect it. I would support amendments to ERA which would keep the amendment from applying to abortion and abortion funding, personal privacy, military service for women, insurance, et cetera. I urge my colleagues to do the same. Thank you.●

● Mr. ROEMER. Mr. Speaker, I support equal rights for all Americans, women and men, black and white. But the equal rights amendment, as written, raises serious questions about a number of important issues: Federal funding for abortions, to name just one.

I will vote against ERA as written because it would permit the use of tax money for abortion, because it could put young women into the front lines of combat, because it would prohibit veterans preference in employment, because—finally—we were not given a chance to debate these issues.

I think our goal should be to pass a strong constitutional amendment protecting the rights of women but without all those flaws in the original ERA. I think Congress would pass such an amendment. More importantly, the people of America would support it, too.

I would vote for an amendment like that. Most of Congress would like to see us consider such an amendment—as long as we have plenty of time for debate, as long as we have a chance to add perfecting amendments, as long as we are sure it would do what we intend it to.

The Constitution is a wonderful document, but it is not perfect. An equal rights amendment, with the right kinds of protections, would make the Constitution even stronger.●

● Mr. VOLKMER. Mr. Speaker, I rise in support of the equal rights amendment and the cause for which it stands. I have long supported the ERA, I voted for the amendment the only time it was passed by the Missouri State House of Representatives, and I am a cosponsor of House Joint Resolution 1.

My decision to vote for the equal rights amendment today, however, was not an easy one. I have reservations about some aspects of the ERA, and unanswered questions as to its effects in particular areas, matters which I had hoped would be cleared up during proper deliberation by this Congress. Despite these concerns, I am voting in favor of the ERA, because I fully agree with the noble principle which it embraces—equal rights under the law for all Americans.

My primary concern with the ERA relates to the subject of abortion. No one knows with certainty to what extent ERA will affect abortion laws and abortion funding. I have always maintained that ERA has nothing to do with abortion, that it does not in any way secure a right to abortions. My prolife record is well known, and no one should mistake my support of ERA as endorsing in the slightest the killing of the unborn. However, I am also aware that there are those who maintain other views on this subject—that ERA secures, or may secure, rights to abortion and the funding thereof by the Federal Government.

I firmly believe that the ERA and abortion are two entirely separate issues. The ERA assures that women are accorded the same rights under the law as men; no less, no more. As such, the amendment would not affect the ability of Congress to regulate abortion and abortion funding to the same degree as we are able to under present law.

Prohibitions on abortions do not distinguish between men and women as wholly separate classes. While only women can become pregnant, women who are not pregnant are no more affected by such prohibitions than are men.

Furthermore, such prohibitions do not deny rights to one gender which are granted to another. Federal funding for abortions is denied to all. The fact that only women can become pregnant is physiological, not one established by law. Thus, an amendment which states, as does the ERA, that equality of rights under the law shall not be denied or abridged on account of sex would not invalidate laws as they are not sex-based.

A study prepared by the Congressional Research Service was inconclusive as to an ERA/abortion connection, finding that this issue would largely be determined by the legislative history surrounding the ERA. Proponents of the ERA have repeatedly asserted that ERA has no effect on abortion laws. Furthermore, State courts have heretofore not accepted the arguments of abortion proponents that similarly worded State equal rights amendments invalidate abortion prohibitions.

In order to address concerns in this area, I would have preferred that the ERA contain language stating that the amendment has no effect on the question of abortion or abortion funding. I believe such language would have "cleared the air" and enhanced the ERA's chances for ratification by the required number of State legislatures, but I do not find such language absolutely necessary.

As I stated earlier, I have some reluctance to vote for the ERA under this procedure. However, I have no reluctance to support this statement of a fundamental right. Given my strong conviction that ERA does not affect abortion prohibitions, and my longstanding support of the amendment, I will cast my vote for equal rights.●

● Mrs. SMITH of Nebraska. Mr. Speaker, I rise in support of House Joint Resolution 1, the equal rights amendment, and I urge my colleagues to join me in voting in favor of the resolution.

The importance of the issue before us today transcends our objection to and the insult of the procedure under which the measure is being brought to the floor. All too often we hide behind procedure in order to sidestep an issue. I challenge anyone voting no today to explain to the 50 percent of this country's population why "procedure" should take precedence over their guarantee to equality.

Yes, I object to bringing the ERA to the House floor under suspension of the rules. Preferrably we should have had every opportunity to fully debate and discuss the concerns about the language of the proposed amendment. But I cannot dispute the argument that we have been debating this exact proposal for more than 10 years—since Congress overwhelmingly approved it in 1972. There is a thorough and extensive legislative history since committee hearings began in the 92d Congress.

Moreover, we have had an equal rights proposal before the Congress for 60 years. In fact, I remind my Republican colleagues that it was Republicans who initiated the debate in 1923 with the first introduction in both the House and Senate of the ERA. As a Republican and a women, I am proud of my party's initiative and foresight. I do not want to see us abandon the ERA now when economic realities dictate the need for the ERA now more than ever.

Women no longer work for "pin money." They are working to support families, to educate their children, and provide a degree of economic security in the future. I am a strong advocate of our traditional family values and sincerely believe that children need and benefit from having a parent at home. But economic pressures have forced mothers into the job market time and time again, especially in the past decade. If a women must work to support her family or if she chooses to pursue a career, she should have every opportunity afforded her male counterparts to succeed and prosper in the job market.

Sixteen States have equal rights provisions in their State constitutions. The experience of the States has been positive. Through legislative reform and court decisions, many laws and practices that discriminated on the basis of sex have been changed. And, very importantly, and contrary to the "parade of horribles" put forth by ERA opponents, the traditional family has remained intact, and the courts have refused to play games with the ERA and sensitive moral issues.

Still, a State-by-State approach is not the answer, neither will a statute-by-statute approach work. The piecemeal approach of the past 10 to 20 years has utterly failed to satisfactorily address the concerns and problems of women. Therefore, a constitutional foundation is needed on which women can build economic equality. There are more than 47 million women in the labor force today, and even with equal pay and antidiscrimination statutes, women continue to earn far less than men do for comparable work and are shut out of much of the job market. Gender-based statutes still on the books also hinder the achievement of equal opportunity for women in marriage and divorce, in education, in credit markets, in insurance, and in benefit and retirement plans.

Let me remind the House that our vote today does not put the ERA into the Constitution—into law. We are voting on whether we should send this proposal back to the people—through their State legislatures—for approval. How do we deny that the majority of Americans clearly want this opportunity again?

The ERA wins in every national poll. In June 1981 Time magazine reported that the ERA was supported by more than a 2-to-1 margin. Other independent polls conducted nationwide have shown that three-quarters of U.S. voters support the exact wording of the ERA. Most recently, in August 1983 Business Week polled registered voters across the country and found 62 percent in favor of the proposed amendment, and the amendment winning in every State.

I am voting today to again put the question of the ERA to the American people, and I am voting for 24 words that will move the country a step closer to achieving one of the principle goals of this Nation—that the United States exists equally for all people—that its citizens, whether male or female, have a firm and clear constitutional guarantee that they will share equally the rights, privileges, and responsibilities of citizenship under the law.

Again, I urge my colleagues to vote on the merits of the issue before us, to cast your vote based on logic and fact, not on emotions that have been stirred by distortions about the ERA. Vote aye on House Joint Resolution 1.●

● Mr. HARRISON. Mr. Speaker, I rise in support of the equal rights amendment which is before this body today.

I have long been a supporter of equal rights for women. This constitutional amendment is a matter of fundamental fairness if we as a nation are to extend a full measure of constitutional protection to over half of our population.

It is morally wrong and constitutionally unacceptable that some women are still denied educational, business, and professional opportunities solely on the basis of their gender. There is also the matter of equal pay for equal work. There are numerous cases on record and extensive statistical evidence from many credible sources indicating that women are often paid less than men for doing identical work. The fact that this unfair practice persists in the face of various statutory prohibitions is all the more indication that the current state of the law is not adequate to assure equal rights for women.

I shall, therefore, vote for the equal rights amendment, Mr. Speaker, because I believe the United States must protect the "equal rights" of all of its citizens.

In doing so, however, I think it is important to stress that there is absolutely no connection between the equal rights amendment and the issue of abortion or the public funding of abortions. I would not support the ERA if there were.

Based on my study of the Constitution while in law school, as a practicing attorney, and for the past dozen years teaching a four-semester course in constitutional law at the college level, I am convinced that those who have somehow read abortion rights into the ERA are mistaken—both in their interpretation of the amendment itself and of the existing body of constitutional law. This conclusion is supported by the opinion of any number of leading constitutional scholars, such as Thomas Emerson of Yale University and Ann Freedman of Rutgers University, who have testified before the Judiciary Subcommittee on Civil and Constitutional Rights.

All of the previous cases on the subject of abortion have been decided on the basis of a woman's "right to privacy." This right is frequently described as a "nontextual right" since it is not explicitly set forth in the Bill of Rights, but is drawn, rather tortuously, from a number of amendments, including the 1st, 4th, 5th, and 14th. This "privacy right" was first expressed by the Supreme Court in a 1965 case, Griswold against Connecticut, which overturned a State law prohibiting the sale or other transfer of contraceptives to all persons, including married couples.

The abortion cases, Roe against Wade and Doe against Bolton, as well as subsequent decisions, then extended the right to personal and reproductive privacy announced in Griswold to include freedom to choose whether to abort a pregnancy subject, in the first trimester, only to the wishes of a woman and the advice of her physician. I have never agreed with this interpretation and have, in fact, consistently stated that I would support a constitutional amendment to overturn these decisions.

The fact is, Mr. Speaker, that there is simply no connection between the equal rights amendment and abortions or the public funding of abortions. I believe that the legislative history of the equal rights amendment and the judicial history of the abortion issue demonstrate that fact. And while I respect those who have come to a contrary conclusion, I believe they are plainly and simply wrong.

Moreover, the history in this Congress is clear. Congress does not favor abortion funding. In this very session, we have consistently voted to prohibit the use of Federal funds for abortions except to protect the life of the mother. I have voted with the majority in each and every instance in which this question has come before us. In light of that incontestable fact, no court could reasonably hold that passage of the equal rights amendment would require the public funding of abortions. It is on that basis that I cast my vote; were it otherwise, I would not support the ERA as I do today.

But a strong commitment to protecting human life from its beginnings to its end in no way precludes a similar commitment to equal rights under the law for all our citizens. Mr. Speaker, the U.S. Constitution is almost 200 years old. It is time the rights of over half the population of this country are recognized in that document.●

The SPEAKER pro tempore. All time has expired.

The question is on the motion offered by the gentleman from New Jersey (Mr. RODINO) that the House suspend the rules and pass the joint resolution, House Joint Resolution 1.

The question was taken.

Mr. SENSENBRENNER. 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 278, nays 147, answered "present" 1, not voting 9, as follows:

[Roll No. 504]

YEAS—278

Ackerman	Bonior	Collins
Addabbo	Bonker	Conable
Akaka	Borski	Conte
Albosta	Bosco	Conyers
Alexander	Boucher	Coughlin
Anderson	Boxer	Courter
Andrews (NC)	Breaux	Coyne
Andrews (TX)	Britt	Crockett
Annunzio	Brooks	D'Amours
Applegate	Brown (CA)	Darden
Aspin	Brown (CO)	Daschle
AuCoin	Bryant	Daub
Barnes	Burton (CA)	de la Garza
Bates	Byron	Dellums
Bellenson	Carper	Derrick
Bereuter	Carr	Dicks
Berman	Chandler	Dingell
Bevill	Chappie	Dixon
Biaggi	Clarke	Donnelly
Boehlert	Clay	Dorgan
Boggs	Clinger	Dowdy
Boland	Coelho	Downey
Boner	Coleman (TX)	Durbin

Dwyer	Kolter	Ratchford
Dymally	Kostmayer	Regula
Dyson	LaFalce	Richardson
Early	Lantos	Ridge
Eckart	Leach	Rinaldo
Edgar	Lehman (CA)	Rodino
Edwards (CA)	Lehman (FL)	Roe
English	Leland	Rose
Erdreich	Levin	Rostenkowski
Evans (IA)	Levine	Roukema
Evans (IL)	Levitas	Roybal
Fascell	Lewis (FL)	Sabo
Fazio	Long (LA)	Savage
Feighan	Long (MD)	Scheuer
Ferraro	Lowry (WA)	Schneider
Fiedler	Lujan	Schroeder
Flippo	Lundine	Schumer
Florio	Mack	Seiberling
Foglietta	MacKay	Shannon
Foley	Markey	Sharp
Ford (MI)	Martin (IL)	Sikorski
Ford (TN)	Martinez	Simon
Fowler	Matsui	Sisisky
Frank	Mavroules	Slattery
Frenzel	McCloskey	Smith (FL)
Frost	McCurdy	Smith (IA)
Gejdenson	McHugh	Smith (NE)
Gekas	McKernan	Snowe
Gephardt	McKinney	Solarz
Gibbons	McNulty	Spratt
Gilman	Mica	Staggers
Glickman	Mikulski	Stark
Gonzalez	Miller (CA)	Stokes
Goodling	Mineta	Stratton
Gore	Minish	Studds
Gradison	Mitchell	Swift
Gray	Moakley	Synar
Green	Moody	Tallon
Gregg	Morrison (CT)	Tauzin
Guarini	Morrison (WA)	Thomas (CA)
Gunderson	Mrazek	Torres
Hall (IN)	Murphy	Torricelli
Hall (OH)	Natcher	Towns
Hall, Ralph	Neal	Traxler
Hamilton	Nelson	Udall
Harkin	O'Brien	Vento
Harrison	O'Neill	Volkmer
Hatcher	Oakar	Walgren
Hawkins	Oberstar	Watkins
Hayes	Obey	Waxman
Hefner	Olin	Weaver
Heftel	Ortiz	Weiss
Hertel	Ottinger	Wheat
Holt	Owens	Whitehurst
Hopkins	Panetta	Whitley
Horton	Parris	Whitten
Howard	Patman	Williams (MT)
Hoyer	Patterson	Williams (OH)
Huckaby	Pease	Wilson
Hughes	Penny	Wirth
Jacobs	Pepper	Wise
Jeffords	Perkins	Wolpe
Johnson	Petri	Wortley
Jones (NC)	Pickle	Wright
Jones (OK)	Porter	Wyden
Kaptur	Price	Yates
Kastenmeier	Pritchard	Young (AK)
Kennelly	Pursell	Zablocki
Kildee	Rahall	Zschau
Kogovsek	Rangel	

NAYS—147

Archer	Crane, Philip	Hansen (UT)
Badham	Daniel	Hartnett
Barnard	Dannemeyer	Hiler
Bartlett	Davis	Hillis
Bateman	DeWine	Hubbard
Bedell	Dickinson	Hunter
Bennett	Dreier	Hutto
Bethune	Duncan	Hyde
Bilirakis	Edwards (AL)	Ireland
Bliley	Edwards (OK)	Jones (TN)
Broomfield	Emerson	Kasich
Broyhill	Erlenborn	Kazen
Burton (IN)	Fields	Kemp
Campbell	Fish	Kindness
Carney	Forsythe	Kramer
Chappell	Franklin	Lagomarsino
Cheney	Fuqua	Latta
Coats	Gaydos	Leath
Coleman (MO)	Gingrich	Lipinski
Cooper	Gramm	Livingston
Corcoran	Hall, Sam	Lloyd
Craig	Hammerschmidt	Loeffler
Crane, Daniel	Hansen (ID)	Lott
Lowery (CA)	Oxley	Smith, Denny
Luken	Packard	Smith, Robert
Lungren	Pashayan	Snyder
Madigan	Quillen	Solomon
Marlenee	Ray	Spence
Marriott	Reid	St Germain
Martin (NC)	Ritter	Stangeland
Martin (NY)	Roberts	Stenholm
Mazzoli	Robinson	Stump
McCain	Roemer	Sundquist
McCandless	Rogers	Tauke
McCollum	Roth	Taylor
McDade	Rowland	Thomas (GA)
McEwen	Rudd	Valentine
McGrath	Russo	Vander Jagt
Michel	Schaefer	Vandergriff
Miller (OH)	Schulze	Vucanovich
Mollohan	Sensenbrenner	Walker
Montgomery	Shaw	Weber
Moore	Shelby	Whittaker
Moorhead	Shumway	Winn
Murtha	Shuster	Wolf
Myers	Siljander	Wylie
Nichols	Skeen	Yatron
Nielson	Skelton	Young (FL)
Nowak	Smith (NJ)	Young (MO)

ANSWERED "PRESENT"—1

Hightower

NOT VOTING—9

Anthony	Jenkins	Molinari
Garcia	Lent	Paul
Hance	Lewis (CA)	Sawyer

□ 1500

The Clerk announced the following pairs:

On this vote:

Mr. Hance and Mr. Garcia for, with Mr. Hightower against.

Mr. HIGHTOWER. Mr. Speaker, I have a live pair with the gentleman from Texas (Mr. HANCE) and the gentleman from New York (Mr. GARCIA). If they were present, they would have voted "yea." I am recorded as voting "present."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

SEEKING COSPONSORSHIP OF RESOLUTION CALLING FOR OPEN RULE AND 4 HOURS DEBATE ON HOUSE JOINT RESOLUTION 1

(Mr. FISH asked and was given permission to address the House for 1 minute.)

Mr. FISH. Mr. Speaker, I just want to remind my colleagues that what has transpired certainly has caused me no joy and I am in the process this afternoon of seeking cosponsorship of a resolution calling for an open rule and 4 hours of debate on House Joint Resolution 1. That will be introduced this afternoon and after the requisite number of legislative days, a discharge petition will be filed.

REQUEST FOR PERMISSION TO INSERT STATEMENT IN THE RECORD ON HOUSE JOINT RESOLUTION 1

Mr. DANNEMEYER. Mr. Speaker, I ask unanimous consent to insert a statement in the RECORD just prior to the vote on House Joint Resolution 1.

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

Mr. EDGAR. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

APPOINTMENT OF CONFEREES ON H.R. 4185, DEPARTMENT OF DEFENSE APPROPRIATIONS, 1984

Mr. ADDABBO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4185) making appropriations for the Department of Defense for the fiscal year ending September 30, 1984, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference requested by the Senate.

The Clerk read the title of the bill.

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

There was no objection.

MOTION OFFERED BY MR. YOUNG OF FLORIDA

Mr. YOUNG of Florida. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YOUNG of Florida moves that the managers on the part of the House, at the conference on the disagreeing votes of the two Houses on the bill H.R. 4185, be instructed to insist on the House position on Senate amendments numbered 188 and 191.

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

□ 1510

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would explain the purpose of this motion to instruct. It deals with the use of funding in the Defense appropriations bill.

The House Defense appropriations bill included language prohibiting the use of any funds appropriated by this act for the purpose of obtaining animals to be used in certain types of medical training that is found totally revolting by most Members of this Congress and by most American people.

The other body used language somewhat similar, but they restricted the prohibition only to the purchase of dogs and cats. Unfortunately, all of us have seen television documentaries and news accounts of all different

types of animals being hung up or tied to a post and shot, or had their hides scalded while they were still alive for the purpose of training. When I offered this language in the Defense Appropriations Subcommittee, it was adopted and we found no strong objection from the Department of Defense. Yet the other body failed to agree to the same type of prohibition that we have agreed to in the House.

This motion to instruct merely instructs the conferees on our part to stand firm in support of the House language which prohibits the use of any funding in this bill for the purpose of buying or using these animals for medical training.

Mr. Speaker, I yield 2 minutes, for the purpose of debate only, to the gentleman from Illinois (Mr. PORTER).

Mr. PORTER. I thank the gentleman for yielding to me.

Mr. Speaker, I certainly do not oppose this motion that Mr. YOUNG of Florida is offering. However, it is simply a smoke screen to prevent us from getting to the issue that I think is most paramount in this bill, and that is whether this House is going to allow its conferees to go uninstructed on the question of resuming chemical weapons production. I would ask the Members when we get to the previous question, that they vote down the previous question, in order that I may offer an amendment to Mr. YOUNG's motion that would instruct conferees of the House not to agree to the Senate position to resume chemical weapons production and its funding.

Mr. Speaker, there is no need for new chemical weapons production whatsoever. It is a waste of taxpayers' money, and I would hope that on the previous question, the Members would vote no so that I could offer an amendment to that effect.

Mr. YOUNG of Florida. Mr. Speaker, I yield 2 minutes, for the purpose of debate only, to the gentleman from Pennsylvania (Mr. EDGAR).

Mr. EDGAR. I thank the gentleman for yielding me this time.

Mr. Speaker, I ask my colleagues to listen to exactly the parliamentary situation we are in.

The Senate has offered a motion to instruct conferees. If we do not vote down the previous question, it will exclude another amendment being offered by the gentleman from Illinois (Mr. PORTER) to instruct the conferees to delete funding for nerve gas production and to hold to the House position. It is an important issue, because this House on several occasions voted very strongly not to move toward the production of chemical weapons.

All of us recall the vote in the other body which was a tie vote, and we had to call the President of the Senate, Mr. BUSH, who happens to be the Vice President, to come in and break that tie.

There have been press reports that the Vice President's mother even called him to complain about his breaking of that tie, and supporting nerve gas production. No vote in this body or the other body has affirmatively and in a majority supported production of nerve gas, except we the vote of the Vice President.

I would hope that my colleagues would understand a very complicated parliamentary procedure, join us in voting down the previous question, and give us the opportunity to have a vote to instruct the conferees on the issue of nerve gas.

At a time we are about to approve a quarter of a trillion dollars for the most deadly array of weapons man has ever developed, it seems almost absurd that nerve gas advocates insist again and again on adding another $100 million for chemical weapons. Chemical weapons are not needed. We already have a useable, deliverable, safe stockpile of chemical artillery shells. Our NATO allies do not want the weapons, and I hope everyone has read the General Accounting Office recommendation against funding of nerve gas.

I, therefore, urge my colleagues to vote down the previous question and urge my colleagues to support an effort to get to the issue of nerve gas.

PARLIAMENTARY INQUIRY

Mr. STRATTON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. HERTEL of Michigan). The gentleman will state it.

Mr. STRATTON. Mr. Speaker, who controls the time under this particular situation?

The SPEAKER pro tempore. The gentleman from Florida (Mr. YOUNG) controls the time, 1 hour.

Mr. STRATTON. Mr. Speaker, will the gentleman from Florida yield to me?

Mr. YOUNG of Florida. I would be happy to yield to the gentleman, but I would prefer to yield to the gentlewoman from New Jersey (Mrs. ROUKEMA) because she had asked first. For the purpose of debate only, I yield 1 minute to the distinguished gentlewoman from New Jersey.

Mrs. ROUKEMA. First a parliamentary inquiry, then debate, Mr. Speaker.

PARLIAMENTARY INQUIRY

Mrs. ROUKEMA. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentlewoman will state it.

Mrs. ROUKEMA. Mr. Speaker, what is the precise nature of the debate time?

The gentleman from Florida now controls the time. If the motion to instruct is defeated, will there then be time for debate controlled by the gentleman from Illinois (Mr. PORTER)?

□ 1520

The SPEAKER pro tempore. There is only one motion to instruct on which the gentleman from Florida (Mr. YOUNG) is proceeding. That is why he controls the time.

If the previous question is voted down, an amendment may be offered to the motion and would be debatable for 1 hour.

Mrs. ROUKEMA. I thank the Chair.

Mr. YOUNG of Florida. Mr. Speaker, I yield 2 minutes to the gentlewoman from New Jersey (Mrs. ROUKEMA) for purposes of debate only.

Mrs. ROUKEMA. I appreciate my colleague yielding.

I do want to reiterate the situation we have here. We have on several occasions had debate in this House on the subject of nerve gas. It is now in the conference report yet again.

However, there is no way that this House can deliberate on the merits of the issues of nerve gas and the circumstances under which it arose in the conference report unless we defeat the previous question.

We have been through an emotional debate on the equal rights amendment and many Members I fear are not now paying close attention to the parliamentary situation. So I want to repeat what my colleague from Pennsylvania has said.

The parliamentary situation is a difficult one. If you care about reviewing the decision on nerve gas, then you must defeat the previous question.

I thank the gentleman for yielding.

Mr. YOUNG of Florida. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York (Mr. STRATTON) for purposes of debate only.

Mr. STRATTON. I thank the gentleman for yielding.

I am sure that my colleague from New Jersey (Mrs. ROUKEMA), my colleague from Pennsylvania (Mr. EDGAR), my colleague from Illinois (Mr. PORTER), and my colleague from Arkansas (Mr. BETHUNE) are all well meaning in their attempt to eliminate nerve gas from the U.S. arsenal. But the fact of the matter is that while we on this floor and on the floor of the other body have been debating what kinds of weapons to eliminate from our arsenal the Soviets have been going relentlessly, day after day, after day, creating new weapons of greater destruction and damage. And now here today we learn of a new attempt to try to eliminate a safe modern, nerve gas, when just last night on television it was reported that the Soviets have developed a new and far more powerful species of gas that can penetrate the rather feeble gasmasks that are currently issued to the soldiers of the U.S. Armed Forces stationed in Europe.

I think it would be a terrible thing for us to cave in on this issue.

Certainly we want to protect our soldiers. Yet, even now we have precious little from the point of view of defensive weaponry against Soviet gas. Now members are trying once again to deny us the opportunity to provide a genuine deterrent so that the Soviets will not be tempted to use that weapon against American troops.

I hope the House will support my colleague from Florida (Mr. YOUNG) in his motion and not vote down the previous question. In so doing we can head off this ill-conceived profoundly misguided effort to deny American troops the protection they deserve.

Mr. YOUNG of Florida. Mr. Speaker, I yield 2 minutes, for purposes of debate only, to the gentleman from Arkansas (Mr. BETHUNE).

Mr. BETHUNE. Mr. Speaker, we have just finished a 1 hour and 40 minute session on the ERA. That is an important issue for many Members here but it is a long process which has been going on 10 years. The press gallery was full. Everybody was interested in that issue.

This is a real issue here. This is not one that is going to linger on for a long time. This is the last chance for this House to stop one program that President Reagan has asked for in his defense budget.

This House controlled by a 2-to-1 majority, Democrats over Republicans, has beat its breast now for 1½ years about how big this defense budget is and how much we need to get things out of this defense budget. This is the last chance. This is the only program that we have managed to stop here in the House of Representatives that the President has asked for.

So it is time to put your money where your mouth is. If you really want to say that you are trying to take things out of this enormous defense budget, this is the place. This is the time. And you are going to have to do it through a convoluted process because the proponents are very clever. They have bootstrapped their way through this matter in a fashion that is incredible.

This House has repeatedly rejected nerve gas. The other body, the elected officials there, have repeatedly rejected nerve gas.

Only the administration, acting through the Vice President, has kept it alive and only by the convoluted processes under which we are constrained to work here are we in this situation where the will of the people is not going to be honored and this House is going to cave in to the process, to the institutionalized forces here which always seem to overcome the will of the people.

Now, this is the time when you either stand up and say we mean it, when we do not want to put nerve gas in the arsenal of this country, or we do not. This is the chance.

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

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

Mr. EDGAR. I would like to commend the gentleman in the well for his leadership on this issue. It has been outstanding. I thank the gentleman for being so consistent in his attempt to delete funds for chemical weapons.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself 1 minute.

I would like to point out we are using the time of the House on a motion to instruct the conferees dealing with protection of animals. The debate seems to have gotten off on to a different track and I would like to not use up too much of the House's time if we can avoid it.

However, I am willing to yield further time to my distinguished friend, the gentleman from Oregon (Mr. AUCOIN), Mr. Speaker, I yield 2 minutes, for purposes of debate only, to the gentleman.

Mr. AUCOIN. I thank the gentleman for yielding.

I would say to the gentleman from Florida (Mr. NELSON) that it is very important that we defeat the previous question on his motion to instruct conferees, because it is not only animals that will die if nerve gas is ever used but also human beings.

It is important that the Members of the House understand the substance and the parliamentary situation. The substance of the issue is that nerve gas is a wrong investment for moral reasons and for military reasons. The parliamentary situation is that there is no majority. There is no majority in the House; there is no majority in the other body in support for funding for these weapons.

But on the defense authorization bill, because of a Vice Presidential tiebreaker in the other body, we ended up getting nerve gas folded into the conference report on the authorization bill and Members on the House floor then had to vote against the entire defense authorization bill in order to defeat nerve gas. Most of the Members elected to vote for the authorization bill.

Now the fix is in again. The same effort is being attempted. Again the majority in this House voted against nerve gas. Again on a tie vote in the other body on the appropriations bill there was not a majority for nerve gas and again the Vice President voted and broke the tie.

You know and I know what will happen if we do not defeat the previous question and get to the gentleman from Illinois' motion to instruct the conferees on the House side to hold firm to the House position on nerve gas.

If we do not get to the gentleman from Illinois' motion we are going to be rolled again and we are going to have nerve gas funded when it is against the will of the majority of the House and not the will of the majority of the other body.

I urge my colleagues to defeat the previous question and then to vote for the motion to be offered by the gentleman from Illinois.

Mr. YOUNG of Florida. Mr. Speaker, I yield 1 minute to the distinguished chairman of the Appropriations Subcommittee on Defense, the gentleman from New York (Mr. ADDABBO).

Mr. ADDABBO. I thank the gentleman for yielding.

Normally a chairman does not wish to be instructed by the House. He wishes to go to the conference uninstructed.

But I will be supporting the vote to vote down the previous question, to permit the motion to be made by the gentleman from Illinois (Mr. PORTER) for the simple reason that I need direction from the House on this controversial and important issue.

The gentleman from Oregon says there is no congressional majority for nerve gas. The majority of the House conferees support the position of the other body. They do not support the House position. So I would now ask the House to instruct us as they wish us to go into conference on this question of nerve gas.

□ 1530

The only way they can do it is by voting down the previous question and voting for the amendment to be offered by Mr. PORTER.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I take this time to discuss the purpose of the motion again so that there is no question in anyone's mind what the motion is.

The motion is to instruct the conferees to stand by the House language that was agreed to so strongly, to prevent the use of funding in this bill for the purchase of animals to be used in medical training. Now that is a simple motion to instruct because the other body did not use the same language that we did.

We could use a motion to instruct on issues like the MX missile, the B-1 bomber, or whether or not we are going to take any more battleships out of mothballs or whether we are going to build any more F-18 or A-10 airplanes or build any more tanks. We can use a motion to instruct on all of

these issues including the question of binary gas.

Mr. Speaker, those issues that I have just mentioned have been with us for years and they are going to be with us for years. And what we do here on a motion to instruct on those issues is not going to affect the outcome of those programs or those systems.

Now here is one opportunity, one of the very few opportunities that we get to stand up for the people of America who are opposed to the things they see on television where animals have been put in chains or tied to posts and shot for medical training.

They are opposed to seeing on television other animals taken live and scalded alive for the same purpose. There are other ways to do these things.

The people of America are opposed to this and here is one of the very few opportunities that you are going to have to express an opinion and to voice the feelings of your constituents as they relate to what I consider to be the improper use of animals.

I say again that the other issues will be dealt with and have been dealt with in the past, they will be dealt with in the future as the authorization bills come through the committees and to the House, as the appropriations bills come through the committees and come to the House, and as the supplemental bills and the continuing resolutions come to the House; all of these major items have had their day and will continue to have their day.

Now you have a chance to cast a simple vote for the people of America who for so long have been demanding that you do something to protect these animals.

Mr. Speaker, I move the previous question on the motion to instruct.

PARLIAMENTARY INQUIRY

Mr. WEAVER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WEAVER. Mr. Speaker, if the previous question is voted down and an amendment is then offered, the motion offered by the gentleman from Florida (Mr. YOUNG) would remain intact, would it not, if the amendment dealt with binary nerve gas?

The SPEAKER pro tempore. It would depend on the amendment offered at the time, if there were such an amendment offered of any sort.

The question is on ordering the previous question.

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

Mr. YOUNG of Florida. 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 164, nays 256, not voting 14, as follows:

[Roll No. 505]

YEAS—164

Andrews (TX)	Gibbons	Murtha
Anthony	Gilman	Myers
Archer	Gingrich	Nelson
Badham	Gramm	Nichols
Barnard	Hall, Ralph	Nielson
Bartlett	Hall, Sam	Packard
Bateman	Hammerschmidt	Pashayan
Bennett	Hansen (ID)	Patman
Bereuter	Hansen (UT)	Petri
Bevill	Hartnett	Price
Bilirakis	Hatcher	Quillen
Bliley	Hefner	Ray
Boner	Hightower	Ridge
Breaux	Hillis	Ritter
Brooks	Holt	Robinson
Broomfield	Hubbard	Roemer
Burton (IN)	Huckaby	Roth
Byron	Hunter	Rowland
Campbell	Hutto	Rudd
Chandler	Hyde	Schulze
Chappell	Ireland	Shaw
Chappie	Jones (OK)	Shelby
Cheney	Jones (TN)	Shumway
Clarke	Kasich	Shuster
Coleman (MO)	Kazen	Siljander
Coleman (TX)	Kemp	Sisisky
Conable	Kindness	Skeen
Cooper	Kramer	Skelton
Corcoran	Lagomarsino	Slattery
Courter	Latta	Smith (NE)
Craig	Leath	Smith, Denny
Crane, Daniel	Lent	Solomon
Crane, Philip	Livingston	Spence
Daniel	Lloyd	Stangeland
Dannemeyer	Loeffler	Stenholm
Darden	Long (MD)	Stratton
Davis	Lott	Stump
de la Garza	Lowery (CA)	Sundquist
DeWine	Lujan	Tauzin
Dickinson	Lungren	Taylor
Donnelly	Mack	Thomas (CA)
Dowdy	MacKay	Thomas (GA)
Dreier	Madigan	Valentine
Duncan	Marlenee	Vander Jagt
Dyson	Marriott	Vandergriff
Edwards (AL)	Martin (NY)	Vucanovich
Emerson	McCain	Whitehurst
Erlenborn	McCandless	Whitley
Fazio	McCollum	Wilson
Fiedler	McEwen	Winn
Fields	Mollohan	Wright
Flippo	Montgomery	Yatron
Franklin	Moore	Young (AK)
Fuqua	Moorhead	Young (FL)
Gaydos	Morrison (WA)	

NAYS—256

Ackerman	Brown (CO)	Dwyer
Addabbo	Broyhill	Dymally
Akaka	Bryant	Early
Albosta	Carney	Eckart
Anderson	Carper	Edgar
Andrews (NC)	Carr	Edwards (CA)
Annunzio	Clay	Edwards (OK)
Applegate	Clinger	English
Aspin	Coats	Erdreich
AuCoin	Collins	Evans (IA)
Barnes	Conte	Evans (IL)
Bates	Conyers	Fascell
Bedell	Coughlin	Feighan
Beilenson	Coyne	Ferraro
Berman	Crockett	Fish
Bethune	D'Amours	Florio
Biaggi	Daschle	Foglietta
Boehlert	Daub	Ford (MI)
Boggs	Dellums	Ford (TN)
Boland	Derrick	Forsythe
Bonker	Dicks	Fowler
Borski	Dingell	Frank
Boucher	Dixon	Frenzel
Boxer	Dorgan	Frost
Britt	Downey	Garcia
Brown (CA)	Durbin	Gejdenson
Gekas	McCloskey	Savage
Gephardt	McCurdy	Schaefer
Glickman	McDade	Scheuer
Gonzalez	McGrath	Schneider
Goodling	McHugh	Schroeder
Gore	McKernan	Schumer
Gradison	McKinney	Seiberling
Gray	McNulty	Sensenbrenner
Green	Mica	Shannon
Gregg	Mikulski	Sharp
Guarini	Miller (CA)	Sikorski
Gunderson	Miller (OH)	Simon
Hall (IN)	Mineta	Smith (FL)
Hall (OH)	Minish	Smith (IA)
Hamilton	Mitchell	Smith (NJ)
Harkin	Moakley	Smith, Robert
Harrison	Moody	Snowe
Hawkins	Morrison (CT)	Snyder
Hayes	Mrazek	Solarz
Heftel	Murphy	Spratt
Hertel	Natcher	St Germain
Hiler	Neal	Staggers
Hopkins	Nowak	Stark
Horton	O'Brien	Stokes
Howard	Oakar	Studds
Hoyer	Oberstar	Swift
Hughes	Obey	Synar
Jacobs	Olin	Tallon
Jeffords	Ortiz	Tauke
Johnson	Ottinger	Torres
Jones (NC)	Owens	Torricelli
Kaptur	Oxley	Towns
Kastenmeier	Panetta	Traxler
Kennelly	Parris	Udall
Kildee	Patterson	Vento
Kogovsek	Pease	Volkmer
Kolter	Penny	Walgren
Kostmayer	Pepper	Walker
LaFalce	Perkins	Watkins
Lantos	Pickle	Waxman
Leach	Porter	Weaver
Lehman (CA)	Pritchard	Weber
Lehman (FL)	Pursell	Weiss
Leland	Rahall	Wheat
Levin	Rangel	Whittaker
Levine	Ratchford	Whitten
Levitas	Regula	Williams (MT)
Lewis (FL)	Reid	Williams (OH)
Lipinski	Richardson	Wirth
Long (LA)	Rinaldo	Wise
Lowry (WA)	Roberts	Wolf
Luken	Rodino	Wolpe
Lundine	Roe	Wortley
Markey	Rogers	Wyden
Martin (IL)	Rose	Wylie
Martin (NC)	Rostenkowski	Yates
Martinez	Roukema	Zablocki
Matsui	Roybal	Zschau
Mavroules	Russo	
Mazzoli	Sabo	

NOT VOTING—14

Alexander	Foley	Molinari
Bonior	Hance	Paul
Bosco	Jenkins	Sawyer
Burton (CA)	Lewis (CA)	Young (MO)
Coelho	Michel	

□ 1550

Mr. SAVAGE and Mr. ACKERMAN changed their votes from "yea" to "nay."

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

So the previous question was not ordered.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. PORTER TO THE MOTION OFFERED BY MR. YOUNG OF FLORIDA

Mr. PORTER. Mr. Speaker, I offer an amendment to the motion.

The Clerk read as follows:

Amendment offered by Mr. PORTER to the motion offered by Mr. YOUNG of Florida: At the end of the motion before the period on the last line add: "and to insist on disagreement to that part of the Senate amendment numbered 73 to "Procurement of Ammunition, Army" which provides $124,400,000 for

production facilities for and procurement of chemical munitions, and the accompanying provision."

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

The SPEAKER pro tempore (Mr. HERTEL of Michigan). Is there objection to the request of the gentleman from Illinois?

Mr. ANTHONY. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The Clerk will read.

The Clerk concluded the reading of the amendment.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. PORTER) is recognized for 1 hour.

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

Mr. Speaker, my amendment to the motion leaves the motion offered by the gentleman from Florida (Mr. YOUNG) intact and adds to that instructions to the Defense appropriations conferees to not recede from the House position and, therefore, to not agree to funding for binary chemical weapons production.

Mr. Speaker, I am not a member of the Defense Appropriations Subcommittee, and I do not pretend to be an expert in this area. But I do know a waste of the taxpayers' money when I see it.

This country has not produced binary chemical weapons, or indeed any chemical weapons, since 1969. The vote just taken on rejecting the previous question is almost identical to votes against chemical weapons production taken in the House twice previously this year. Overwhelmingly, the House of Representatives is opposed to authorizing or appropriating money for binary chemical weapons. We would not be here today discussing the matter if it were not for votes taken in the Senate.

As was said earlier in the debate, twice this year the Senate has tied on the floor in regard to the issue of whether we should produce new chemical weapons, and twice it has taken the Vice President casting a vote on behalf of the administration to break the tie. The conclusion is that there is not a majority of Members in either House that favor the production of binary chemical weapons. And yet, Mr. Speaker, here we are today once again finding it necessary to make certain that chemical weapons funding does not find its way into the conference report.

The intent of my amendment to the motion offered by the gentleman from Florida (Mr. YOUNG) is to do just that.

Mr. Speaker, there is strong evidence that the Soviets have used chemical weapons, through their proxies, in Laos and directly in Afghanistan. This use of a horrible weapon of death by our adversaries on innocent civilians has amazingly prompted cries in the Congress that we undertake to produce the same kind of weapon. What for? Rather what we have to do is to show the world that our society is not a society that finds it necessary to do the same things that the Soviets do and does not subscribe to an unconscionable weapon of this type. We have, it seems to me, a great propaganda advantage that we should take. We should reject chemical weapons funding because we already have on hand a very large stockpile of chemical weapons that provide an adequate deterrent to the Soviet Union against their first use. Now is the time to tell the world that they use them, they produce them, but the United States does not need to do so and indeed will not do so.

□ 1600

Furthermore there is nothing to be gained if we do produce new binary chemical weapons. Our European allies, caught right now in the throes of a disruptive movement in Western Europe to prevent the deployment of Pershing II and cruise missiles, will undoubtedly not accept them on their soil even if we were to produce them.

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

Mr. PORTER. I yield to the chairman, the gentleman from New York.

Mr. ADDABBO. I thank the gentleman for yielding.

Mr. Speaker and my colleagues, I fully support the instructions given to us by the gentleman from Florida (Mr. YOUNG) relative to testing and using animals, dogs and cats, in various experimentations.

I thank the gentleman from Illinois (Mr. PORTER) for offering his amendment to instruct the conferees on nerve gas and not offering it as a substitute, but as an amendment, so that we will have both instructions as we go to conference. I intend to fully support the position of the gentleman from Illinois.

Mr. PORTER. Mr. Speaker, I yield 2 minutes, for purposes of debate only, to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of the gentleman's (Mr. PORTER) amendment to the instructions to conferees offered by the gentleman from Florida and I want to commend him for the amendment.

I rise in strong support of it. I think in this particular instance, it is extremely important, in terms of the defense appropriation issue, we are at the last step in this legislative process and all the way throughout the process we have been frustrated by a determined minority certainly in the House, and in the Senate. I think the views of the constituents that we represent and our votes are simply not delivering the result that they should. Our constituents are against the development and deloyment of new nerve gas, binary nerve gas products. For this House it is an unusual step to instruct conferees. But it is especially important that we do so in regard to this issue. I think we are fully justified in this instance doing it based on what the past performance has been with regard to this very, very important issue of binary nerve gas.

We have had the will of the House completely disregarded and the instructions will bind the conferees to more forcefully represent the view of the House.

The United States has not produced new chemical weapons for 14 years. Now the Reagan administration and the Pentagon want to resume production of binary nerve gas. I strongly oppose this proposal as does this House. We must continue to speak out concerning this new arms race for new far reaching and dangerous chemical weapons. We are bound by treaty and morality to reject such weapons in the name of humanity.

So I commend the gentleman for his initiative and ask my colleagues to vote for his amendment to the instructions to conferees offered by the gentleman from Florida. Vote "yes" to hold our conferees to the House position against new nerve gas production.

Mr. PORTER. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. EDGAR), for purposes of debate only.

Mr. EDGAR. I thank the gentleman for yielding this time to me.

Mr. Speaker, I would like to simply congratulate the gentleman for his activities on this issue. I think it is important to recognize that this House on several occasions has had extensive debates on the issue of binary nerve gas. We have looked at the issue from various perspectives. We have had our votes, and the votes have overwhelmingly supported deleting binary nerve gas, and the instructions that the gentleman is offering is simply saying to our conferees that we want to hold fast to the House position.

I think the overwhelming vote we just cast gives us a great deal of hope that this one weapons system will be deleted. We have strong bipartisan support here in the House. We find little or no reason for the construction and production of nerve gas facilities, and I think the gentleman makes a great contribution to the House by giving us this opportunity to instruct the House on the issue of nerve gas, as well as keep in the language that the gentleman who offered the amendment earlier, before we struck down the previous question.

The gentleman is to be commended, and I commend my colleagues in the House to support his action.

Mr. Speaker, for the second time this year, the Senate has split down the middle on the question of resumed production of lethal nerve gas weapons, while the House has overwhelmingly opposed their production.

Representative JOHN PORTER has offered a motion to instruct the conferees to maintain the House position on chemical weapons, and prevent appropriation of any funds for their production.

There are several facts about nerve gas you should know:

First, a majority of neither body of Congress has voted for chemical weapons in 1983.

Second, the House Appropriations Committee voted 28 to 22 on October 20, 1983, to strike all funds for production of nerve gas.

Third, a recent GAO report dated September 28, 1983, recommended against appropriating funds for binary chemical weapons production, calling the request premature, and saying that "the Big Eye bomb has technical problems, and has undergone only limited testing." Both Armed Services Committees concede the technical problems would prevent production at this time.

Fourth, a September 27, 1983, Department of Defense blue ribbon panel report on our chemical weapons stockpile states that our stockpile of weapons is in good shape:

"Leakers" are isolated and either sealed or detoxified as part of routine surveillance procedures. The fraction of leakers is small (less than 6 per 10,000 artillery projectiles) and in most cases, the leaks seem to occur at improperly fitted joints or brazed joints.

Fifth, Secretary Weinberger told the Senate Armed Services Committee in February 1983 the U.S. stockpile or 155 millimeter shells is sufficient to deter chemical warfare against our troops:

For procurement of new artillery shells, the need is not one of addressing a clear lack of military capability. The United States possesses a stockpile of chemical nerve agent artillery shells, similar to the proposed M-687 binary round, that are compatible with modern 155mm and 8-inch artillery pieces. The quantity is in the range of sufficiency . . . and is actually higher than the planned acquisition quantity for the binary projectile. . . . The 155mm and 8-inch fills still meet acceptable standards.

There is no good reason to appropriate funds for new nerve gas this fiscal year. Members should support the Porter motion to instruct the conferees.

Mr. PORTER. Mr. Speaker, I yield 2 minutes, for purposes of debate only, to the gentlewomen from New Jersey (Mrs. ROUKEMA).

Mrs. ROUKEMA. Mr. Speaker, I want to particularly thank the gentleman from Illinois (Mr. PORTER) for raising this issue before the House, and, hopefully, very successfully. I also want to commend at this time the gentleman from Arkansas (Mr. BETHUNE) and the gentleman from Pennsylvania (Mr. EDGAR) who have consistently shown leadership on this issue.

Mr. Speaker, I rise in support of the motion of the gentleman from Illinois (Mr. PORTER). I urge my colleagues to support instructing the conferees to draft a conference report without any appropriation for chemical weapons, and demonstrate the commonsense they displayed on June 15 when this House overwhelmingly rejected the folly of these weapons. At that time, during consideration of the DOD authorization this body voted 256 to 161 to oppose production of chemical weapons and to continue the 14-year moratorium which had begun under the Nixon administration. That was sound policy 14 years ago, it was sound policy on June 15, and it is sound policy today,

As we all know, the other body for a second time could not muster a majority of Members in favor of nerve gas, and approved both the authorization and the appropriation, only 2 days ago, after the Vice President cast the tie-breaking vote. That action has brought this body to today's situation, in which we must decide, once and for all, to free the final DOD authorization for 1984 from all traces of chemical munitions.

We must reverse the authorization decision by supporting this motion. History will not forgive us if we agree to produce lethal munitions.

The case has not been made for production of these weapons. We have never received a satisfactory response to the question of deterrence, nor have the foreign policy implications of this move been adequately addressed, especially with respect to our NATO allies. A GAO report issued in July accurately conveys this point.

The United States has a large stockpile of toxic chemical munitions to deter other countries from using chemical warfare and to retaliate if deterrence is unsuccessful.

Additionally, the recent Chemical Stockpile Status Review concludes that the weapons in the stockpile are in "usable condition," and good shape. The panel, established by Dr. Theodore S. Gold, Deputy Assistant to the Secretary of Defense for Chemical Matters, and composed of the nine leading experts in the field of chemistry, recommended that storing chemical munitions at lower temperatures could significantly extend their lifetime, and that developing a program for sampling the weapons on a regular time scale could provide meaningful data with which to monitor the decomposition and effectiveness of the current stockpile of chemical munitions.

Finally, the DOD has not chosen any locations for its proposed three chemical munitions facilities. One of these facilities would produce the Big Eye bomb, which has undergone only limited testing due to many technical problems. I now ask my colleagues, are we to fund these munitions which are a futile attempt for defense, and for which the DOD has not even established locations?

To quote briefly from a September 15 New York Times editorial,

The Pentagon's case, challenged by civilian experts, is that the binary gas will be safer to handle in a European war. But the NATO allies don't want it on their territory. Apart from the Russians, only the French still stock poison gas. It is useful chiefly as a deterrent. It was not used in World War II because it is less effective against protected troops than high explosives and would inflict 20 civilian casualties for every military one.

The Secretary of Defense even acknowledged in written testimony earlier this year that there is no need for more artillery shells because we already have a usable, deliverable, and safe stockpile of chemical artillery shells. We do not need this insidious weaponry.

And lest anyone be misled this motion does not delete $1 from the funding of protective gear for our troops, nor does it delete moneys for research and development.

Many Members have helped in this effort, but let me take just a moment to pay particular tribute to the gentleman from Arkansas (Mr. BETHUNE) and the gentleman from Wisconsin (Mr. ZABLOCKI), Mr. PORTER and Mr. EDGAR. These two Members have provided invaluable leadership on this issue and they are to be commended for their efforts.

In closing, Mr. Speaker, let me emphasize that no case has been made for these munitions. A new weapons program would be established with little understanding of the impact upon foreign policy, military security, or comprehensive arms control. I urge our colleagues exercise logic and commonsense votes of last summer and support this motion.

Mr. PORTER. Mr. Speaker, I yield 2 minutes, for purposes of debate, to the gentleman from Virginia (Mr. BATEMAN).

Mr. BATEMAN. I thank the gentleman for yielding this time to me.

Mr. Speaker and Members of the House: I do not flatter myself with any notion that anything that I am going to say on this floor today will any more turn around the result of the vote that we will soon take than the remarks that I have offered on all the previous occasions when we have debated this issue. But I cannot let any opportunity available to me pass without at least expressing some degree of indignation that those who

rise on this floor on all the previous occasions, and today, arrogate unto themselves some superior moral rectitude, we are against the heinous use of poison gases, of chemical weapons.

There is no one in this Chamber who regards chemical weapons as being any more abhorrent than I, but by golly, I abhor our being subject to their use more than I abhor the notion of having a true deterrent that will see that they are not used. There is no one in this body who believes that these United States will use chemical weapons against any enemy.

It has been said that there are some who believe the Soviet Union has used chemical weapons in Afghanistan. If they have read, if they know anything of the evidence, they not only have reason to believe it, we know it. We have every reason to know that it has been used by their satellite states in Southeast Asia. We have already heard that for 14 years we have done nothing to upgrade our capability in chemical weapons. We are, we are told, need to occupy the high ground. We have a propaganda advantage.

I say to this House, we have had that propaganda advantage for 14 years.

The SPEAKER pro tempore. The time of the gentleman from Virginia (Mr. BATEMAN) has expired.

Mr. PORTER. Mr. Speaker, I yield 1 additional minute to the gentleman from Virginia.

Mr. BATEMAN. I thank the gentleman for yielding this additional time to me.

Mr. Speaker, we have had that advantage for more than 14 years and what has it gotten us? A Soviet capability far superior to ours, stocks which are getting aged, and all of the people who will be speaking today may tell you in their instant expertise on chemical warfare that they know more about this than the Joint Chiefs of Staff, anyone else who is knowledgeable in working day in and day out in the area of chemical weapons, but I say to them, as much as I respect you in your areas of genuine expertise, I would defer to those in our military who tell us that we have aging, depleting stocks. We need a capability that will be a true deterrent. We need to be assured that we do not, because of our inability to respond to a chemical attack, have to rise to the level of the use of tactical nuclear weapons or either leave our forces in the field in jeopardy.

I hope the House will rectify the errors which I so sincerely believe it has made in its previous efforts on this question.

□ 1610

Mr. PORTER. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Speaker, I want to associate myself with the very fine words of the able gentleman from Virginia (Mr. BATEMAN). He is telling the story precisely as it is.

We have been hearing a lot of bedtime stories about how we have an adequate, up-to-date, modern, usable chemical warfare capability. That is just baloney. It is simply not true, as the gentleman from Virginia has already said.

What I have tried to do in connection with the proposal of the gentleman from Florida (Mr. YOUNG) is to point out that additional information has recently become available to us. Technology in the field of defense moves along very swiftly. Within the last few weeks, apparently the Soviet Union has developed a new kind of gas that can actually penetrate our gas masks, feeble and limited as they are. I think it is very important that before this House simply goes off on the old cliché that "we voted this thing down time after time after time, "we ought to at least take a look at the current facts, which are highly disturbing.

This is a very dangerous piece of information. I think the House ought not to vote on this question until it can be explored a little bit further with the Pentagon.

In the book entitled "A Man Called Intrepid," Sir William Stevenson, the British intelligence representative in the United States before World War II, sent one of his operatives to President Roosevelt to tell him that Pearl Harbor was going to be bombed by the Japanese, but people in the Roosevelt administration simply did not believe it.

What we have here is a dramatic new piece of evidence. Yet Members are set in their ways on this matter of chemical warfare and still believe that we have adequate deterrent and, that we have got the right kind of capability. As a result, they pay no attention to this information, just as the Roosevelt administration refused to even listen to the warning on Pearl Harbor.

Mr. Speaker, I think it is most important that we vote down this motion offered by the gentleman from Illinois (Mr. PORTER) for the safety of the country.

Mr. PORTER. Mr. Speaker, I yield 2 minutes, for debate purposes only, to the gentleman from California (Mr. BADHAM).

Mr. BADHAM. Mr. Speaker, I thank the gentleman for yielding me this time.

I think we should make some response to the gentlewoman from New Jersey (Mrs. ROUKEMA), who spoke before the presentation of the last few speakers. I hope she mistakenly misspoke herself by saying that this concept has not had a majority vote in either House and we should not put it in this authorization bill. I think the gentlewoman has misspoken herself. This is an appropriation bill we are talking about, and the authorization bill which had this in it and to which she was referring was passed by both Houses of the Congress and is now law.

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

Mr. BADHAM. I do not have very much time, and I am sure the gentleman will have a chance to speak.

Mr. BETHUNE. Mr. Speaker, we will get the gentleman more time. I am sure the gentleman can be given another minute.

Mr. BADHAM. Then I will be more than happy to yield to the gentleman from Arkansas.

Mr. BETHUNE. Mr. Speaker, the gentleman is saying that this House approved it. The House approved it as part of a conference report.

Mr. BADHAM. That is right.

Mr. BETHUNE. It was not on an up-or-down vote here in this House on nerve gas. Not in the last 3 years while I have been sitting as a Member of this House as we have considered this issue has it ever passed this House.

Mr. BADHAM. Mr. Speaker, the point I am making is, first, that this is an appropriation bill, not an authorization bill. The authorization bill was passed and this is in it, so it had to be passed by both Houses.

So, Mr. Speaker, if I may reclaim my time, during the time we were debating the authorization bill and this subject came up, I pointed out, and I think it should be pointed out now, that our wonderful friends in the Soviet Union have been constantly producing chemical and biological agents since 1921, and they have used them in Afghanistan, they have used them in Southeast Asia, but they have never used them in the Western World. They never used them in World War II when they were offered to them, when the German forces were at the gates of Stalingrad.

The SPEAKER pro tempore. The time of the gentleman from California (Mr. BADHAM) has expired.

Mr. PORTER. Mr. Speaker, I yield 1 additional minute to the gentleman from California (Mr. BADHAM).

Mr. BADHAM. Mr. Speaker, the story goes that Mr. Churchill contacted Mr. Stalin and asked him if he needed any help. He asked him if he needed any poisonous gas or chemical weapons.

Stalin said, "No, thanks. We have a lot of it."

Why did they not use it? Because they did not have to or because they did not fear retaliation?

The Soviet Union has used chemical agents where they do not fear retaliation, and they do not use them when they do fear retaliation.

We have chemical weapons, as the gentleman from New York said, but they are junk; they are chemically eroded and corroded. They are out of date. We simply want, by this up-to-date technology, to replace old, corroded, used up chemical weapons that are no good and that are unsafe with chemical weapons to which we have pledged no first use, so that we might have a retaliatory capability, and that is all.

Mr. Speaker, I hope the amendment is defeated.

Mr. PORTER. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Speaker, I thank the gentleman from Illinois for yielding this time to me.

I am heartened by the votes in the House which have set us against the addition of further nerve gas production, and I am heartened by the leadership of the gentleman from Illinois (Mr. PORTER) and the gentleman from Arkansas (Mr. BETHUNE) and by friends on the Democratic side of the aisle who have led in this issue.

I am very proud of our Nation. It is the greatest Nation on Earth, the freest nation on Earth, and I think that the Soviet system is ugly, retaliatory, and tyrannic. I do not want our Nation to be like the Soviet Union in any way.

When I think that this House has taken on a position where we set child nutrition ahead of nerve gas and where we set education ahead of the production of vile systems of death, then I think that this country can look itself in the eye and say that we are a great Nation. If the Soviet Union in its ugliness persists in producing these vile weapons, then certainly we have means to defend ourselves without imitating them.

Mr. PORTER. Mr. Speaker, I yield 2 minutes, for purposes of debate only, to the gentleman from Arkansas (Mr. ANTHONY).

Mr. ANTHONY. Mr. Speaker, I thank the gentleman for yielding me the 2 minutes.

I know that what I say here will have little impact on Members' own thoughts, especially if they are voting this issue from a moral standpoint, because they do not want to hear the facts. If they are voting this issue from an emotional standpoint, they are not going to listen to the facts. But to those few legislators who are still left around after I mention those two categories, I would like to mention some of the factual points.

It makes no sense to hamstring our conferees so they are not able to go into conference and hammer out some type of sensible compromise. A sensible compromise would be that which we passed in the conference report as an amendment. That gives us the opportunity to take the high road that we want. It also gives our Ambassador Fields the ultimate opportunity to say to the Soviets, "Negotiate with us in seriousness or we will start production."

We can say to the conferees, "Vote to put money in to build the facility, vote to put money in to build the canister in which you put it, in other words, the metal parts and the plastic parts, but," we can tell the conferees, "don't spend any money to actually build the gas. Don't build it and put it together."

We can tell them that, and we can say under Mr. LEE's proposal, "Until October 1985, don't do that."

What does that give our Ambassador an opportunity to do? It gives him an opportunity to sit eyeball to eyeball with the Russians and say, "Negotiate." They can come back in October 1985 and tell us they negotiated, here is the treaty, and then we do not build.

Or they can say, "We have no treaty," in which case we can say, "Now, are we ready to get off the high road and tell the Russians we are able to produce?"

Then, Mr. Speaker, we have the capability to produce, but if we postpone this until October 1, 1985, we will only be that many more months and years behind.

□ 1620

Mr. PORTER. Mr. Speaker, I yield 2 minutes, for purposes of debate only, to the gentleman from Arkansas (Mr. BETHUNE).

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

It has been said here several times outright and it has been inferred in a few others that we ought to defer to the expertise of the Military Establishment on this particular issue. Well, it seems like that is what we do on all the issues relating to defense. It must be, because they have gotten everything they have asked for, so we must be deferring to their expertise.

On this particular issue, some of us started asking some questions, because we did not believe that the military had all the answers and, indeed, they did not have all the answers; and the more questions we asked, the more we discovered that they really did not know what they were talking about on this particular issue.

The great impulse for chemical weapons in this country comes from the moribund Chemical Corps. They are the only unit in the Pentagon that has not gotten what they asked for, so they come back and they come back. They are embarrassed by the fact that they have not got their program and now they are trying to get you to give them what they are asking for. These are the career pressures that build upon on those people in the Pentagon. They will say anything, tell you anything, distort any piece of information in order to sell the program.

We saw that happen right here in this House Chamber when we were debating the Bigeye bomb 2 years ago on the House floor. They possessed information that the bomb was blowing up. Did they give it to us? No. Keep that from the decisionmakers, because we need to keep the momentum on our program. We need to keep it going.

Now, let us examine what it is they are asking for here, because everyone always says—the gentleman from New York (Mr. STRATTON) is famous for this—that the Soviets are building all of these exotic weapons and we have got to match them somehow.

Well, what are we really asking for here? What is the moribund Chemical Corps asking for here? They are asking for 155 artillery shells and the Bigeye bomb. We do not need the 155 artillery shells. Our stockpile is perfectly adequate. Their own blue ribbon committee found that it is good into the 1990's.

Second, the Bigeye bomb is not working. They have not dynamically tested it, so you are going to deter the Soviets by building weapons you do not need and weapons that do not work? That is lunacy. Let us save the money. Let us stop one minor program that President Reagan has asked for, just in the interest of showing that we, the decisionmakers, can from time to time arrive at our own decisions.

Mr. PORTER. Mr. Speaker, I yield 2 minutes, for purposes of debate only, to the gentleman from Missouri (Mr. SKELTON).

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

I do not think we have the luxury, Mr. Speaker, in this instance to do other than to stick with production and go forward with the production of binary gas.

Let me give you a very simple scenario that concerns me a great deal. It concerns me about the potential threat of our young men, wherever they may be. Let us assume we have a front between the Soviets and between our forces and on this front you have five battalions of the Soviets facing five battalions of our forces. Were we not to have the threat of nerve gas and the deterrent of the nerve gas, the Soviets would have the luxury of choosing any one of those parts of the front to equip their troops with antigas suits and use that particular type of weapon, nerve gas.

We, on the other hand, not knowing where this type of attack could come from, would have to outfit all five of our battalions in the very cumbersome, very difficult to wear, and very inefficient suits to defend ourselves.

I ask, what type of deterrent is this? This is the decision that is placed before us, placed before our command-

er. That is why we should be for this production in this case.

Mr. PORTER. Mr. Speaker, I yield myself the remaining time that I may have.

Mr. Speaker, I will just take a final minute to say that the motion of the gentleman from Florida (Mr. YOUNG) is left intact by this amendment. The amendment is an addition to the motion.

My amendment deals only with the production of chemical weapons. It does not deal with R&D. If we need to keep up with the Soviet Union—and I am sure we do—the R&D funds are not touched by this amendment.

I might say also, and it has not been mentioned earlier in the debate, that the General Accounting Office issued a report on September 28, 1983, dealing with this entire subject. The GAO recommendation to the House and to the other body regarding chemical weapons funding was in every case not to provide for it, to defer it, and that is the independent judgment of a highly respected and careful arm of the Congress on the viability of the funds that have been included on the Senate side by the vote of the Vice President breaking a tie in the other body on behalf of the administration in favor of resuming chemical weapons productions.

It seems to me that the issue is very clear. Is this country, after 14 years of not producing chemical weapons and having on hand a large and good stockpile of unitary weapons—larger, I might add, than the amount of binary weapons proposed to be produced—going to resume the production of a weapon that we do not need, a weapon that is costly, and a weapon that does not fit, in my judgment, any ideal or principle, or, indeed any purpose of our country. The answer should be "no" and repeatedly the House has said "no."

I urge the Members to vote in favor of the amendment to the motion and clearly instruct our comprees, in unmistakable terms that we want the conference report to include absolutely no funds for chemical weapons production.

Mr. Speaker, I move the previous question on the motion and the amendment thereto.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Illinois (Mr. PORTER) to the motion offered by the gentleman from Florida (Mr. YOUNG).

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

Mr. PORTER. 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 258, nays 166, not voting 10, as follows:

[Roll No. 506]

YEAS—258

Ackerman	Gejdenson	Oakar
Addabbo	Gekas	Oberstar
Akaka	Gephardt	Obey
Albosta	Gibbons	Olin
Anderson	Gingrich	Ottinger
Annunzio	Glickman	Owens
Applegate	Gonzalez	Oxley
Aspin	Goodling	Panetta
AuCoin	Gore	Parris
Barnes	Gradison	Patterson
Bates	Gray	Pease
Bedell	Green	Penny
Beilenson	Gregg	Pepper
Berman	Guarini	Perkins
Bethune	Gunderson	Pickle
Biaggi	Hall (IN)	Porter
Boehlert	Hall (OH)	Pritchard
Boggs	Hamilton	Pursell
Boland	Harkin	Rahall
Bonior	Harrison	Rangel
Bonker	Hawkins	Ratchford
Borski	Hayes	Regula
Bosco	Heftel	Reid
Boxer	Hertel	Richardson
Britt	Hiler	Rinaldo
Broomfield	Hopkins	Roberts
Brown (CA)	Horton	Rodino
Brown (CO)	Howard	Roe
Broyhill	Hoyer	Roemer
Bryant	Huckaby	Rostenkowski
Burton (CA)	Jacobs	Roukema
Carney	Jeffords	Russo
Carper	Johnson	Sabo
Carr	Jones (NC)	Savage
Clay	Kaptur	Schaefer
Clinger	Kastenmeier	Scheuer
Coats	Kennelly	Schneider
Coelho	Kildee	Schroeder
Collins	Kogovsek	Schumer
Conte	Kolter	Seiberling
Conyers	Kostmayer	Sensenbrenner
Cooper	LaFalce	Shannon
Coughlin	Lantos	Sharp
Coyne	Leach	Sikorski
Crockett	Lehman (CA)	Simon
D'Amours	Lehman (FL)	Slattery
Daschle	Leland	Smith (FL)
Daub	Levin	Smith (IA)
Dellums	Levine	Smith (NJ)
Derrick	Lewis (FL)	Smith, Robert
Dicks	Lipinski	Snowe
Dingell	Long (LA)	Solarz
Dixon	Lowry (WA)	Spratt
Dorgan	Luken	St Germain
Downey	Lundine	Staggers
Duncan	Markey	Stark
Durbin	Martin (IL)	Stokes
Dwyer	Martin (NC)	Studds
Dymally	Martinez	Swift
Early	Matsui	Synar
Eckart	Mavroules	Tallon
Edgar	Mazzoli	Tauke
Edwards (CA)	McCloskey	Thomas (GA)
Edwards (OK)	McCurdy	Torres
English	McGrath	Torricelli
Erdreich	McHugh	Towns
Evans (IA)	McKernan	Traxler
Evans (IL)	McKinney	Udall
Fascell	McNulty	Vander Jagt
Feighan	Mica	Vento
Ferraro	Mikulski	Volkmer
Fish	Miller (CA)	Walgren
Florio	Miller (OH)	Walker
Foglietta	Mineta	Watkins
Foley	Minish	Waxman
Ford (MI)	Mitchell	Weaver
Ford (TN)	Moakley	Weber
Forsythe	Morrison (CT)	Weiss
Fowler	Mrazek	Wheat
Frank	Murphy	Whittaker
Frenzel	Natcher	Whitten
Frost	Neal	Williams (MT)
Garcia	Nowak	Williams (OH)
Wirth	Wortley	Yatron
Wise	Wyden	Zablocki
Wolpe	Yates	Zschau

NAYS—166

Alexander	Hall, Sam	Nichols
Andrews (NC)	Hammerschmidt	Nielson
Andrews (TX)	Hansen (ID)	O'Brien
Anthony	Hansen (UT)	Ortiz
Archer	Hartnett	Packard
Badham	Hatcher	Pashayan
Barnard	Hefner	Patman
Bartlett	Hightower	Petri
Bateman	Hillis	Price
Bennett	Holt	Quillen
Bereuter	Hubbard	Ray
Bevill	Hughes	Ridge
Bilirakis	Hunter	Ritter
Billey	Hutto	Robinson
Boner	Hyde	Rogers
Breaux	Ireland	Rose
Brooks	Jones (OK)	Roth
Burton (IN)	Jones (TN)	Rowland
Byron	Kasich	Rudd
Campbell	Kazen	Schulze
Chandler	Kemp	Shaw
Chappell	Kindness	Shelby
Chappie	Kramer	Shumway
Cheney	Lagomarsino	Shuster
Clarke	Latta	Siljander
Coleman (MO)	Leath	Sisisky
Coleman (TX)	Lent	Skeen
Conable	Levitas	Skelton
Corcoran	Livingston	Smith (NE)
Courter	Lloyd	Smith, Denny
Craig	Loeffler	Snyder
Crane, Daniel	Long (MD)	Solomon
Crane, Philip	Lott	Spence
Daniel	Lowery (CA)	Stangeland
Dannemeyer	Lujan	Stenholm
Darden	Lungren	Stratton
Davis	Mack	Stump
de la Garza	MacKay	Sundquist
DeWine	Madigan	Tauzin
Dickinson	Marlenee	Taylor
Donnelly	Marriott	Thomas (CA)
Dowdy	Martin (NY)	Valentine
Dreier	McCain	Vandergriff
Dyson	McCandless	Vucanovich
Edwards (AL)	McCollum	Whitehurst
Emerson	McDade	Whitley
Erlenborn	McEwen	Wilson
Fiedler	Michel	Winn
Fields	Mollohan	Wolf
Flippo	Montgomery	Wright
Franklin	Moore	Wylie
Fuqua	Moorhead	Young (AK)
Gaydos	Morrison (WA)	Young (FL)
Gilman	Murtha	Young (MO)
Gramm	Myers	
Hall, Ralph	Nelson	

NOT VOTING—10

Boucher	Lewis (CA)	Roybal
Fazio	Molinari	Sawyer
Hance	Moody	
Jenkins	Paul	

□ 1640

Messrs. FUQUA, LATTA, ROSE, and PASHAYAN changed their votes from "yea" to "nay."

So the amendment to the motion was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the motion to instruct, as amended, offered by the gentleman from Florida (Mr. YOUNG).

The motion to instruct, as amended, was agreed to.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. ADDABBO, CHAPPELL, MURTHA, DICKS, WILSON, HEFNER, HIGHTOWER, AUCOIN, WHITTEN, EDWARDS of Alabama, ROBINSON, MCDADE, YOUNG of Florida, and CONTE;

and as additional conferees only for consideration of Senate amendment numbered 167 and modifications committed to conference: Messrs. BOLAND, STOKES, and REGULA.

There was no objection.

PERMISSION TO HAVE UNTIL MIDNIGHT, THURSDAY, NOVEMBER 17, 1983, TO FILE CONFERENCE REPORT ON H.R. 4185, DEPARTMENT OF DEFENSE APPROPRIATIONS, 1984

Mr. ADDABBO. Mr. Speaker, I ask unanimous consent that the managers may have until midnight Thursday, November 17, 1983, to file a conference report on the bill (H.R. 4185) making appropriations for the Department of Defense for the fiscal year ending September 30, 1984, and for other purposes.

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

There was no objection.

MOTION TO CLOSE CONFERENCE COMMITTEE MEETINGS ON H.R. 4185, DEPARTMENT OF DEFENSE APPROPRIATIONS, 1984, WHEN CLASSIFIED NATIONAL SECURITY INFORMATION IS UNDER CONSIDERATION

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

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. ADDABBO moves, pursuant to rule XXVIII, clause 6(a) of the House rules, that the conference committee meetings between the House and the Senate on H.R. 4185, the Department of Defense appropriation bill for the fiscal year ending September 30, 1984, and for other purposes, be closed to the public at such times as classified national security information is under consideration, *Provided however,* That any sitting Member of Congress shall have a right to attend any closed or open meeting.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. ADDABBO).

Under the rules, this vote must be taken by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 419, nays 0, not voting 15, as follows:

[Roll No. 507]

YEAS—419

Ackerman	Archer	Bennett
Addabbo	Aspin	Bereuter
Akaka	AuCoin	Berman
Albosta	Badham	Bethune
Alexander	Barnard	Bevill
Anderson	Barnes	Biaggi
Andrews (NC)	Bartlett	Bilirakis
Andrews (TX)	Bateman	Bliley
Annunzio	Bates	Boehlert
Anthony	Bedell	Boggs
Applegate	Bellenson	Boland
Boner	Fowler	Lowry (WA)
Bonior	Frank	Lujan
Bonker	Franklin	Lundine
Borski	Frenzel	Lungren
Bosco	Frost	Mack
Boucher	Fuqua	MacKay
Boxer	Garcia	Madigan
Breaux	Gaydos	Markey
Britt	Gejdenson	Marlenee
Brooks	Gekas	Marriott
Broomfield	Gephardt	Martin (IL)
Brown (CA)	Gibbons	Martin (NC)
Brown (CO)	Gilman	Martin (NY)
Broyhill	Gingrich	Martinez
Bryant	Glickman	Matsui
Burton (CA)	Gonzalez	Mavroules
Burton (IN)	Goodling	Mazzoli
Byron	Gore	McCain
Campbell	Gradison	McCandless
Carney	Gramm	McCloskey
Carper	Gray	McCollum
Carr	Green	McCurdy
Chandler	Gregg	McDade
Chappell	Guarini	McEwen
Chappie	Gunderson	McGrath
Cheney	Hall (IN)	McHugh
Clarke	Hall (OH)	McKernan
Clay	Hall, Ralph	McKinney
Clinger	Hall, Sam	McNulty
Coats	Hamilton	Mica
Coelho	Hammerschmidt	Michel
Coleman (MO)	Hansen (ID)	Mikulski
Coleman (TX)	Hansen (UT)	Miller (CA)
Collins	Harkin	Miller (OH)
Conable	Harrison	Mineta
Conte	Hartnett	Minish
Conyers	Hatcher	Mitchell
Cooper	Hawkins	Moakley
Corcoran	Hayes	Mollohan
Coughlin	Hefner	Montgomery
Courter	Heftel	Moody
Coyne	Hertel	Moore
Craig	Hightower	Moorhead
Crane, Daniel	Hiler	Morrison (CT)
Crane, Philip	Hillis	Morrison (WA)
Crockett	Holt	Mrazek
D'Amours	Hopkins	Murphy
Daniel	Howard	Murtha
Dannemeyer	Hoyer	Myers
Darden	Hubbard	Natcher
Daschle	Huckaby	Neal
Daub	Hughes	Nelson
Davis	Hunter	Nichols
de la Garza	Hutto	Nielson
Dellums	Hyde	Nowak
Derrick	Ireland	O'Brien
DeWine	Jacobs	Oakar
Dickinson	Jeffords	Oberstar
Dicks	Jenkins	Obey
Dingell	Johnson	Olin
Dixon	Jones (OK)	Ortiz
Donnelly	Jones (TN)	Ottinger
Dorgan	Kaptur	Owens
Dowdy	Kasich	Oxley
Downey	Kastenmeier	Packard
Dreier	Kazen	Panetta
Duncan	Kemp	Parris
Durbin	Kennelly	Pashayan
Dwyer	Kildee	Patman
Dymally	Kindness	Patterson
Dyson	Kogovsek	Pease
Early	Kolter	Penny
Eckart	Kostmayer	Pepper
Edgar	Kramer	Perkins
Edwards (AL)	LaFalce	Petri
Edwards (CA)	Lagomarsino	Pickle
Edwards (OK)	Lantos	Porter
Emerson	Latta	Price
English	Leach	Pritchard
Erdreich	Leath	Quillen
Erlenborn	Lehman (CA)	Rahall
Evans (IA)	Lehman (FL)	Rangel
Evans (IL)	Leland	Ratchford
Fascell	Lent	Ray
Feighan	Levin	Regula
Ferraro	Levine	Reid
Fiedler	Levitas	Richardson
Fields	Lewis (FL)	Ridge
Fish	Lipinski	Rinaldo
Flippo	Livingston	Ritter
Florio	Lloyd	Roberts
Foglietta	Loeffler	Robinson
Foley	Long (LA)	Rodino
Ford (MI)	Long (MD)	Roe
Ford (TN)	Lott	Roemer
Forsythe	Lowery (CA)	Rogers
Rose	Smith, Denny	Vandergriff
Rostenkowski	Smith, Robert	Vento
Roth	Snowe	Volkmer
Roukema	Snyder	Vucanovich
Rowland	Solarz	Walgren
Rudd	Solomon	Walker
Russo	Spence	Watkins
Sabo	Spratt	Waxman
Savage	St Germain	Weaver
Schaefer	Staggers	Weber
Scheuer	Stangeland	Weiss
Schneider	Stark	Wheat
Schroeder	Stenholm	Whitehurst
Schulze	Stokes	Whitley
Schumer	Stratton	Whittaker
Sensenbrenner	Studds	Whitten
Shannon	Stump	Williams (OH)
Sharp	Sundquist	Wilson
Shaw	Swift	Winn
Shelby	Synar	Wirth
Shumway	Tallon	Wise
Shuster	Tauke	Wolf
Sikorski	Tauzin	Wolpe
Siljander	Taylor	Wortley
Simon	Thomas (CA)	Wright
Sisisky	Thomas (GA)	Wyden
Skeen	Torres	Wylie
Skelton	Torricelli	Yates
Slattery	Towns	Yatron
Smith (FL)	Traxler	Young (MO)
Smith (IA)	Udall	Zablocki
Smith (NE)	Valentine	Zschau
Smith (NJ)	Vander Jagt	

NOT VOTING—15

Fazio	Luken	Sawyer
Hance	Molinari	Seiberling
Horton	Paul	Williams (MT)
Jones (NC)	Pursell	Young (AK)
Lewis (CA)	Roybal	Young (FL)

□ 1700

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.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 3959, SUPPLEMENTAL APPROPRIATIONS, 1984

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the managers may have until midnight to file a conference report on the bill (H.R. 3959) making supplemental appropriations for the fiscal year ending September 30, 1984, and for other purposes.

The SPEAKER pro tempore. (Mr. COLEMAN of Texas). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

CONFERENCE REPORT (H. REPT. No. 98-551)

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3959) "making supplemental appropriations for the fiscal year ending September 30, 1984, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 14, 17, 22, 32, 46, 47, 58, 59, 63, 64, and 66.

That the House recede from its disagreement to the amendments of the Senate numbered 3, 8, 9, 10, 21, 24, 25, 26, 28, 29, 33, 34, 35, 38, 40, 43, 50, 53, 56, and 57, and agree to the same.

Amendment numbered 41:

That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows:

For an additional amount for pre-kindergarten programs, $1,600,000.

And the Senate agree to the same.

Amendment numbered 51:

That the House recede from its disagreement to the amendment of the Senate numbered 51, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert *$6,000,000*; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 1, 2, 4, 5, 6, 7, 11, 12, 13, 15, 16, 18, 19, 20, 23, 27, 30, 31, 36, 37, 39, 42, 44, 45, 48, 49, 52, 54, 55, 60, 61, 62, 65, and 67.

JAMIE L. WHITTEN,
EDWARD P. BOLAND,
WILLIAM H. NATCHER,
NEAL SMITH,
JOSEPH P. ADDABBO,
SIDNEY R. YATES,
TOM BEVILL,
WILLIAM LEHMAN,
VIC FAZIO,
SILVIO O. CONTE,
JOSEPH M. McDADE,
JOHN T. MYERS,
LAWRENCE COUGHLIN,
GEORGE M. O'BRIEN,
Managers on the Part of the House.

MARK O. HATFIELD,
TED STEVENS,
LOWELL P. WEICKER, JR.,
JAMES A. McCLURE,
JAKE GARN,
THAD COCHRAN,
MARK ANDREWS,
ALFONSE M. D'AMATO,
JOHN C. STENNIS,
WILLIAM PROXMIRE,
TOM EAGLETON,
LAWTON CHILES,
(except amendment No. 63),
WALTER D. HUDDLESTON,
DENNIS DeCONCINI,
(except amendment No. 63),
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3959) making supplemental appropriations for the fiscal year ending September 30, 1984, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I

CHAPTER I

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING FOR THE ELDERLY OR HANDICAPPED FUND

Amendment No. 1: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate limiting the interest rate on Section 202 projects to 9.25 percent.

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

Amendment No. 2: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in amendment of the Senate appropriating $600,000 to the Council on Environmental Quality and Office of Environmental Quality for two contract studies related to water resources.

The conferees are aware of the broad responsibilities and technical expertise of the U.S. Geological Survey, the Environmental Protection Agency, and the Army Corps of Engineers in matters related to water resources and water quality. The Council is directed to consult with and rely on these agencies for technical guidance in developing the study requirements and monitoring the progress of the contracts. The conferees expect these contracts to be competitively awarded to university-based organizations and to be completed by September 30, 1984.

FEDERAL EMERGENCY MANAGEMENT AGENCY

Amendment No. 3: Inserts heading as proposed by the Senate.

SALARIES AND EXPENSES

Amendment No. 4: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate increasing the limitation on the Federal Emergency Management Agency's reception and representation allowance for fiscal year 1984 from $500 to $2,000.

STATE AND LOCAL ASSISTANCE

Amendment No. 5: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which effectively sets aside the fiscal year 1984 authorization limitation of $54,000,000 for contributions to States under section 205 of the Federal Civil Defense Act and specifies that $55,000,000 of the funds already appropriated for state and local assistance in the Department of Housing and Urban Development-Independent Agencies Appropriation Act of 1984 shall be available for such purpose.

EMERGENCY FOOD DISTRIBUTION AND SHELTER PROGRAM

Amendment No. 6: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum of $40,000,000 named in two instances in said amendment, insert in both instance: *$30,000,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

CONSTRUCTION OF FACILITIES

Amendment No. 7: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate inserting language appropriating $20,000,000 for construction of facilities for partial funding of two shuttle projects and permitting previously appropriated fiscal year 1984 funds to be used to contract with Thiokol to amortize the casting pit covers over 12-year period, at a total cost of not more than $23,000,000.

The conferees further agree that NASA transfer $3,450,000 from the research and development appropriation to the construction of facilities account for the design and preparation of a Kennedy Space Center site for subsequent construction of a solid rocket booster assembly and refurbishment facility.

VETERANS' ADMINISTRATION

COMPENSATION AND PENSIONS

Amendment No. 8: Deletes language proposed by the House and stricken by the Senate appropriating $66,000,000 for compensation and pensions for fiscal year 1983.

READJUSTMENT BENEFITS

Amendment No. 9: Deletes language proposed by the House and stricken by the Senate appropriating $40,000,000 for readjustment benefits for fiscal year 1983.

MEDICAL AND PROSTHETIC RESEARCH

Amendment No. 10: Appropriates $53,974,000 for medical and prosthetic research as proposed by the Senate, instead of $57,356,000 as proposed by the House.

VETERANS JOB TRAINING

Amendment No. 11: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

For an additional amount for payment of expenses as authorized by the Emergency Veterans' Job Training Act of 1983 (Public Law 98-77), $75,000,000, to remain available until September 30, 1986.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree to provide an additional $75,000,000 for the veterans' job training program in fiscal year 1984. This amount, together with the $75,000,000 included in the Further Continuing Appropriations Joint Resolution, provides the $150,000,000 authorized and requested for this program in fiscal year 1984.

The conferees are concerned that the Veterans' Administration administers this program to ensure compliance with the basic law. In that connection, it is directed that the VA verify the type of employment and training experienced by the recipient in order to ensure such compliance. Also, the conferees direct that the VA collect sufficient data for an evaluation study funded from the general operating expense appropriation. For example, data on recipient length of unemployment should be requested on the application form and should be computerized with other benefit data in connection with this and other benefit programs.

GENERAL OPERATING EXPENSES

Amendment No. 12: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Of the funds appropriated under this heading in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1984 (Public Law 98-45), $1,000,000 shall be available for an evaluation of the emergency veterans' job training program.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Subsequent to action by both houses on the 1984 Supplemental Appropriations Bill, the Committees on Appropriations became aware of $13,779,000 in savings in the general operating expenses account. These sav-

ings accrued owing to a limitation on the increase in the standard level user charge in fiscal year 1984. Therefore, the conferees agree that administrative expenses associated with the veterans' job training program can be provided from within existing resources. The conferees further agree that an evaluation of the program, as outlined in Senate Report 98-275, can also be funded from within available resources.

CHAPTER II—LEGISLATIVE BRANCH

SENATE

Amendment No. 13: Reported in technical disagreement. Inasmuch as this amendment relates solely to the Senate and in accord with long practice, under which each body determines its own housekeeping requirements and the other body concurs without intervention, the managers on the part of the House will move to recede and concur in the Senate amendment.

RAILROAD ACCOUNTING PRINCIPLES BOARD

Amendment No. 14: Appropriates $50,000, subject to the enactment of authorizing legislation, for salaries and expenses as proposed by the House.

CHAPTER III

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

Amendment No. 15: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $1,500,000 for the construction of a new headquarters for the operation of the Valley Division of the Yuma Reclamation Project.

Central Arizona Project.—Within funds provided in the fiscal year 1984 construction program for the Central Arizona Project (Public Law 98-50), $50,000 is for an evaluation of available water supplies in the Salt-Verde River Basin which could be developed for conservation purposes. The preliminary evaluation should be completed and submitted to the Committees for review by April 1, 1984.

Arbuckle Project, Okla.—The Conference Committee directs the Bureau of Reclamation to make available within existing funds approximately $200,000 to complete preconstruction activities necessary for the construction of previously authorized conveyance facilities in connection with the Arbuckle Project, Okla., to provide municipal and industrial water to Sulphur, Okla. Such activities will include making location studies, environmental studies, collection of design data, and beginning preparation of design and specifications for the pumping plant, pipeline and appurtenant features.

Upper John Day Project, Oreg.—The conferees direct the Bureau of Reclamation to use $150,000 of available funds to complete the Upper John Day project study in 1984. The data necessary for the study has already been collected and analyzed and additional funds would allow for the completion of the planning report and environmental statement.

Hoover Dam Powerplant Uprating and Facility Improvements.—The Committee directs the Bureau of Reclamation to allocate sufficient funds from the construction program to undertake advanced engineering and design on Hoover Dam Powerplant and other facility improvements. The project has been in operation for more than 40 years and critical safety and equipment requirements have been identified for implementation. This action will allow the Bureau of Reclamation to begin initial engineering activities prior to project authorization.

Lower Colorado River Flooding.—Controlled flooding conditions along the lower Colorado River, and recent floods in New Mexico and Arizona require a coordinated review by both the Corps of Engineers and the Bureau of Reclamation and a recommendation of measures to prevent or minimize recurring damage. Additionally, the conferees urge the Bureau to comprehensively address the serious groundwater problems in the lower Colorado region within existing authorization.

Muddy Creek Project, Montana.—The conferees recommend that of the funds appropriated in Public Law 98-50 under General Investigations, $10,000 shall be available for transfer to the State of Montana to continue erosion control studies on the Muddy Creek Project, Montana.

DEPARTMENT OF ENERGY

ENERGY SUPPLY, RESEARCH, AND DEVELOPMENT ACTIVITIES

Amendment No. 16: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur with the amendment of the Senate which appropriates $8,000,000 for "Energy Supply, Research and Development Activities". Of this amount, $4,000,000 is available for the four atoll health care plan authorized in section 102 of Public Law 96-205. The conferees intend that this funding be consistent with the health care arrangements under Section 177 of the Compact For Free Association. The conferees agree that the Secretary of the Interior should develop a health care plan as required under section 106 of P.L. 96-205 addressing the health care needs of those found to have been exposed to radiation from the nuclear weapons testing program and that these funds are available for implementation of such plan. The provision of these funds does not assume any future commitments for additional funding for this program.

The conferees agree that $3,000,000 is available for construction and operation of a second small community solar energy project on the Island of Molokai, Hawaii, and that $2,000,000 of available funds shall be used for the thermal energy storage program identified in the House Report 98-272 and that it be conducted under the "Energy Storage Systems" activity.

Within the funds provided to the Department of Energy in P.L. 98-50, the managers direct the Department to use up to $500,000 to complete by June 30, 1984, the environmental studies, planning and design activities on the Lakeview, Oregon, uranium mill tailings site pursuant to Public Law 95-604. The Department is expected to consult and cooperate with appropriate State and local officials in the development and implementation of this remedial action program.

ATOMIC ENERGY DEFENSE ACTIVITIES

Amendment No. 17: Appropriates $57,000,000 as proposed by the House, instead of $60,000,000 as proposed by the Senate for the continued construction and development of the Waste Isolation Pilot Plant, project 77-13-f.

Amendment No. 18: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur with the amendment of the Senate which provides authority for the Department of Energy to purchase four additional helicopters.

The conferees direct that the Department of Energy obtain the approval of the Committees on Appropriations prior to the actual purchase of any helicopters under this provision.

Amendment No. 19: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

TERMINATION OF THE USE OF CERTAIN SEEPAGE BASINS

Of the funds heretofore appropriated for "Atomic Energy Defense Activities", $30,000,000 is to be made available for use by the Secretary of Energy—

(1) to terminate, within 24 months after the date of enactment of this Act, the use of seepage basins associated with the fuel fabrication area at the Savannah River Plant, Aiken, South Carolina; and

(2) to submit to the appropriate committees of Congress, within 6 months after the date of enactment of this Act, a plan for the protection of groundwater at the Savannah River Plant which shall include—

(A) proposed methods for discontinuing the use of seepage basins associated with the materials processing areas;

(B) provisions for the implementation of other actions appropriate to mitigate any significant adverse effects of on-site or off-site groundwater and of chemical contaminants in seepage basins and adjacent areas, including the removal of such contaminants where necessary; and

(C) provisions for continuing the expanded monitoring program of groundwater impacts involving the appropriate South Carolina agencies in accordance with the statutory responsibilities of such agencies.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Department should prepare a detailed plan for the work to be performed and the expenditure of the funds redirected by this amendment is subject to the prior approval of the Committees on Appropriations and appropriate authorizing committees.

Amendment No. 20: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur with the amendment of the Senate which rescinds $50,000,000 for Project 82-D-109, 155mm artillery fired atomic projectile.

NUCLEAR WASTE DISPOSAL FUND

Amendment No. 21: Inserts reference to "Public Law 97-425", as proposed by the Senate, in text of appropriating language.

APPALACHIAN REGIONAL COMMISSION

Amendment No. 22: Appropriates $9,400,000 for the ARC development highway program as proposed by the House.

TENNESSEE VALLEY AUTHORITY

Amendment No. 23: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken by said amendment, insert the following:

SEC. 1300. No part of the funds appropriated under this Act or any other provisions of law may hereafter be used by the Department of Justice to represent the Tennessee Valley Authority in litigation in which the Authority is a party unless the Department is requested to provide representation in such litigation by the Authority.

The managers on the part of the Senate will offer a motion to concur in the amendment of the House to the amendment of the Senate.

The conferees intend that the Department of Justice should be able to represent the Tennessee Valley Authority in appropriate cases in which the Authority is a party, if the Authority requests the Department to provide representation in such cases.

Amendment No. 24: Changes section number as proposed by the Senate.

Amendment No. 25: Changes section number as proposed by the Senate.

Amendment No. 26: Inserts language proposed by the Senate limiting the experimental program for delivery of water to the Everglades National Park to two years.

Amendment No. 27: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken by said amendment, insert the following:

The Secretary of the Army is further authorized to acquire such interest in lands currently in agriculture production which are adversely affected by any modification of schedule for water delivery to Everglades National Park under the preceding paragraph. The Secretary shall acquire any interest in land at the fair market value of such interest based on conditions existing after the construction of the project described in the preceding paragraph of this section and before any modification of such delivery schedule. The Secretary is also authorized to construct necessary flood protection measures for protection of homes in the area affected by any modification of such delivery schedule, at an estimated cost of $10,000,000.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees recognize the emergency situation existing in Everglades National Park as a result of excessive rainfalls over the last several years. The delicate ecosystem of the park has been disrupted and, as a result, there has been a dangerous decrease in wading bird populations as well as other animal and plant species. Untimely water releases during nesting seasons have affected such endangered species as the brown pelicans and woodstork. The alligators, once prolific in this area, are now seen in reduced numbers.

The unseasonably wet period and its effects prompted the Everglades National Park to work with the South Florida Water Management District and the U.S. Army Corps of Engineers to implement a seven-point emergency program for the park. A portion of this plan recommends a revision in the water delivery schedule in order to allow for greater discharges to the park during the wet season, and a reduction in unseasonable, dry season releases. Experts agree that a more natural schedule of water flows across the east Everglades area is the only way to insure ecological integrity of Everglades National Park.

The conferees acknowledge that a change in the water delivery schedule could have an adverse impact on privately owned lands east of the park, and recognize the need to address and resolve this situation and treat fairly private landowners whose properties may be affected as a result of water delivery modifications necessary to protect the Federal park.

The conference agreement provides for a 2-year experimental program of modified water releases to the park and allows the Corps of Engineers to acquire those agricultural lands adversely impacted by the increased experimental releases. Further, the Corps would also be authorized to protect those homes in the area that may be affected by this experimental program.

Amendment No. 28: Changes section number as proposed by the Senate.

Amendment No. 29: Changes section number as proposed by the Senate.

Amendment No. 30: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate relating to the Red River Waterway Project.

Amendment No. 31: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate relating to flood control on the North Branch Chicago River in Niles, Illinois.

Amendment No. 32: Deletes language proposed by the Senate relating to the Eastport Harbor, Maine, project.

Dredge Kennedy.—From within funds available to the Corps of Engineers, not to exceed $2,000,000 shall be used to rehabilitate, restore, and refurbish the Corps of Engineers dredge vessel *Kennedy*, to transport the vessel to New Orleans, Louisiana, and there to operate, maintain, and display the vessel for the duration of the 1984 Louisiana World Exposition. Such operation, maintenance, and display shall include the preparation and use of audio-visual and other exhibits to inform the public of Corps of Engineers water resources activities.

Hugo Lake, Okla.—Within available funds, the Corps of Engineers is directed to allocate $200,000 to continue planning of the Hugo Lake, Oklahoma, hydropower study.

Lorean Branch and Calloway Branch, Hurst, Texas.—The Corps of Engineers is directed to allocate within available funds $130,000, to Lorean Branch, Hurst, Texas, small flood control project and $130,000 to the Calloway Branch, Hurst, Texas, small flood control project.

Chesapeake Bay Model, Maryland.—The conferees note a decision by the Corps of Engineers to close the Chesapeake Bay Model in Maryland. The State of Maryland has offered to fund and conduct a study of the merits of converting the model facility into a multipurpose center for the promotion of the Chesapeake Bay's natural resources, or for other purposes. In order to allow time for the conduct of the study, the conferees direct that the Model be maintained in a fresh water mode until July 1, 1984, at Federal expense.

Aliceville Lake.—The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to design and construct a resource management and visitor center at Aliceville Lake for the purpose of providing a centrally located facility to disseminate information to the public about water resource development. The construction of the center shall be substantially in accordance with plans developed by the Mobile District Engineer at an estimated construction cost of $3,500,000.

Black Rock Channel, New York.—The Conference Committee notes that a serious safety problem exists at the Bird Island Pier which separates the Black Rock Channel from the Niagara River in New York. The pier, which is used by fishermen, is unsafe due to the overtopping of waters from the Black Rock Canal into the Niagara River. The Coast Guard estimates that they perform dozens of rescues a year from the pier. Concerns have intensified after four drownings this past summer. The Corps recommends that an elevated walkway be constructed at the pier. The conferees, therefore, direct that within available funds $1,000,000 be used to complete planning and start construction of this emergency walkway.

Coles Point, Sardis Lake, Miss.—The conferees are aware of a request to the Corps of Engineers from local interests for development of a marina at Coles Point on Sardis Lake, Miss. The Corps is directed to provide assistance to the local entities in developing the necessary agreements that will bring this worthy project to fruition.

Yazoo Basin Reservoirs.—The conferees have been advised that drifts and sand spurs have been accumulating in the channel outlets in the four Yazoo Basin Reservoirs, creating an emergency need for channel cleanout in those locations. The Corps of Engineers is directed to accomplish this work in cooperation with the Soil Conservation Service and take such steps as are necessary to make a permanent resolution to the problem of upstream erosion.

Crows Neck and Plymouth Bluff Environmental Education Centers.—The Chief of Engineers is directed to construct the Crows Neck and Plymouth Bluff Environmental Education Centers in accordance with plans developed and the agreements by the District Engineer.

Platte River and Tributaries, Nebraska.—The conferees are very concerned with the flood problems of Nebraska, particularly along the Platte River and its tributaries. During 1983, the worst flood on record occurred in this region, the volume of flood waters being so large that hydrologists estimate that such a deluge could occur only once in 200 years. Recognizing that this flood potential has threatened this region for many years and continues to do so, therefore, the conferees direct the Corps of Engineers to utilize available funds to prepare a plan of action to address this serious situation. Also the Division Engineer, Missouri River Division, is to include in the statement on the fiscal year 1985 budget a funding schedule and necessary draft legislation to facilitate an expeditious resolution to this flood problem and other water problems in the State.

Revere Beach, Massachusetts.—The conferees have reviewed the beach erosion protection project at Revere Beach and have determined that it is deficient in providing flood damage reduction measures to Revere, Massachusetts, and provides the following direction to the Corps of Engineers. The flood control element is to complement the authorized beach erosion and is to include the following items:

Restoration of Revere Beach and shoreline flood control measures inclusive of Roughans Point and Point of Pines; and

Other flood damage reduction measures needed for the backshore area.

The Corps is directed to utilize $1,000,000 of available funds to initiate construction of this vitally needed project. The State initiated, in June 1978, construction of Phase I of the Master Plans Park and Flood Control Embankment, and acquired the additional property needed to complete the embankment. The construction cost of Phase I was $1,100,000. The Revere Beach Reservation was the first such public beach reservation in the United States.

Scottsville, Virginia.—The conferees are very concerned with the flooding problems at Scottsville, Virginia. The community has

been devastated by floods on numerous occasions, and the future of this historic town is in serious jeopardy. Therefore the conferees direct the Army Corps of Engineers to provide an adequate level of protection to this community using up to $2,000,000 in available funds as an advance measure under Public Law 99 of the 84th Congress.

Havre-Weir Project, Montana.—Within available funds, the Corps of Engineers is directed to allocate $150,000 for design of the Havre-Weir Project in Montana.

Pleasant Run Flood Control Project, Ohio.—Within available funds, the Corps of Engineers is directed to allocate $200,000 for continuation of planning and engineering on the Pleasant Run flood control project in Ohio.

Captiva Island, Florida.—The Conference Committee notes that a serious erosion problem exists on Captiva Island, Florida, that has been exacerbated by storms within the past year. As a result, County Road 867, the only hurricane evacuation route for the northern two-thirds of Captiva Island, is in imminent danger of being undermined unless the nourishment of the Captiva Island shoreline is completed. The Corps of Engineers is therefore directed to investigate the problem of the remaining nourishment of the beach, and to report back to the Congress those findings with an estimate of the cost of such repairs.

Trumbull Lake, Conn.—Within available funds the Corps of Engineers is directed to initiate studies of alternatives to the authorized Trumbull Lake Project in Fairfield County, Conn., including a review of problems and opportunities and formulation and evaluation of flood damage reduction plans. The Corps should also consider other values which may be achieved under alternative plans and consult with local governmental officials in the formulation of the alternatives.

Mamaroneck and Sheldrake Local Protection, N.Y.—The Conference Committee directs the Corps of Engineers to apply, from available funds, an additional $300,000 to accelerate and complete the feasibility study of the Mamaroneck and Sheldrake Rivers flood protection project in 1984 so that a decision regarding funding for continued planning and engineering and project construction can be made at the earliest possible time. In addition, the Chief of Engineers shall include the costs and benefits of local improvements initiated by local interests for such flood protection subsequent to January 1, 1985, which the Chief of Engineers determines are compatible with and constitute an integral part of his recommended plan. In determining the appropriate non-Federal share for such project, the Chief of Engineers shall fully consider the costs incurred by non-Federal interests in carrying out such local improvements.

Homochitto and Buffalo River Basin, Miss. (MR&T).—Within available funds, the Corps of Engineers is directed to use $650,000 to continue the study of flood control, bank stabilization, sedimentation, and related activities along the Homochitto and Buffalo Rivers, St. Catherine and Coles Creeks, Bayou Pierre, and other major tributaries draining into the Mississippi River between Bayou Pierre and the Buffalo River, Miss.

Fox River, Wis.—In action on the 1984 Energy and Water appropriation bill, the decision was made to convert the operation of the navigation locks on the Fox River in Wisconsin to caretaker status. The Committee has been informed, however, that local interests currently are negotiating with the Corps of Engineers in an effort to take over lock operations. In an effort to provide additional time for the orderly transfer of operations to local interests, the Corps of Engineers is directed to allocate $900,000 from available funds for continued operation of the navigation locks on the Fox River.

The Conference Committee believes that, in light of past project utilization, lock operation should not be extended beyond the end of fiscal year 1984.

Minto-Brown Island Park, Oreg.—The Conference Committee directs the Corps of Engineers to allocate, from available funds, $1,000,000 to undertake measures which will prevent further erosion to and protect the Federal investment in the Minto-Brown Island Park in Oregon.

Sowashee Creek, Miss.—The Conference Committee has been advised of the continuing serious flood problems along the Sowashee Creek in Meridian, Miss. The Corps was authorized, under section 171 of the 1976 Water Resources Development Act, to undertake the phase I design memorandum stage of advanced engineering and design along the lower 10.1 miles of Sowashee Creek. Flood problems in the upper reaches and adjacent areas are to be reduced by upstream watershed structures authorized for installation by the Soil Conservation Service in cooperation with the Sowashee Creek Drainage District and in coordination with the Corps downstream work. Because of the urgent need to proceed with construction work, the Conference Committee directs the Corps to take all necessary steps to accelerate and expedite the phase I report so as to enable Congress to consider this project in the next session.

Grays Harbor, Wash.—The conferees are concerned over the continued delays in the processing of the Chief of Engineers' report for the proposed Grays Harbor, Washington project, and directs the Chief to expeditiously process his report so that the Congress can consider this project in the next session.

Homer Spit, Alaska.—The Conference Committee directs the Corps of Engineers to undertake a study on a permanent solution of serious erosion conditions at Homer Spit, Alaska. Since the 1964 Good Friday earthquake, the spit has been susceptible to major erosion during the spring and fall through a combination of high tides, storms, and shifting currents. The study should be initiated so data on wave action and current can be collected during the spring of 1984.

Barnegat Inlet, N.J.—The Congress authorized a phase 1 general design memorandum on the Barnegat Inlet, N.J., project in the 1976 Water Resources Development Act. In submitting the phase 1 report on this project, the Chief of Engineers determined that the existing authorized project should be modified due to design deficiencies and that the proposed modifications are basically corrective measures required to have the project function as initially intended and, therefore, can be implemented within the purview of the original project authority. In light of this determination, the conferees urge the Chief of Engineers to proceed with the modifications as quickly as possible in accordance with his findings and expressed intentions to correct these deficiencies, using available resources.

Presque Isle, Pa.—The Conference Committee is disturbed that the Assistant Secretary of the Army for Civil Works and the Corps of Engineers has continually delayed ongoing engineering and design activities on the Presque Isle project and has indicated that it does not intend to follow the conferees' intent to fund the design for a permanent solution.

The Conference Committee has consistently supported this project and the need for a permanent solution to the beach erosion problem in both the 1983 supplemental and 1984 Energy and Water Development Appropriations Acts.

Therefore, the conferees direct the Corps of Engineers to forward the revised project report which is due on November 30, 1983, along with its recommendations and funding schedule for the permanent solution.

Rochester, Minn., Flood Control Project.—Within available funds, the Corps of Engineers is directed to use $200,000 to continue planning and engineering on the Rochester, Minn., local protection project.

South Yadkin River, N.C.—An amount of $300,000 was appropriated for fiscal year 1984 within the annual "General Investigation" account for the Little Pee Dee and Pee Dee Rivers basin study. Within available funds, the conferees direct the Corps of Engineers to proceed with the study to determine what measures are necessary and justified to provide flood control, water supply, hydroelectric power, and allied purposes in North Carolina, with particular reference to multipurpose reservoirs on the South Yadkin River, as authorized by a resolution adopted September 23, 1982.

Devils Lake Basin, N. Dak.—Within available funds, the Corps of Engineers is directed to begin a feasibility study of the Devils Lake basin, N. Dak., under the authority of the Red River of the North authorization. The conferees recognize the relationship of the Devils Lake basin and the Pick Sloan plan and, therefore, direct the Corps to consult and coordinate its efforts with the Bureau of Reclamation.

Lock Haven, Pa.—Within available funds, the conferees direct the Corps of Engineers to continue planning and engineering on the Lock Haven, Pennsylvania, flood control project.

CHAPTER IV

DEPARTMENT OF THE INTERIOR

Amendment No. 33: Adds heading "Fish and Wildlife and Parks" as proposed by the Senate.

Amendment No. 34: Appropriates $500,000 for resource management as proposed by the Senate for preparation of environmental impact statements on oil and gas leasing applications on National Wildlife Refuges outside of Alaska.

Amendment No. 35: Adds heading "National Park Service" as proposed by the Senate.

Amendment No. 36: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

Operation of the National Park System

Funds appropriated to the National Park Service under this head in Public Law 97-394 shall be available to reimburse the Estate of Bess W. Truman for operation expenses, including maintenance and protection, of the Harry S Truman National Historic Site incurred during the period October 18, 1982 through December 27, 1982.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Mrs. Truman bequested her home to the United States and it was accepted as part of the Harry S Truman NHS by the Secretary of Interior. This language permits the Park Service within available funds to compensate the estate for security costs from the time of Mrs. Truman's death to the time of the acceptance of the property by the Service. No funds are provided for operation of a tourist information facility in the Great Hall of the Herbert Clark Hoover Building.

Amendment No. 37: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which increases the construction development ceiling for Perry's Victory Memorial. Funds for rehabilitating the Memorial were provided in the Fiscal Year 1983 appropriation.

Amendment No. 38: Appropriates $25,500,000 as proposed by the Senate for land acquisition and state assistance. This provides $25,000,000 for a condemnation award at Congaree Swamp National Monument and $500,000 for Saratoga NHP.

U.S. FOREST SERVICE

The managers expect the Forest Service to use up to $300,000 of the funds provided for recreation composites in Public Law 98-146 to acquire land in the Clear Creek Composite of the Bankhead National Forest.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

Amendment No. 39: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

: Provided further, That any funds remaining available following completion of these acquisition and relocation activities may be made available to the Commonwealth of Pennsylvania to undertake other approved reclamation projects pursuant to section 405 of the Surface Mining Control and Reclamation Act of 1977: Provided further, That funds made available under this head to the Commonwealth of Pennsylvania shall be accounted against the total Federal and State share funding which is eventually allocated to the Commonwealth

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers have deleted bill language which made the funds available to the Commonwealth of Pennsylvania conditional on the Commonwealth accepting title to all properties acquired by the Office of Surface Mining in and around the Borough of Centralia. The managers agree that the funds should not be made available to the Commonwealth until the Commonwealth accepts title to 28 properties acquired by OSM under memorandum of understanding dated March 30, 1981. In addition, the managers strongly urge OSM and the Commonwealth to reach agreement on the transfer of 6 other properties from OSM to the Commonwealth at the earliest possible date.

Amendment No. 40: Deletes incorrect account title and inserts correct account title, as proposed by the Senate.

Amendment No. 41: Appropriates $1,600,000 for BIA pre-kindergarten programs, instead of $1,700,000 as proposed by the House and nothing as proposed by the Senate.

The amount provided, $1,600,000, is for the last year of funding in BIA for existing pre-kindergarten programs. The managers note that of 88,000 Indian children of preschool age, only 1,000 are enrolled in programs supported by the BIA pre-kindergarten program. Under the Indian and Migrant set-aside in the Headstart program, $3,110,000 is available in fiscal year 1984 for new starts. The managers direct the Bureau of Indian Affairs to work closely with those tribes funded by the BIA program to develop applications for the Headstart program in the future.

Amendment No. 42: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that funds appropriated in Public Law 97-257 for transfer to the State of Alaska shall remain available until expended and may be used for reconstruction of day schools.

Amendment No. 43: Provides no funds for the four atoll health care plan in this chapter. The funds are provided to the Department of Energy in Chapter III of this bill.

Amendment No. 44: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that funds available for the Department of the Interior and the U.S. Forest Service for contracting for privately-owned aircraft shall be used to contract only for aircraft certified as airworthy by the Federal Aviation Administration, unless such aircraft are not resaonably available.

Amendment No. 45: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken by said amendment, insert the following:

Subsection (d) of section 109 of the Act entitled "An Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1984, and for other purposes" (Public Law 98-146), is amended by striking out "The limitation with regard to this subsection on the use of funds shall not apply if any State-owned tide or submerged lands within the area described in this subsection are now or hereafter subject to sale or lease for the extraction of oil or gas from such state lands; and" and insert in lieu thereof "The limitation with regard to this subsection on the use of funds shall not apply to submerged lands within 30-nautical miles off any Florida land mass located south of 25 degrees north latitude."

The managers on the part of the House will move to concur in the amendment of the House to the amendment of the Senate.

At the time H.R. 3959 was considered in the House, action was not yet complete on H.R. 3363—the Department of Interior and Related Agencies Appropriation Act for fiscal year 1984. That Act had a one year moratorium on OCS leasing in Lease Sale #79 in the Easten Gulf of Mexico below 26° N. Latitude, 50 miles from the land between 26° N. Latitude and 28° N. Latitude, and all tracts in the OCS area bounded on the West by 85° W. Longitude and on the south by 28° N. Latitude. The conferees on that bill had agreed to restrict leasing on three environmentally sensitive areas in the Eastern Gulf of Mexico—much less than had been agreed to by the House. After the House completed action on the conference report and the amendments in disagreement thereto on H.R. 3363, the Senate further amended the amendment relating to the Florida lease sale. The House subsequently agreed to that further amendment which follows:

(d) All submerged lands within 30-nautical miles of the baseline from which the territorial sea is measured: *Provided*, That the western boundary of the area is a line extending south from the line dividing blocks 404 and 405 in Official Protraction Diagram NH 16-9, Apalachicola to a point 30-nautical miles from the baseline from which the territorial sea is measured. In addition, from the boundary between blocks 404 and 405 as described in the preceding sentence, westerly to a line extending north and south dividing blocks 38 and 1 in Official Protraction Diagram NH 16-9, all submerged lands within 20-nautical miles of the baseline from which the territorial sea is measured. The limitation with regard to this subsection on the use of funds shall not apply if any State-owned tide or submerged lands within the area described in this subsection are now or are hereafter subject to sale or lease for the extraction of oil or gas from such State lands

That language established a one year leasing moratorium in a 30 mile buffer area from Apalachicola south to northern Monroe County and in a 20 mile buffer from Apalachicola north and west to Panama City.

Before the subsequent Senate and House actions on H.R. 3363, the House considered this bill—H.R. 3959 and adopted an amendment which banned leasing in lease sale 79 between 28° N. Latitude and 26° N. Latitude 40 miles from the 10 mile Federal-State boundary. That provision was struck by Senate amendment No. 45.

After all action was completed on H.R. 3363, it was found that the State had leased the outer three miles of the State submerged lands. That action, in effect, vitiated the buffer zones established in section 109(d).

The conferees on H.R. 3959 agreed to an amendment which deleted the last sentence of section 109(d) and reestablished a one year leasing moratorium as described above.

The conferees have further adopted language which stipulates that this moratorium will not apply to any area located in lease sale number 79 which lies 30 miles north of any land mass located south of 25° N. Latitude.

Amendment No. 46: Deletes language proposed by the Senate, which prohibited the use of funds to process oil and gas lease applications in units of the National Wildlife Refuge System unless specifically authorized.

This provision has already been enacted into law as part of H.J. Res. 413, making further continuing appropriations for fiscal year 1984.

DEPARTMENT OF ENERGY

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

Amendment No. 47: Appropriates $1,000,000 for Fossil Energy Research and Development as proposed by the House for the gasification pilot plant in Homer City, Pennsylvania. This amount supplements the $5,000,000 already made available in fiscal year 1984. The Department of Energy should develop and transmit to the House and Senate Appropriations Committees a plan to best use the pilot plant within the available funds. The plan should be present-

ed to the Committees by March 1, 1984 and should not be a mere continuation of tests previously run in the bi-gas mode. The managers agree that none of the funds made available in this Act or in Public Law 98-146 for the Homer City facility should be used for any continued testing in the bi-gas mode.

NATIONAL GALLERY OF ART

Amendment No. 48: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides $250,000 for special exhibitions in the National Gallery of Art.

CHAPTER V

UNITED STATES RAILWAY ASSOCIATION

ADMINISTRATIVE EXPENSES

Amendment No. 49: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate disapproving the deferral of $2,050,000 for the United States Railway Association.

CHAPTER VI

DEPARTMENT OF AGRICULTURE

Amendment No. 50: Inserts language proposed by the Senate which identifies Chapter VI of the bill as "Department of Agriculture".

FEDERAL GRAIN INSPECTION SERVICE

Amendment No. 51: Appropriates $6,000,000 for inspection and weighing activities instead of $8,000,000 as proposed by the Senate. The House bill did not include any additional funds for the Federal Grain Inspection Service.

FOOD AND NUTRITION SERVICE

Amendment No. 52: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which includes language regarding alleged overpayments to certain institutions participating in the child care food program

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Amendment No. 53: Appropriates $7,000,000 for the emergency conservation program as proposed by the Senate.

DONATION OF CERTAIN PROPERTY

Amendment No. 54: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which permits the Secretary of Agriculture to donate the Bamboo Research Station in Savannah, Georgia, to the University of Georgia.

CHAPTER VII

DEPARTMENT OF EDUCATION

HIGHER EDUCATION

Amendment No. 55: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

CHAPTER VII

DEPARTMENT OF EDUCATION

HIGHER EDUCATION

For an additional amount for part B of title IX of the Higher Education Act of 1965, $500,000.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

With regard to amendment number 66, the conferees note the lack of specific authorization to appropriate funds to the Sam J. Ervin, Jr. Program in Public Affairs, and are therefore reluctant to include such funding in this supplemental appropriation bill. However, the conferees have agreed to include funding for an existing program authorized for purposes similar to those conducted at the Ervin Program in Public Affairs. It is the intent of the conferees that a major portion of these funds should be used to support the Sam J. Ervin, Jr., Program in Public Affairs.

The conference agreement deletes funding included in the Senate-passed bill for construction, renovation and related costs of an urban research park facility to be established jointly by Cheyney State College and Lincoln University in Philadelphia. The conferees take note of the following letter from the Director of the Office of Management and Budget:

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., November 15, 1983.

Hon. ARLEN SPECTER,
U.S. Senate,
Washington, D.C.

DEAR ARLEN: Please forgive me for not responding earlier to your letter of October 24 concerning the Philadelphia project involving Provident Mutual and the two historically black colleges. As I'm sure you know by now, an approach has been worked out using currently available Education and HUD funds that will allow the project to go forward. No supplemental appropriation of additional 1984 funds will now be necessary.

I'm sure you're as pleased as I that we've been able to work this out to everyone's satisfaction without needing additional funds. Thank you for your assistance and concern.

Sincerely,

DAVID A. STOCKMAN,
Director.

TITLE II

GENERAL PROVISIONS

Amendment No. 56: Technical correction.

Amendment No. 57: Changes section number.

Amendment No. 58: Deletes language proposed by the Senate concerning the Rural Development Loan Fund. The conferees understand the additional obligations proposed by the Senate from the Rural Development Loan Fund may be premature at this time. By December 31, 1983, the Department of Health and Human Services must obligate $10,000,000 from this fund; before agreeing to a second round of loans, it may be prudent to wait until information is available on the loans which will be made this December.

Amendment No. 59: Deletes a general provision proposed by the Senate prohibiting the use of funds by the Federal Communications Commission to repeal, amend, or otherwise modify the Syndication Rule, the Financial Interest Rule and the Prime Time Access Rule, which would have applied only to the three major networks. The House bill contained no provision on this matter.

The House of Representatives has already passed a bill which prohibits any further action by the FCC on the issue of financial interest, syndication rights, and prime-time access. The Managers on the part of the Senate receded on this amendment with the understanding that similar legislation will be considered and acted upon by the Senate prior to sine die adjournment of this session of the Ninety-Eighth Congress, thereby providing for a legislative solution to this issue.

Amendment No. 60: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 2002. Notwithstanding any other provision of law, the terms "meat" and "meat food products" as used in the Prompt Payment Act (Public Law 97-177; 96 Stat. 85) in section 2(a)(2)(B)(i) thereof shall include also edible fresh or frozen poultry meat, perishable poultry meat food products, fresh eggs and perishable egg products; and the Secretary of Agriculture, out of funds available to the Commodity Credit Corporation, upon proper proof of loss, shall pay outstanding claims for losses resulting from the 1980 embargo on sales of agricultural commodities to the Soviet Union sustained by businesses dealing in pork and frozen hog carcasses as well as edible fresh or frozen poultry meat, perishable poultry meat food products, fresh eggs and perishable egg products.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate amendment added bill language amending the Prompt Payment Act (P.L. 97-177) to expand the definition of the terms "meat" and "meat food products" to include ". . . edible fresh or frozen poultry meat, poultry meat food products, fresh eggs and perishable egg products." The conference agreement includes this language, amended to specify "perishable" poultry meat food products, and provides for payment of claims, upon proper proof of losses as a result of the embargo at the time of the Soviet invasion of Afghanistan. Such determination shall be made by the Secretary.

Amendment No. 61: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 2003. (a) Section 4 of the Act entitled "An Act to save daylight and to provide standard time for the United States," approved March 19, 1918 (15 U.S.C. 263) is amended—

(1) by striking out "Yukon" and inserting in lieu thereof "Alaska";

(2) by striking out "Alaska-Hawaii" and inserting in lieu thereof "Hawaii-Aleutian"; and

(3) by striking out "Bering" and inserting in lieu thereof "Samoa".

(b)(1) Any reference to Yukon standard time in any law, regulation, map, document, record, or other paper of the United States shall be held and considered to be a reference to Alaska standard time.

(2) Any reference to Alaska-Hawaii standard time in any law, regulation, map, document, record, or other paper of the United States shall be held and considered to be a reference to Hawaii-Aleutian standard time.

(3) Any reference to Bering standard time in any law, regulation, map, document, record, or other paper of the United States shall be held and considered to be a reference to Samoa standard time.

(c) The Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) is amended—

(1) by striking from Section 201(e) of such Act "1983" and inserting in lieu thereof "1985"; and

(2) by striking from Section 308(c)(1) of such Act "1983" and inserting in lieu thereof "1985".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees urge the Federal Railroad Adminstration to give priority consideration to the redeemable preference share project applications of the Erie Lackawanna and the New York Susquehanna and Western Railroads to the extent that such projects can be funded from surpluses derived from existing projects for which preference share funds have been reserved. The conferees direct the Federal Railroad Administration to report to the Appropriations Committees of the House and Senate 15 days prior to the reservation and/or obligation of funds for these projects, explaining from which project funds are to be reprogrammed and the reasons for such action.

The conferees are aware of problems involving the proposed abandonment of service on the Maitland Industrial Track in Mifflin County, Pennsylvania. The conferees have been informed that the Commonwealth of Pennsylvania will be providing $105,000 in state funds, and seeks $245,000 in federal funds for a total project cost of $350,000 for the rehabilitation of this line. The Commonwealth is expected to apply for approval to reprogram $245,000 in local rail service funds from its prior years' formula funds for this purpose, and the conferees urge that expeditious and favorable consideration be given to such request by the Federal Railroad Administration.

Amendment No. 62: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the section number named in said amendment, insert: *2004*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This general provision is a sense of the Senate provision commending the United States Armed Forces for their actions in Grenada.

Amendment No. 63: Deletes a general provision proposed by the Senate which would have authorized and appropriated $1,000,000 for a Commission on Drug Interdiction and Enforcement to review current laws and procedures concerning drug interdiction and to make recommendations to the President, the Director of National and International Drug Operations and Policy and the Congress on a coordinated interagency Federal strategy on narcotics control. In addition, the amendment would have authorized $500,000 for fiscal year 1985 and such sums as may be necessary for four succeeding fiscal years for an Office of National and International Drug Operations and Policy. The Office would have been headed by a Director who would have served as the principal coordinator of United States operations and policy on illegal drugs and who would have had the authority to direct each department and agency with responsibility for drug control in carrying out policies established by the Director on this matter.

Amendment No. 64: Deletes language proposed by the Senate concerning national programs under the Job Training Partnership Act. The Senate bill language would have forced the Labor Department to carry out conference report directives accompanying the regular fiscal year 1984 Labor-HHS-Education Appropriations Act (P.L. 98-139, H. Report No. 98-422). Since it now appears the Department will substantially comply with the conference report directives pertaining to special national programs, bill language is unnecessary.

Amendment No. 65: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment with an amendment which changes the section number to *2005*. The Senate amendment amends the Railroad Unemployment Insurance Act to provide for 10 additional weeks of benefits for rail workers with less than 10 years of seniority. These workers are presently eligible for only 26 weeks of benefits. This provision would be in effect until June 30, 1984. No additional appropriations are required; sufficient funds remain from the $125 million appropriated for this purpose in the "Jobs Bill" (P.L. 98-8). The extended benefit provision for these workers that was included in the Jobs Bill expired on June 30, 1983.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 66: Deletes language proposed by the Senate appropriating $500,000 for financial assistance to the Sam J. Ervin, Jr. Program in Public Affairs. The conferees have addressed this matter as part of amendment number 55.

Amendment No. 67: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the first section number named in said amendment, insert: *2006*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

COMPARISON TOTAL—WITH COMPARISONS

The total net budget (obligational) authority for the fiscal year 1984 recommended by the Committee of Conference, with comparisons to the fiscal year 1984 budget estimates, and the House and Senate bills for 1984 follows:

Budget estimate of new (obligational) authority ..	[1] $340,056,000
House bill	444,740,800
Senate bill (net)	[2] 390,828,600
Conference agreement (net)	[2] 302,213,600
Conference agreement compared with:	
Budget estimates of new (obligational) budget authority	−37,842,400
House bill	−142,527,200
Senate bill	−88,615,000

[1] Includes $8,200,000 of budget estimates not considered by the House.

[2] Includes rescission of $50,000,000.

JAMIE L. WHITTEN,
EDWARD P. BOLAND,
WILLIAM H. NATCHER,
NEAL SMITH,
JOSEPH P. ADDABBO,
SIDNEY R. YATES,
TOM BEVILL,
WILLIAM LEHMAN,
VIC FAZIO,
SILVIO O. CONTE,
JOSEPH M. McDADE,
JOHN T. MYERS,
LAWRENCE COUGHLIN,
GEORGE M. O'BRIEN,
Managers on the Part of the House.
MARK O. HATFIELD,
TED STEVENS,
LOWELL P. WEICKER, JR.,
JAMES A. McCLURE,
JAKE GARN,
THAD COCHRAN,
MARK ANDREWS,
ALFONSE M. D'AMATO,
JOHN C. STENNIS,
WILLIAM PROXMIRE,
TOM EAGLETON,
LAWTON CHILES,
(except amendment No. 63),
WALTER D. HUDDLESTON,
DENNIS DeCONCINI
(except amendment No. 63),
Managers on the Part of the Senate.

ANNOUNCEMENT OF LEGISLATIVE PROGRAM

(Mr. WRIGHT asked and was given permission to address the House for 1 minute.)

Mr. WRIGHT. Mr. Speaker, I have three unanimous-consent requests, and Members might be interested in plans for this evening and tomorrow.

If the unanimous-consent requests are agreed to, then it would be our purpose to proceed shortly to the consideration of bills on suspension that remain, but not to have any further votes this evening once we have started on that.

I think the gentleman from California may have a routine motion that I should not expect to require a vote.

If this were agreed to, we could roll the votes on the suspensions until we had completed debate on them today and tomorrow.

AUTHORIZING THE SPEAKER ON WEDNESDAY, NOVEMBER 16, 1983, TO ENTERTAIN MOTIONS TO SUSPEND THE RULES

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that on Wednesday, November 16, 1983, the Speaker may recognize for motions to suspend the rules.

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

Mr. MICHEL. Mr. Speaker, reserving the right to object, would the gentleman please repeat his unanimous-consent request?

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that on Wednesday, November 16, tomorrow, the Speaker may recognize four motions to suspend the rules.

Mr. MICHEL. 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.

AUTHORIZING THE SPEAKER TO DECLARE RECESSES AT ANY TIME ON WEDNESDAY, NOVEMBER 16, 1983, SUBJECT TO THE CALL OF THE CHAIR

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that it may be in order for the Speaker to declare a recess at any time on Wednesday, November 16, 1983, subject to the call of the Chair.

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

There was no objection.

MAKING IN ORDER CONSIDERATION OF CONFERENCE REPORTS, NOTWITHSTANDING PROVISIONS OF CLAUSE 2, RULE XXVIII

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that it shall be in order at any time during the remainder of the first session of the 98th Congress to consider conference reports and amendments reported from conference in disagreement on the same day reported or any day thereafter, notwithstanding the provisions of clause 2, rule XXVIII, if copies of the conference report and accompanying statement together with the text of any such amendment reported from conference in disagreement, have been available to Members for at least 1 hour before the beginning of such consideration, and subject to the requirement of an announcement on the floor of the House by the Speaker or his designee at least 1 hour before the consideration of any confernce report and amendments reported from conference in disagreement, and any said conference report or amendments in disagreement shall be considered as having been read when called up for consideration.

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

Mr. MICHEL. Mr. Speaker, reserving the right to object, and I shall not, only to let it be known as far as I am concerned that is the same form of resolution that we have usually agreed to as we get toward adjournment time in order to facilitate the business of the House.

We have measures like revenue sharing, the defense bill, Export Administration, maybe even a dairy bill, the supplemental, matters that will need to be tended to and the more we can get done, the sooner the better.

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.

□ 1710

DISMISSING THE ELECTION CONTEST AGAINST JAMES McCLURE CLARKE

Mr. BATES. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 304) dismissing the election contest against JAMES MCCLURE CLARKE, and ask for its immediate consideration in the House.

The Clerk read the resolution, as follows:

H. RES. 304

Resolved, That the election contest of William M. Hendon, contestant, against James McClure Clarke, contestee, Eleventh Congressional District of the State of North Carolina, be dismissed.

The SPEAKER pro tempore (Mr. COLEMAN of Texas). The gentleman from California (Mr. BATES) is recognized for 1 hour.

Mr. BATES. Mr. Speaker, I yield 30 minutes, for the purpose of debate only, to the gentleman from California (Mr. BADHAM), pending which I yield myself such time as I may consume.

Mr. Speaker, under the U.S. Constitution and the rules of the House, the Committee on House Administration is charged with the responsibility for investigating contested elections.

In this Congress, two election contests were filed. In both contests, the chairman of the Committee on House Administration, AUGUSTUS HAWKINS, established a task force to conduct the investigation.

In the contest before the House today, Hendon against Clarke, I chaired the investigating task force and I was joined by committee members ED JONES and ROBERT BADHAM.

This election contest was filed by William Hendon against James McClure Clarke for the seat in the 11th Congressional District of North Carolina. In the election held on November 2, 1982, Mr. CLARKE received 85,410 votes while Mr. Hendon received 84,085 votes. On December 6, 1982, certifying credentials were signed by the secretary of state and Governor and were issued to Mr. CLARKE, The credentials of Mr. CLARKE were presented to the House of Representatives, and he appeared, took the oath of office, and was seated without objection on January 3, 1983.

Mr. Hendon contested the results of the election and requested a recount of the ballots cast. Specifically, Mr. Hendon challenged the vote counting procedures used in 5 of the 17 counties in the district. In these five counties, ballots which had markings for both a straight party ticket and for an individual candidate of another party were counted as a straight party vote. This procedure was consistent with North Carolina election law and the ballots had clear instructions that ambiguously marked ballots would be counted in this way.

Mr. Hendon challenged the constitutionality of the North Carolina election law in Federal court and requested a recount of ballots cast in the five counties. A district court rejected Mr. Hendon's case. However, the appeals court found the North Carolina law unconstitutional, but denied Mr. Hendon's request for a recount, holding that it is the duty of parties having grievances with election laws to challenge the laws prior to the election in question.

On July 25, 1983, the task force held an open hearing and received oral argument on a motion to dismiss the contest. On August 3, 1983, the task force again met and heard additional arguments. The concerns of this task force centered on whether the outcome of the election had been affected by the vote counting procedures used in the election, and whether the committee should conduct a recount of the ballots. At the conclusion of the oral presentation, the task force recommended to the committee, by a rollcall vote of 2 ayes and 1 nay that the motion to dismiss be granted, and that the contest be dismissed.

On October 25, 1983, by voice vote, a quorum being present, the committee adopted the task force's resolution to recommend dismissal of the contest to the House.

These are two bases for the recommendation of dismissal. First the contestant failed to demonstrate with sufficient evidence, as required by the Contested Election Act, that the outcome of the election was affected. The committee found no evidence indicating that the election was affected by the vote counting procedures used in the election. Mr. Hendon presented only unsubstantiated speculation, and the committee felt that the will of the people as expressed at the ballot box should not be thwarted by mere speculation.

The second basis for dismissal is that a contestant, wishing to challenge an election on the basis of known preelection irregularities, must challenge the irregularities prior to the election in question. This was the ruling of the U.S. Court of Appeals, and it is entirely consistent with House precedent. I would like to point out that the law which the contestant challenged has been on the books since 1955, and it is the same law under which the contestant won election to Congress in 1980, at which time he did not challenge the validity of the statute. To quote the appeals court:

> Failure to require preelection adjudication would permit, if not encourage, parties who could raise a claim to lay by and gamble upon receiving a favorable decision of the electorate and then, upon losing, seek to undo the ballot results in court action.

For these reasons, the committee recommends that the contest of Hendon against Clarke be dismissed. The House has before it House Resolution 304 and I urge its adoption.

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

Mr. Speaker, this case is case is before us because of the responsibilities the U.S. Constitution entrusts to the House of Representatives. Article I, section 5, clause 1 states specifically that it is the obligation of the House to "be the Judge of the Elections, Returns, and Qualifications of its own Members," We are fortunate in having in this case more than the evidence collected through the Federal Contested Election Act (FCEA) (2 U.S.C. 381-96 (1981)). We also have the benefit of a U.S. Court of Appeals decision. *Hendon* v. *North Carolina Board of Elections*, No. 82-2122 (4th Cir. June 23, 1983). The ruling provides a fair and impartial analysis that we cannot ignore. The court found unconstitutional the law under which the Hendon-Clarke ballots were counted.

In addition to the ruling on the methods of vote tabulation, Mr. Hendon presented this task force with sufficient evidence to show that he would have won the election if the ballots had been counted in a constitutional manner. The precedents of the House allow us to examine the ballots. Equity and our duties under the Constitution require that we recount those ballots, or, at the very least, set aside the election, declare the seat vacant, and hold a new election.

Mr. Hendon brought this contest under the FCEA on the grounds that the counting and casting of ballots in his congressional race denied voters equal protection of the law. He also filed suit in U.S. District Court for the Western District of North Carolina. The accuracy of the tabulation is crucial because Democrat Clarke defeated incumbent Hendon by 1,325 votes out of 171,047 cast. The 15 counties in the 11th Congressional District employed 4 voting methods: a hand-counted paper ballot listing only the congressional race; a mechanical lever voting machine; an electronic punch card system (CES); and an optically scanned paper ballot system (Airmac). Hendon protested the tabulation of votes on the CES, where voters punched a hole beside the name of a party or candidate and the ballots were counted electronically by machine, and on the Airmac system, where voters used a special pen to mark ballots counted by an optical scanning device. Five counties used these methods.

Hendon's complaint and the fourth circuit's opinion both center on the North Carolina statute permitting a person to vote a straight party ballot by marking a circle above that party's column. More than 50 contests faced 11th Congressional District voters last November. Democrats had candidates for all the races while Republicans fielded less than 10 in some counties. Therefore, a voter wanting to split his ballot and vote for candidates of different parties had to mark a square by each candidate's name. A voter wanting to vote a straight party ticket had to make only one mark.

The court found the application of these statutes unconstitutional because of the way a CES or Airmac ballot with a mark in the straight party circle, but also in the square of an individual candidate, was counted. Such ballots registered as a straight party vote, with the vote for the individual of the other party not counted. But voters using paper ballots or mechanical lever voting machines could split their tickets, even if they marked the straight party circle, by just marking Hendon's name.

Mr. Hendon provided the task force with convincing evidence that this system of counting votes deprived him of enough votes to change the result of the election. Examining the system, the fourth circuit rules:

> The imposition of a legislative preference for the straight party candidate, when the voter has indicated no such preference, is an arbitrary subversion of the electoral process that serves no compelling State interest.

Mr. Hendon provided the task force with specific evidence that a constitutional tabulation would have given him enough votes to change the outcome through affidavits from disenfranchised voters and through evidence that a manual count necessitated by an election night breakdown of some CES and Airmac machines showed Hendon votes not being counted.

While the fourth circuit found the method of vote counting in the Hendon-Clarke election unconstitutional, it did not order a recount as had been requested and arrayed for by the Hendon forces. Although Mr. Clarke and his supporters have tried to make much of this, the Constitution makes the House the sole judge of the elections of its Members. See *Brit* v. *Board of Canvassers* (172 N.C. 797, 90 S.E. 1005, 1007 (1916)); see also, *Roudebush* v. *Hartke* (405 U.S. 15, 25-26 (1972)); *Keough* v. *Horner* (8 F. Supp. 933 (S.D. Ill. 1933)). The court knew during its deliberations that Mr. Hendon had filed an election contest with the House of Representatives. The court's decision avoids any interference with the constitutional prerogative of a coequal branch of government.

The precedents of the House of Representatives clearly allow us to examine contested ballots to insure the integrity of an election. See *Roush* v. *Chambers* (H.R. Rep. No. 513, 87th Cong., 1st Sess. (1961)); *Moreland* v. *Scharetz* (H.R. Rep. No. 1158, 78th Cong., 1st Sess. (1944)). Faced, as we are, with an election conducted in a manner a U.S. Court of Appeals has found unconstitutional, such is our obligation. As this committee said:

> The power to examine the ballots and to correct both deliberate and inadvertent mistakes and errors shall always remain in the House.

Kyros v. *Emery* (H.R. Rep. No. 760, 94th Cong., 1st Sess. 6 (1975)); (quoting *Brown* v. *Hicks* (H.R. Rep. No. 1328, 64th Cong., 1st Sess. (1916)); see also *Mikva* v. *Young* (H.R. Rep. No. 244, 95th Cong., 1st Sess. (1977)); *Ziebart* v. *Smith* (H.R. Rep. No. 763, 94th Cong., 1st Sess. (1975)); L. Deschler, "Deschler's Precedents of the House of Representatives" (Ch. 8, §§ 8.4-8.5 (1978)). In previous contests, such recounts have been conducted by bipartisan teams supervised by this committee. See, for example, Kyros against Emery, supra. Mr. Hendon has estimated that 64,000 votes are being contested and that the recount would take only 5 days.

The precedents of this House further state that disputed ballots, such as the split ticket ballots in this case, "should be counted on the basis of obvious voter intent." *Mikva* v. *Young* (H.R. Rep. No. 759, 94th Cong., 1st Sess. 4 (1975)). The North Carolina statute holds:

> No official ballot shall be rejected because of technical errors in marking it, unless it is impossible to determine the voter's choice under the rules for counting ballots. (N.C. Gen. Stat. §§ 163-170.)

Indeed, the fourth circuit rules that no compelling State interest existed for the method used to count split tickets on CES and Airmac systems as was done in the 11th Congressional District. Equity and fairness demand that these ballots be recounted so that this election can truly reflect the voters intent.

Our constitutional mandate compels that we act. The role of the judge that this House must assume is not an easy one. But it entails getting the full facts of this case by conducting a recount or, alternatively, declaring this seat vacant and ordering a new election. I strongly urge the House to examine the facts of this case objectively and to reject House Resolution 304.

□ 1720

Mr. SPEAKER, I have no further requests for time, and I reserve the balance of my time.

Mr. BATES. Mr. Speaker, I would just like to commend the gentleman from California (Mr. BADHAM) on the fine way that he has handled this issue. I think certainly his position is not without merit, but I think on balance the committee and the task force have made the right decision.

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERMISSION FOR SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS AND HUMAN RESOURCES OF COMMITTEE ON GOVERNMENT OPERATIONS TO SIT ON WEDNESDAY, NOVEMBER 16, 1983, DURING 5-MINUTE RULE

Mr. WEISS. Mr. Speaker, I ask unanimous consent that tomorrow, Wednesday, November 16, 1983, the Subcommittee on Intergovernmental Relations and Human Resources of the Committee on Government Operations be permitted to meet during the 5-minute rule.

I have checked this with the ranking member on the other side, the gentleman from Pennsylvania (Mr. WALKER), and it is all right with him.

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

Mr. RIDGE. Mr. Speaker, reserving the right to object, did the gentleman say he checked with the ranking minority member on that subcommittee and got his assurance that it was satisfactory with him to meet?

Mr. WEISS. The gentleman is correct.

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

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

There was no objection.

GENERAL LEAVE

Mr. BATES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 304, which was just considered and agreed to.

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

There was no objection.

DISMISSING THE ELECTION CONTEST AGAINST RON PACKARD

Ms. OAKAR. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 305) dismissing the election contest against RON PACKARD, and ask for its immediate consideration in the House.

The Clerk read the resolution, as follows:

H. RES. 305

Resolved, That the election contest of Roy "Pat" Archer, contestant, against Ron Packard, contestee, Forty-third Congressional District of the State of California, be dismissed.

The SPEAKER pro tempore. The gentlewoman from Ohio (Ms. OAKAR) is recognized for 1 hour.

Ms. OAKAR. Mr. Speaker, I yield 30 minutes, for purposes of debate only, to the gentleman from California (Mr. THOMAS) and pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 305 is a resolution to dismiss the election contest filed in the 43d Congressional District of California.

In the contest before the House, Archer against Packard, I chaired the investigating task force and I was joined by committee members AL SWIFT and WILLIAM THOMAS.

This election contest was filed by Pat Archer against Ron Packard for the seat in the 43d Congressional District of California. In the election held on November 2, 1982, the Republican candidate, Johnnie Crean, received 56,297 votes, the Democratic candidate, Pat Archer, received 57,995 votes, and the write-in candidate, RON PACKARD, received 66,444 votes for an 8,449 vote margin of victory. On December 3, 1982, certifying credentials were signed by the Secretary of State and were issued to Mr. PACKARD. The credentials of Mr. PACKARD were presented to the House of Representatives on January 3, 1983. He took the oath of office and was seated on the same day.

Mr. Archer contested the results of the election charging that irregularities took place during the election. Mr. Archer challenged the results in California court and his case was dismissed for lack of evidence.

On June 30, 1983, the task force held an open hearing for receiving oral argument on the motion to dismiss. On August 3, 1983, the task force again met and voted by a rollcall vote of three ayes and zero nays to recommend to the committee that the motion to dismiss be granted and that contest be dismissed.

On October 25, 1983, by a unanimous vote, a quorum being present, the committee adopted the task force's resolution to recommend dismissal of the contest to the House.

The recommendation for dismissal is based upon the fact that the contestant failed to establish, as required by the Contested Election Act, that the outcome of the election was affected by the alleged irregularities.

I would note that a contestant has a substantial burden to carry and the contestant in this matter has fallen far short of doing so. The contestant lost by over 8,000 votes, and has not presented any evidence that puts the outcome in doubt. However, I would note that the election system employed did have inherent weaknesses when it comes to write-in efforts, such as that successfully mounted by Mr. PACKARD. Therefore, the report included a recommendation that election officials in California explore alternative means for handling write-in candidacies.

Mr. THOMAS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Resolution 305, the resolution dismissing the election contest filed by Mr. Roy Pat Archer against Congressman RON PACKARD.

The election of Congressman PACKARD was the fourth time in U.S. history that a Member was elected to Congress through the write-in process. Viable write-in candidacies are rare, and pretty obviously, elected write-in candidates are rarer yet. It is unique in the history of the House that we currently have two write-in candidates sitting.

□ 1730

Although the county election officials did provide the poll inspectors in the 43d District with extra training on write-in voting, the importance of frequent checks of the voting booths, and inspection of the voting devices, they did not anticipate the volume of problems encountered by the confusion created by the write-in procedures and the mechanical devices used in voting. The committee's recommendation to improve the write-in procedures is, I think, a good one.

Mr. Archer presented his case for himself, and the committee rejected his conclusions, as did the District Attorney and the superior court in California previously, and I would strongly urge the House to do likewise.

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

Mr. THOMAS of California. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Speaker, I take this time only to compliment the six members of these two election task forces who have worked over nearly a year on these particular cases.

I think these two cases illustrate some of the behind-the-scenes work that is done in this Congress of which the outside world is not aware and in fact some of our own Members are not aware.

I would further state that in each of these cases the task forces and the committee uncovered defective State systems. In the case of North Carolina, there was the problem of not allowing a candidate a recount and the problem of counting votes in different ways. In the case of California, there was the difficulty of administering a write-in system.

Our committee has no jurisdiction over State election systems, and all we

can do is make recommendations. But I hope that the Members of the House are aware of the extra effort being put in by members of this committee and of their untiring efforts to see that the will of the people is maintained in election contests.

Mr. Speaker, I thank the gentleman for yielding.

Mr. THOMAS of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

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

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken tomorrow after debate has been concluded on all motions to suspend the rules, or at such other time as subsequently announced by the Chair pursuant to clause 5 of rule I.

PANAMA CANAL PROXY BILL

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3969) to amend the Panama Canal Act of 1979 to allow the use of proxies by the Board of the Panama Canal Commission.

The Clerk read as follows:

H.R. 3969

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1102(c) of the Panama Canal Act of 1979 (22 U.S.C. 3612(c)) is amended by adding at the end thereof the following: "The Secretary of Defense, or the officer of the Department of Defense designated by the Secretary under subsection (a) of this section, may act by proxy for any other member of the Board if that other member authorizes the proxy in writing and signs the proxy. Only one proxy may be valid at any one time. The proxy may be counted to establish a quorum and may be used by the Secretary of Defense, or the officer of the Department of Defense designated by the Secretary under subsection (a) of this section, to cast the vote of the absent Board member and to act for that member with all the powers that member would possess if present.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from North Carolina (Mr. JONES) will be recognized for 20 minutes and the gentleman from New York (Mr. CARNEY) will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. JONES).

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3969, which I introduced with the cosponsorship of Mr. HUBBARD, Mr. FORSYTHE, and Mr. CARNEY, seeks to make a small change in the way the Panama Canal Commission Supervisory Board conducts its meetings. Under the existing law, no proxies may be used at Board meetings. This bill authorizes the use of one proxy, to be issued only to the Secretary of Defense or the Defense Department officer designated by him. Currently, the designee is Assistant Secretary of the Army (civil works), Bill Gianelli, who is Chairman of the Supervisory Board. Mr. Gianelli, for himself and on behalf of the administration has requested proxy authority several times, beginning in late 1981 with the administration's proposals for amendments to Public Law 96–70.

I believe that this bill will enable Mr. Gianelli and his successors to chair the Supervisory Board more effectively and with less disruption. At the same time, the bill places restrictions on the use of proxies, thereby insuring that the proxy authority will not be abused. Thus, the bill achieves a good balance, on the one hand, allowing the Board to work more smoothly and, on the other, maintaining the committee's and Congress control over Board and canal operations. I urge all Members to support H.R. 3969.

Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky (Mr. HUBBARD).

Mr. HUBBARD. Mr. Speaker, I want to commend the distinguished chairman of the House Merchant Marine and Fisheries Committee, Hon. WALTER B. JONES of North Carolina; the ranking minority member of the full Merchant Marine and Fisheries Committee, Hon. EDWIN B. FORSYTHE of New Jersey; and the ranking minority member of the Subcommittee on Panama Canal/Outer Continental Shelf, Hon. WILLIAM CARNEY of New York, for their efforts to bring House bill 3969 to the floor today.

I rise in support of House bill 3969, a bill to amend the Panama Canal Act of 1979 to allow the use of proxies by the Board of the Panama Canal Commission. This bill responds to a request made by the administration to amend the law in order to facilitate the organization of the meetings of the Board, which are held four times a year. The problem that this bill resolves concerns the provision in the law that mandates the composition of the governing Board. According to the Panama Canal Act of 197, Public Law 96–70, the Board must be composed of four Panamanians and five Americans. The act requires an American majority before the Board can conduct business. If all four Panamanians are present for a Board meeting, then all five Americans must also be there in order for a quorum to be present. As a practical matter, this means that 100 percent Board attendance is necessary for a quorum.

If one American Board member's schedule changes at the last minute, and he is unable to attend the Board meeting, the result must be a postponed or canceled meeting, because all must be present to establish a quorum.

This bill authorizes the use of one proxy, to be issued only to the Secretary of Defense or the Defense Department officer designated by him. Currently the designee is Assistant Secretary of the Army for Civil Works Bill Gianelli, who is Chairman of the Board.

I believe this bill will solve the problem by allowing the use of the proxies while placing rigorous restrictions on their use, thereby insuring that the proxy authority will not be abused. First, a proxy may be counted to establish a quorum. Only one proxy may be valid at any one time, so as to assure that at least four Americans are present. In addition, the Chairman of the Board cannot issue a proxy. Only other members may issue their proxies to him.

Mr. Speaker, on October 4 this bill passed unanimously by voice vote at subcommittee level, and again passed unanimously by voice vote at the full committee level on November 1. This bill is necessary and has bipartisan support. I sincerely hope that such unity will prevail in the consideration of this bill by my distinguished colleagues. Once again, I urge adoption of House bill 3969.

Mr. JONES of North Carolina. Mr. Speaker, I reserve the balance of my time.

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

Mr. Speaker, I want to commend the distinguished chairman of the House Merchant Marine and Fisheries Committee, the Honorable WALTER JONES of North Carolina, and the chairman of the Subcommittee on Panama Canal/OCS, the Honorable CARROLL HUBBARD of Kentucky, and the rank-

ing minority member of the full Merchant Marine and Fisheries Committee, the Honorable EDWIN FORSYTHE of New Jersey, for their efforts in bringing this bipartisan proposal concerning the Panama Canal before this body today for a vote.

I not only support this legislation to permit the use of a proxy by members of the Supervisory Board of the Panama Canal Commission, but as a cosponsor of H.R. 3969, I want to underscore that this bill has bipartisan support and urge my colleagues in the House to vote for its passage.

The need for this proxy authority was first brought to our committee's attention in 1981, when proposed amendments to the Panama Canal Act of 1979 were submitted to the Congress in accordance with Public Law 96-70.

Under the law, the Panama Canal Commission is to be supervised by a Board of nine members, not less than five of whom must be U.S. nationals, and the remaining four are Panamanians. In order for the Board to conduct its business, a quorum must be present. Section 1102(c) states that a quorum shall consist of a majority of the Board members of which a majority of those present are nationals of the United States. If all four Panamanian Board members attend a meeting, all five Americans must also be present to establish the quorum required for the transaction of business. If just one American is unable to attend, the Board meeting must be postponed or canceled. This situation presents a potentially serious problem, for an emergency preventing the attendance of one American Board member could preclude the conduct of Board meetings.

This bill responds to a request by the administration in order to facilitate the conduct of Supervisory Board meetings, which are held four times a year. H.R. 3969 authorizes the Secretary of Defense or the officer of the Department of Defense designated by the Secretary—currently the Assistant Secretary of the Army for Civil Works—to act by proxy for any other member of the Board if that Board member authorizes the proxy in writing. The bill clearly states that only one proxy may be valid at any one time, and that the proxy may be used to establish a quorum. Proxies may only be issued to the Secretary of Defense or the Defense Department officer designated by him, and that Defense Department officer may not himself issue a proxy to anyone else. Only other members may issue their proxies to them. In addition, at both our subcommittee and full committee markups on this legislation, we clearly established our intent that only one proxy may be used at each Board meeting. These protections provided in the bill and its legislative history will assure that the proxy authority is not abused and the Congress will retain control over the operation and maintenance of the Panama Canal between now and the year 2000.

I hope this proxy authority, if approved, will never have to be exercised. The views of all five U.S. Board members need to be heard at all of the Board meetings. Section 1102(a) of Public Law 96-70 stipulates that, of the five U.S. Board members, three must have specialized backgrounds in steamship and port operations, and in labor matters. It is important that these constituencies be properly represented at Supervisory Board meetings, and therefore it is important that all five U.S. Board members make every effort to be present at all Board meetings.

Recognizing that emergencies can arise, however, I strongly believe the limited use of proxies can facilitate the timely conduct of Supervisory Board meetings.

This bill merits this body's support, and I urge my colleagues to vote for its passage.

□ 1740

Mr. Speaker, I yield 1 minute to the ranking minority member of the full Committee on Merchant Marine and Fisheries, the honorable gentleman from New Jersey (Mr. FORSYTHE).

Mr. FORSYTHE. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, H.R. 3969 is the first legislative amendment to the Panama Canal Act of 1979. It is not a complicated bill, and will assure that the five U.S. members of the Panama Canal Commission Board effectively represent this country at Board meetings, thereby, insuring that important issues are dealt with in a timely manner.

Sections 1101 and 1102 detail that the Panama Canal Commission Board, which is made up of four Panamanians and five Americans, supervises the activities, operations, maintenance, and facilities of the Panama Canal Commission. All activities of the Board are binding on the Administrator of the canal.

In order to conduct the business of the Panama Canal Commission Board, a majority of the nine member Board must be present, and a majority of those present must be Americans. In other words, if all four Panamanian Board members are present for a meeting, and only four of the five Americans are present, a meeting of the Board may not take place. This is not subject to a point of order; the law is clear that a quorum must be present for all board meetings, and a quorum is a majority of the nine member Board.

H.R. 3969 allows the issuance of a proxy by only one American Board member per Board meeting. The proxy must be issued to the Chairman of the Board, who is the Secretary of Defense's designee, Assistant Secretary of the Army for Civil Works, Mr. William Gianelli, for the purpose of establishing a quorum, and for the purpose of voting on matters before the Board.

The Reagan administration recommended this legislative change in 1981, and it was included in H.R. 5601 during that year. The bill was given careful consideration by the Panama Canal/OCS Subcommittee of the House Merchant Marine and Fisheries Committee. However, that bill was never signed into law, and, therefore, the committee is taking the first opportunity available to them to deal with this issue.

I want to commend the chairman, the Honorable Carroll Hubbard, and the ranking minority member, my colleague from New York, BILL CARNEY, for their judicious consideration of this legislation, and would also like to commend the chairman of the full committee, my colleague from North Carolina, Mr. JONES, for judicious full committee action on this legislation.

I support this bill, and hope that it will be approved by this body.

Mr. CARNEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. JONES) that the House suspend the rules and pass the bill, H.R. 3969.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

POSTAL SAVINGS SYSTEM STATUTE OF LIMITATIONS ACT

Mr. SAM B. HALL, JR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3922) to establish a 1-year limitation on the filing of claims for unpaid accounts formerly maintained in the Postal Savings System, as amended.

The Clerk read as follows:

H.R. 3922

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 "Postal Savings System Statute of Limitations Act".

SEC. 2. Section 1322(c) of title 31, United States Code, is amended to read as follows:

"(c)(1) The Secretary of the Treasury shall hold in the Treasury trust fund receipt account 'Unclaimed Moneys of Individuals Whose Whereabouts Are Unknown' the bal-

ance remaining after the final distribution of unclaimed Postal Savings System deposits under subsection (a) of the first section of the Act of August 13, 1971 (Public Law 92-117; 85 Stat. 337). The Secretary shall use the balance to pay claims for Postal Savings System deposits without regard to the State law or the law of other jurisdictions of deposit concerning the disposition of unclaimed or abandoned property.

"(2) Necessary amounts may be appropriated without fiscal year limitation to the trust fund receipt account to pay claims for deposits when the balance in the account is not sufficient to pay the claims made within the time limitation set forth in paragraph (3) of this subsection.

"(3) No claim for any Postal Savings System deposit may be brought more than one year from the date of the enactment of the Postal Savings System Statute of Limitations Act.

"(4) The United States Postal Service shall assist the Secretary of the Treasury in providing public notice of the time limitation set forth in paragraph (3) of this subsection by posting notices thereof in all post offices as soon as practicable after the date of the enactment of the Postal Savings System Statute of Limitations Act.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas (Mr. SAM B. HALL, JR.) will be recognized for 20 minutes and the gentleman from Ohio (Mr. KINDNESS) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. SAM B. HALL, JR.).

Mr. SAM B. HALL, JR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill H.R. 3922, amends section 1322(c) of title 31, United States Code, to establish a 1-year limitation on the filing of claims for unpaid accounts formerly maintained in the Postal Savings System.

The Postal Savings System was created on June 25, 1910, to provide facilities for deposit of savings at interest with the security of the U.S. Government for repayment. Authority to accept additional deposits into the Postal Savings System was terminated in 1966 and the responsibility for administering payment of claims on the remaining 580,000 accounts was transferred from the Postal Service to the Department of the Treasury in 1967. Since 1967, payment to 119,000 depositors or their successors in interest has been made leaving approximately 467,000 unpaid accounts with a $5.8 million balance. Of the remaining accounts, at least one-half are estimated to be worth $2 or less, with the remaining one-half valued at an average of $24. The original $65 million transferred to the Department of the Treasury has been exhausted, use to the claims on the unpaid accounts and the distribution of $6 million in 1971 to the States, territories and District of Columbia. This distribution was authorized by Congress in lieu of allowing claims on the basis of State unclaimed property laws.

The Secretary of the Treasury is presently required to hold in perpetuity the balance of the accounts formerly held in the Postal Savings System. The bill provides that no claim for any Postal Savings System deposit may be brought after 1 year from date of enactment. Considering the notice to be provided, the notice given at the time of termination and transfer to the Department of the Treasury 16 years ago, the bill adequately protects the interests of depositors, their successors in interest and the U.S. Government.

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

Mr. Speaker, yesterday I thought this was a pretty good bill. We had been waiting around so long for it to be presented, I am not sure whether it has lost any merit or gained any merit, but I still think it is the kind of a bill that belongs on the suspension calendar, a noncontroversial bill.

I would just like to add a few comments, Mr. Speaker, to the excellent description of this bill that has been provided by the gentleman from Texas, the chairman of the subcommittee.

In 1966, the Postal Savings System, as has been pointed out, was closed for additional deposits and responsibility for winding up the system was transferred to the Department of the Treasury, along with approximately $65 million in account balances and accrued interest. That money has been used up in payments out to accounts. There are, however, 470,000 accounts that remain unclaimed.

At this point, as I say, all funds that were transferred by the Post Office has been distributed. It is time to close the books on these old accounts and allow the Department of the Treasury to dispose of the bushels of old records, some of which were exhibited to the subcommittee. They are records that the Treasury Department must maintain to keep track of these accounts, some of them going back to 1912.

The 1-year period allowed by the bill as a period of limitation will provide one last chance for people to claim these funds.

I would like to stress that according to testimony received by our subcommittee, many of these accounts have been inactive since the 1940's, and even including accrued interest, the average balance in the remaining accounts is about $12.41.

The expense of maintaining the records on these accounts nearly outweighs the value of them. I would ask my colleagues to support this commonsense, good government bill, that belongs on the Suspension Calendar.

Mr. SAM B. HALL, JR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KINDNESS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. SAM B. HALL, JR.) that the House suspend the rules and pass the bill, H.R. 3922, as amended.

The question was taken.

Mr. CARNEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1750

MARITIME SAFETY ACT OF 1983

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3486) to promote maritime safety on the high seas and navigable waters of the United States, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3486

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 "Maritime Safety Act of 1983".

SEC. 2. (a) Section 3309 of title 46, United States Code, is amended by adding at the end:

"(c) At least 30 days (but not more than 60 days) before the current certificate of inspection issued to a vessel under subsection (a) of this section expires, the owner, charterer, managing operator, agent, master, or individual in charge of the vessel shall submit to the Secretary in writing a notice that the vessel—

"(1) will be required to be inspected; or

"(2) will not be operated so as to require an inspection.".

(b) Section 3311 of title 46, United States Code, is amended by—

(1) inserting "(a)" before "A vessel";

(2) striking the word "valid"; and

(3) inserting at the end the following:

"(b) The Secretary may direct the owner, charterer, managing editor, agent, master, or individual in charge of a vessel subject to inspection under this chapter not having a certificate of inspection—

"(1) to have the vessel proceed to mooring and remain there until a certificate of inspection is issued; or

"(2) to take immediate steps necessary for the safety of the vessel, individuals on board the vessel, or the environment.".

(c) Section 3318 of title 46, United States Code, is amended as follows:

(1) Subsection (a) is amended by—

(A) striking "The" the first time it appears and substituting "Except as otherwise provided in this part, the" and

(B) by striking "$1,000, except that when the violation involves operation of a barge, the penalty is $500.", and substituting "not more than $5,000.".

(2) Subsection (c) is amended by striking "$2,000," and substituting "$5,000,".

(3) Subsection (d) is amended by striking "$2,000," and substituting "$5,000,".

(4) Subsection (e) is amended by striking "$2,000," and substituting "$10,000,".

(5) Subsection (f) is amended by striking "$5,000," and substituting "$10,000,".

(6) Subsection (g) is amended by striking "shall be fined not more than $10,000, imprisoned for not more than one year, or both," and substituting "is liable to the Government for a civil penalty of not more than $5,000,".

(7) Subsection (h) is amended by striking "United States Government for a civil penalty of not more than $500." and substituting "Government for a civil penalty of not more than $1,000.".

(8) At the end add the following:

"(i) A person violating section 3309(c) of this title is liable to the Government for a civil penalty of not more than $1,000.

"(j)(1) An owner, charterer, managing operator, agent, master, or individual in charge of a vessel required to be inspected under this chapter operating the vessel without the certificate of inspection is liable to the Government for a civil penalty of not more than $10,000 for each day during which the violation occurs, except when the violation involves operation of a vessel of less than 1,600 gross tons, the penalty is not more than $2,000 for each day during which the violation occurs. The vessel also is liable in rem for the penalty.

"(2) A person is not liable for a penalty under this subsection if—

"(A) the owner, charterer, managing operator, agent, master, or individual in charge of the vessel has notified the Secretary under Section 3309(c) of this title;

"(B) the owner, charterer, managing operator, agent, master, or individual in charge of the vessel has complied with all other directions and requirements for obtaining an inspection under this part; and

"(C) The Secretary believes that unforeseen circumstances exist so that it is not feasible to conduct a scheduled inspection before the expiration of the certificate of inspection.

"(k) The owner, charterer, managing operator, agent, master, or individual in charge of a vessel failing to comply with a direction issued by the Secretary under section 3311(b) of this title is liable to the Government for a civil penalty of not more than $10,000 for each day during which the violation occurs. The vessel also is liable in rem for the penalty.

"(l) A person committing an act described in subsections (b)–(f) of this section is liable to the Government for a civil penalty of not more than $5,000. If the violation involves the operation of a vessel, the vessel also is liable in rem for the penalty.".

SEC. 3. (a) Chapter 23 of title 46, United States Code, is amended as follows:

(1) At the end of the chapter analysis, add the following:

"2306. Vessel reporting requirements.".

(2) In section 2301, strike "This chapter" and substitute "Except as provided in section 2306 of this title, this chapter".

(3) Add at the end the following:

"§ 2306. Vessel reporting requirements

"(a)(1) An owner, charterer, managing operator, or agent of a vessel of the United States having reason to believe (because of lack of communication with or nonappearance of a vessel or any other incident) that the vessel may have been lost or imperiled immediately shall use all available means to determine the status of the vessel and notify the Coast Guard.

"(2) When more than 48 hours have passed since the owner, charterer, managing operator, or agent of a vessel required to report to the United States Flag Merchant Vessel Location Filing System under authority of section 212(A) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1122a), received a communication from the vessel, the owner, charterer, managing operator, or agent immediately shall use all available means to determine the status of the vessel and notify the Coast Guard.

"(3) A person notifying the Coast Guard under paragraph (1) or (2) of this subsection shall provide the name and identification number of the vessel, the names of individuals on board, and other information that may be requested by the Coast Guard. The owner, charterer, managing operator, or agent also shall submit written confirmation to the Coast Guard within 24 hours after nonwritten notification to the Coast Guard under those paragraphs.

"(4) An owner, charterer, managing operator, or agent violating this subsection is liable to the United States Government for a civil penalty of not more than $5,000 for each day during which the violation occurs.

"(b)(1) The master of a vessel of the United States required to report to the System shall report to the owner, charterer, managing operator, or agent at least once every 48 hours.

"(2) A master violating this subsection is liable to the Government for a civil penalty of not more than $1,000 for each day during which the violation occurs.

"(c) The Secretary may prescribe regulations to carry out this section.".

(b)(1) Section 6101 of title 46, United States Code, is amended—

(A) in subsection (a), by striking "and incidents"; and

(B) by striking subsection (c).

(2) Section 6103 of title 46, United States Code, is amended by striking "or incident".

SEC. 4. (a) Subsection (b) of section 4283 of the Revised Statutes of the United States (46 App. U.S.C. 183(b)) is amended by striking out "$60" each place it appears and inserting in lieu thereof "$420".

(b) The amendment made by subsection (a) shall apply to incidents occurring after the date of enactment of this Act.

SEC. 5. Sections 2(a) and 3 of this Act are effective 180 days after the date of enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from North Carolina (Mr. JONES) will be recognized for 20 minutes and the gentleman from New Jersey (Mr. FORSYTHE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. JONES).

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, several marine casualties, involving the tragic loss of life, prompted the introduction of H.R. 3486. The full Committee on Merchant Marine and Fisheries held three oversight hearings on these marine catastrophes, and the Coast Guard and Navigation Subcommittee held four hearings this year on maritime safety.

Essentially H.R. 3486 has four objectives: First, to establish a notification process in order to assure timely inspection of vessels by the Coast Guard; second, to improve compliance with vessel inspection requirements by increasing civil penalties for violating inspection laws and regulations; third, to establish vessel reporting requirements which will help identify possible distress situations and facilitate timely rescue operations; and fourth, to update the 1936 statutory limits on liability for personal injury and death.

I am saddened that our awareness of the need to meet these four objectives stems from several maritime accidents which resulted in the loss of many lives. I am heartened, however, that we were able to identify the problem areas and, subsequently, find solutions that will help to remedy this situation.

The first part of H.R. 3486, section 2, increases the maximum penalties for violating inspection laws. When I introduced H.R. 3486 in June of this year, the penalty for violating inspection laws was $500. This $500 fine was written into law in 1871. H.R. 3486 is the first comprehensive review and redraft of the inspection penalty sections since 1871.

Section 3 of H.R. 3486 requires masters of vessels to report every 48 hours to their vessel owners. If the owner does not receive this report, or if the owner has reason to believe his vessel may be imperiled, the owner is required to use all available means to locate the vessel and also promptly notify the Coast Guard.

The fourth section amends the 1936 Limitation of Liability Act by increasing the amount of the 1936 limitation from $60 per ton to $420 per ton. An inflation factor of seven was used to arrive at the $420 figure.

H.R. 3486, as amended, has received widespread support from the shipping industry, the maritime unions, the government agencies, and fortunately from both sides of the aisle.

I urge you to support H.R. 3486 and join me, along with the members of the Merchant Marine and Fisheries Committee, in this effort to improve maritime safety for our seamen.

Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. STUDDS).

Mr. STUDDS. I thank the gentleman for yielding to me.

Mr. Speaker, I rise in strong support of H.R. 3486.

The U.S. merchant fleet is now the oldest in the world. Economic conditions are such that this fleet will grow older still in the years ahead. This situation is unacceptable for reasons having a great deal to do with the economic well-being and the national security of our country. Other committee members will discuss the specific notification, reporting and penalty

provisions of this marine safety bill. What these changes are designed to make clear in general terms, however, is that Congress intends that our marine safety laws will be effectively enforced, and that economic considerations—no matter how severe they may be—must never be elevated in importance above the very lives of those who earn their livelihood at sea. Ships that are unsafe should never go to sea, it is that simple.

During consideration of this bill, I proposed an amendment—which was approved—to update the present limit on shipowner liability. This amendment would increase the liability limit for cases involving personal injury or death from $60 per ton of the vessel to $420 per ton. This change reflects merely the increase in the cost of living between now and when the $60 limit became a part of U.S. law—in 1936. Both present law and my amendment apply only to seagoing vessels. The limit can be invoked by the owner of a vessel only when he is able to establish that none of his supervisory personnel had or should have had knowledge of the cause of the disaster. If he cannot establish that, there would be no limit on liability under either my amendment or existing law.

I offered this amendment as an interim measure pending consideration by Congress of a more comprehensive long-term solution to the liability issue. That effort began last Tuesday, November 9, in the Subcommittee on Merchant Marine, and will continue in the months ahead under the leadership of that subcommitte's chairman, Mr. BIAGGI. My amendment was intended to spur, not hinder, the development of a more comprehensive bill, while also making certain that—regardless of what happens—we will emerge from this Congress with a more modern and defensible limitation of liability law on the books.

The bill we are considering today does not provide the full answer to the marine safety problem. There are many issues which were discussed during the hearings held by the Subcommittee on Coast Guard and Navigation which are not dealt with in this bill, but which are important, and which I am confident we will be acting upon later in this Congress. H.R. 3486 should, however, improve the likelihood that timely assistance will be available to vessels imperiled at sea, and it will do a lot to improve the enforcement of our marine safety laws. This legislation has been, from the beginning, designed, modified, and perfected under the leadership of the gentleman from North Carolina (Mr. JONES). I think he deserves enormous credit for the patient, serious and thorough manner in which he has approached this legislation.

Mr. Speaker, I believe this is an excellent bill, and I hope it will be overwhelmingly approved by the House.

I include at this point in the RECORD a copy of correspondence between members of the Subcommittee on Coast Guard and Navigation and the Coast Guard with respect to seven marine safety related issues.

HOUSE OF REPRESENTATIVES, COMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, D.C. October 6, 1983.

Admiral JAMES S. GRACEY,
Commandant, U.S. Coast Guard, Washington, D.C.

DEAR ADMIRAL GRACEY: As you know, the Subcommittee on Coast Guard and Navigation has recently conducted a series of four hearings on the subject of marine safety, with particular attention to H.R. 3486, the proposed Maritime Safety Act of 1983.

During those hearings numerous recommendations were presented to the Subcommittee, some of which have been incorporated in the text of H.R. 3486, and some of which were either not considered meritorious by the Subcommittee or were set aside for later consideration. Several other recommendations, however, were of considerable interest, but lent themselves more readily to administrative than to specific legislative action. Our Subcommittee has, as you know, been attempting to avoid encumbering statutory language with highly specific requirements, particularly in the area of marine safety.

In this letter, we are requesting that the Coast Guard take the following actions:

1. Issued proposed regulations to require all U.S. cargo vessels required to have lifeboats, within 3 years of the effective date of the regulations, to be equipped with lifeboat launching davits which are arranged to allow the lifeboat to be boarded and launched directly from the stowed position;

2. Issue proposed regulations to require all U.S. cargo vessels required to have lifeboats, within 3 years of the effective date of the regulations, to be equipped with self-contained, completely enclosed lifeboats;

3. Proceed with present plans to require that an additional EPIRB be carried on each side of all vessles subject to the Safety of Life at Sea Convention, in a position where the EPIRB may be readily placed in any lifeboat or life raft;

4. Arrange to send Coast Guard personnel for training in the rescue swimmer program administered by the U.S. Navy, or make other provisions to guarantee that Coast Guard personnel are trained in rescue swimming;

5. Review your policy governing the granting of extensions of drydock inspections for vessels. Vessels which have had a history of safety problems should not be granted extensions, except when shipyard space to carry out the drydock inspection is unavailable;

6. Proceed with efforts to evaluate the merits of improved lifesaving equipment suitable for use on passenger ferries; and,

7. Accelerate present efforts to recruit a limited number of experienced civilian personnel to participate in the Coast Guard's marine inspection program.

The Subcommittee believes that it would be in the public interest to implement each of the seven recommendations listed above. We remain willing, however, to consider any objections or reservations which the Coast Guard might have. With respect to the rule-making proposals, we believe a full opportunity for public comments should be accorded, in order that the economic and safety implications of these initiatives may be balanced and completely explored.

We would appreciate a response within 30 days concerning your willingness to carry out these recommendations.

As always, we deeply appreciate your assistance and cooperation.

Sincerely,

Walter B. Jones, Chairman, Subcommittee on Coast Guard and Navigation; Gerry E. Studds; Solomon Ortiz; Thomas Foglietta; Edwin Forsythe; Jack McKernan; Tom Carper; Webb Franklin; Billy Tauzin; Bob Borski; William Carney; Gene Snyder.

Jack Fields; Barbara Mikulski; Don Bonker; Earl Hutto; Bill Hughes; Roy Dyson; Dennis Hertel; Robin Tallon; Barbara Boxer; Mario Biaggi; Don Young; Joel Pritchard; Glenn Anderson; Herbert Bateman.

U.S. DEPARTMENT OF TRANSPORTATION, U.S. COAST GUARD,
November 10, 1983.

Hon. WALTER B. JONES,
Chairman, Subcommittee on Coast Guard and Navigation, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: My comments regarding the desirability and feasibility of the requests made by the Subcommittee on Coast Guard and Navigation in your letter of 6 October 1983 are set forth below.

The Subcommittee requested that the Coast Guard issue proposed regulations to require all U.S. cargo vessels required to have lifeboats, within 3 years of the effective date of the regulations, to be equipped with:

1. lifeboat launching davits which are arranged to allow the lifeboat to be boarded and launched directly from the stowed position, and

2. self-contained, completely enclosed lifeboats.

Totally enclosed lifeboats equipped with davit systems that would allow boarding and launching from the stowed position would be a significant upgrading of the lifesaving equipment on many cargo vessels. A required retrofit of this equipment could save lives in future casualties but at a significant cost. Along with safety benefits, we must assure that our regulatory proposals comply with Executive Order 12291, which requires cost-benefit analyses to show that potential benefits of regulatory actions outweigh potential costs.

We estimate the average cost of a totally enclosed lifeboat to be $40,000, and the davit and winch system to be $55,000 per davit set, including installation. Since each vessel must have two boats and davits, the cost would be about $190,000 per vessel. Approximately 400 vessels would be affected, so the total cost of the program would be about $76,000,000.

The lifesaving potential of the retrofit program is difficult to estimate, but if we assume the average useful remaining life of the existing vessel fleet is 15 years, we can look at the last 15 years' casualty experience on oceangoing U.S. cargo vessels to see how many lives were lost that might have been saved by better lifesaving equipment. Vessels involved during this period were the Badger State, Texaco Oklahoma, Chester A. Poling, Poet, and Marine Electric, and a

total of 120 lives were lost. If all of these lives could have been saved by the improved lifeboats and launching systems, the cost would approximate $633,000 per life saved. The actual cost per life saved would probably be in excess of one million dollars since we have estimated that about 47 of those lost might have been saved by the carriage of exposure suits.

Requiring this equipment on new vessels is much less expensive because the cost is the incremental difference between the conventional equipment and the new boat and davit systems. This equipment will be required for new vessels as we implement the new Chapter III of SOLAS 1974. Our tentative intent is to propose such installations on new vessels prior to the coming into force of the SOLAS change and to mentioin the alternative of retrofitting in the preamble to that rulemaking in order to elicit comments from the public.

The Subcommittee requested that the Coast Guard proceed with present plans to require that an additional EPIRB be carried on each side of all vessels subject to the Safety of Life at Sea Convention, in a position where the EPIRB may be readily placed in any lifeboat or liferaft.

As part of our regulation revision work to implement the new Chapter III of the Safety of Life at Sea Convention, we will propose regulations that would require that an EPIRB be carried on each side of the vessel, stowed so that it can be readily placed in any lifeboat or liferaft. These two EPIRBs would be in addition to the float-free EPIRB already on the vessel. We will begin work with the FCC to develop the appropriate technical specifications for the unit. When these are ready, the FCC and Coast Guard will jointly publish proposed regulations for approval of the EPIRB. Our goal is to have the regulations published as final rules before the July 1, 1986 effective date for the SOLAS revisions.

The Subcommittee further asked that we take action to ensure that Coast Guard personnel are trained in rescue swimming, through a program such as the one administered by the U.S. Navy. Based upon Coast Guard studies and analysis currently being completed, I estimate that 48 more lives would be saved each year if a rescue swimmer were available aboard Coast Guard helicopters. With the introduction of the non-amphibious HH-65A helicopters into our inventory I estimate that the increment in lives saved will rise to 64 per year. However, the costs for such a program are substantial.

To establish a helicopter rescue swimmer program as you suggest will require 133 additional military enlisted billets, start-up funding of $300,000 and a recurring increase to Coast Guard OE funding of $100,000, exclusive of personnel costs.

The additional personnel are required for several reasons. First, each one of our helicopter rescue crews will have to be augmented by one person—the rescue swimmer—as all of the existing crew are fully utilized during rescue evolutions. Secondly, there is a substantial amount of training time required on a routine basis to maintain the physical condition and expertise necessary to permit an individual to perform this function safely. This additional training and workload requirement will have to be offset by additional staffing. In an extensive study of our aviation enlisted staffing we have recently established that our personnel needs exceed billets by 115 man-years per year. Adding the rescue swimmer requirement to the system without adding personnel resources would be sure to have a significant impact on our ability to maintain aircraft and retain people.

In spite of the cost of the program, I feel that such a program has merit and will provide a substantial return on the resources devoted to it. If the resources can be obtained and the program is established, I estimate that a benefit to cost ratio of 5.91:1 will be obtained during the first year of operation, and a ratio 7.88:1 once the HH-65A helicopter is implemented.

You indicated that vessels which have had a history of safety problems should not be granted extensions, except when shipyard space to carry out the drydock inspection is unavailable, and requested that the Coast Guard review its policy governing the granting of extensions of drydock inspections for vessels.

Coast Guard policy governing extensions of drydock examinations was reviewed following the *Marine Electric* casualty. While general policy was not revised, specific guidelines were issued which formalized the steps to be taken when considering requests for extensions. I consider our current policy and guidelines to be adequate.

Coast Guard Officers in Charge, Marine Inspection (OCMIs) and District Commanders have limited authority to grant extensions on a case-by-case basis. A visit to the vessel by Coast Guard inspectors is required in all but the most unusual situations as a prerequisite to the issuance of an extension. The guidelines also require a written statement from the vessel's master or chief engineer stating that in his opinion the vessel is suitable for operation during the extension period. In addition, a thorough review of the vessel's history by the cognizant OCMI is required.

The inspection of the vessel coupled with the file review will establish not only any history of safety problems but also a good assessment of the vessel's current condition. A drydock extension will not be granted unless the vessel history and/or current condition warrant. Furthermore, unavailability of a drydock facility would not be grounds for granting an extension if the vessel is determined unsafe for the extension period.

The Subcommittee recommended that we proceed with efforts to evaluate the merits of improved lifesaving equipment suitable for use on passenger ferries. We have agreed in principle with a proposal by the Washington State Ferries to provide a new type of inflatable buoyant apparatus on some of their vessels. The apparatus is designed to keep survivors out of the water, has no canopy, and has a large capacity. We will be working closely with the manufacturer of the apparatus and the ferry system to evaluate the device. once this system is installed on a vessel, we will be able to evaluate the expense, stowage problems, and crew capability. Our support for a requirement for such a system will depend upon our evaluation of this first installation.

Finally, you requested that the Coast Guard accelerate present efforts to recruit a limited number of experienced civilian personnel to participate in our marine inspection program.

The Coast Guard is evaluating recruiting a limited number of experienced civilian personnel into the marine inspection program. At present under our Licensed Officer of the Merchant Marine (LOMM) and Experienced Licensed Officer of the Merchant Marine (ELOMM) programs we have recruited civilian merchant mariners into marine inspection, albeit as Coast Guard officers. We contemplate a great increase in the number of civilians at the Regional Examination Centers. A significant factor in vessel safety is quality of the licensed merchant marine officers. Our focus on the Regional Examination Centers should provide an increase in this quality. In conjunction with our expanded training program for marine inspectors, we are evaluating the concept of designating several large marine safety units as training ports. These will be used as the centers for the professional development of our inspection cadre. Although this organizational structure has not been fully developed, we plan to include experienced civilian personnel on the staff. These plans are not in final form due to the need to assess the availability of experienced civilians at the appropriate GS levels and to consider such matters as career promotion opportunities in order to achieve stability in these positions.

B. L. STABILE,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

Mr. JONES of North Carolina. Mr. Speaker, I reserve the balance of my time.

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

Mr. Speaker, I rise in support of H.R. 3486, the Maritime Safety Act of 1983. This legislation takes important steps to promote maritime safety. It also helps to assure that individuals injured at sea, and the survivors of victims lost at sea, are fairly compensated.

H.R. 3486 is the product of a series of four hearings held by the Coast Guard and Navigation Subcommittee which considered numerous maritime safety issues. This bill also reflects extensive consultations with representatives of a great many interested groups, including the Coast Guard. I appreciate the cooperative spirit in which virtually all interested parties have approached this bill.

Maritime safety should be of the highest priority—for the Coast Guard and other Government agencies, for the owners of ships and offshore facilities, and for the officers and crews who operate them. Many laws now regulate maritime safety, but it appears from hard experience learned in recent disasters—involving the *Poet*, the *Ocean Ranger*, and the *Marine Electric*—that additional legislative action is necessary.

I would like to comment on two issues that arose during consideration of this bill. One issue addressed in this bill is an amendment to 46 U.S.C. § 183(b), to increase the shipowners' limits of liability in cases where the crew suffers death or injury. I think that raising the statutory limit to take care of inflation over the years is quite fair in principle, and I support the amendment, but I also think that this whole question of limits of liability deserves more comprehensive study. I am pleased that the Merchant Marine

Subcommittee already has held a hearing on this subject, and I expect to see further legislative action soon.

One issue that is basically not addressed in H.R. 3486 is how to significantly improve safety on board commercial fishing vessels, where approximately 150 U.S. fishermen are lost each year. I understand that the fishing industry is strenuously concerned about any official Coast Guard actions regarding commercial fishing vessel safety. I also understand that some sectors of the fishing industry have begun efforts to improve fishing vessel safety through education programs. Congress should continue its effort to find some forum in which the fishing industry, the Coast Guard, the insurance industry, and other interested parties can discuss fishing vessel safety matters on a regular, frequent, organized basis.

For now, I am quite pleased that the Merchant Marine and Fisheries Committee has worked diligently, with all affected groups, to bring H.R. 3486 to the floor. I urge my colleagues to vote in favor of H.R. 3486.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Nebraska (Mrs. SMITH).

Mrs. SMITH of Nebraska. Mr. Speaker, I rise in support of H.R. 3486, the maritime safety bill. However, I must qualify that support by stating that legislation to improve safety on our aging merchant marine is only treating the symptoms and not the disease that causes a great portion of our maritime disasters.

The disease is not poor safety standards of enforcement, but rather, a U.S. maritime policy that fosters the continued service of old, rusted, inefficient ships through unwarranted and unwise cargo preference laws.

Our cargo preference laws have led to continued use of vessels that should have been scrapped years ago. What is more, this Congress has before it legislation that would extend cargo preference laws to more of our exports—not less.

Consider the case of the S.S. *Poet* which sank 3 years ago killing 34 men. The S.S. *Poet* was a WW II vintage ship sailing with a Government guaranteed cargo of Public Law 480 grain for Egypt. Its only justification for existence was the revenue it could generate from one more load of Government grain with taxpayers paying the inflated cost of inefficient powerplants and very high labor costs. The ship was lost for 10 days before the owner reported it missing.

May I remind the House that this is not an isolated case. Our maritime policy has fostered a merchant marine fleet in which 38 percent of the ships are more than 20 years old and 22 percent have passed age 30.

The *Marine Electric*, a 38-year-old relic, sank February 12, 1983, killing 31 American crewmembers. The S.S. *Penny*, sister ship to the ill-fated S.S. *Poet*, sailed from Florida 2 weeks ago loaded with AID fertilizer for Kenya. The *Penny* sailed after repairs were made in the hull from damage caused when a crewmember dropped a sounding pole into the ballast tank to measure the depth. The sounding pole went right through the bottom of the ship. When the *Penny* went on recent sea trials, the Coast Guard ordered her to drop anchor only to watch the anchor break loose from the chain and plunge to the ocean floor.

Safety standards are a good idea and so is improving them, but they will never prevent the inevitable problems that occur with old ships once they get on the high sea. The fact is, we have priced ourselves out of the shipping and shipbuilding business. Our mad array of subsidies through the years, including cargo preference, have not helped the merchant marine and in fact, have probably only fostered its unsafe demise.

Mr. JONES of North Carolina. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. DONNELLY).

□ 1800

Mr. DONNELLY. Mr. Speaker, I thank the committee chairman for yielding time to me.

I rise in strong support of H.R. 3486, the Maritime Safety Act of 1983. This legislation will have a positive impact on the worker safety record of the U.S. maritime industry. By increasing the penalties for operation of unsafe vessels, and by raising the limit on liability that a court can award to a lost seaman's survivors, we are making it much less attractive for a shipowner to knowingly avoid compliance with safety regulations. Hopefully, we will never have to witness tragedies-at-sea on the scale of the *Poet*, the *Ocean Ranger*, and the *Marine Electric* disasters, again. Enactment of the Maritime Safety Act of 1983 will result in major improvements to existing statutes that have lost their effectiveness over the years.

I commend the chairman of the full committee, WALTER JONES, for his stewardship of this timely legislation. Likewise, I want to commend my colleague from Massachusetts (Mr. STUDDS), for the significant role he played in bringing this bill before the House today.

Mr. YOUNG of Alaska. Mr. Speaker, today we take up the bill, H.R. 3486, the Maritime Safety Act of 1983. This bill is in response to the three recent maritime tragedies of the *Marine Electric*, *Ocean Ranger*, and *Poet*. The information that we of the Merchant Marine and Fisheries Committee received in our four oversight hearings has allowed us to put together the provisions in the bill before us today.

Marine safety, of course, is of prime importance to everyone in the maritime industry: the Coast Guard, the shippers, the unions, offshore oil, pilots, and commercial fishermen. These three recent incidents remind us of the possibility of large loss of life which all of us regret. These incidents not only point out the need for safety but also the dangerous nature and risks of going to sea for a living. As the Representative from the State of Alaska, I can assure you that I am familiar with a harsh and unforgiving maritime environment. I mention that because we must accept the reality of the conditions in the marine industry when looking at these marine safety programs.

A safer merchant marine will eliminate unnecessary loss of life but is also just good business. No one wins when a marine casualty occurs. I am glad to see that we are taking the steps toward safety in the inspection, vessel reporting, and penalty update parts of H.R. 3486. I am also glad to see that we have not jumped to include any unnecessary or undesirable provisions.

Thus, we have struck the balance of the need for safety with the realization of the dangerous nature and risks of the marine industry and of the limits of what Government can and should do. Just passing laws or adopting regulations is not the only solution. We must consider the efforts made in the private sector and Government in bringing about safe conditions and a strong merchant marine. In particular, we must be concerned with how a new law would impact the way in which the Coast Guard implements its safety program and the sparse resources it has to perform its responsibilities. This bill takes these concepts into account.

Mr. Speaker, I urge all of my colleagues to support and approve this bill.

● Mr. BIAGGI. Mr. Speaker. I rise today in support of H.R. 3486, the Maritime Safety Act of 1983. I also want to associate myself with the remarks of the gentleman from North Carolina, the chairman of the committee on Merchant Marine and Fisheries.

I am proud to have been a part of the joint efforts of the Subcommittee on Coast Guard and navigation and my own Subcommittee on Merchant Marine. We met on four separate days and considered a number of maritime safety issues that were raised as the result of three major maritime tragedies. This legislation and a number of regulatory efforts that have been—or soon will be—initiated by the Coast Guard is the result of our endeavors.

This legislation will provide a better notification process for insuring timely inspections of vessels by the Coast Guard—greater owner awareness of his responsibilities by signifi-

cantly increasing penalties for certain violations of the inspection laws and regulations—better notification of where vessels are located on the high seas so as to help in identification of possible distress situations—and last but certainly not least—an increase for inflation of existing liability limits for loss of life or bodily injury on seagoing vessels.

This last item, which increases the liability limits of a shipowner from $60 a gross ton to $420 a gross ton is solely an interim measure. During the committee deliberations I made it clear that the issue of limitation of shipowner's liability is a major issue of importance to the competitiveness of the United States-Flag Merchant Marine—and to the well-being of our seafarers and their families. I felt—and still feel—that it is a subject that requires extensive review and consideration. We have already held one hearing to explore all issues and proposals related to our maritime limitation laws. As might be expected we already have conflicting views. One witness suggested adopting a legislative proposal to parallel the international treaties on limitation of liability but with higher limitation funds. Another suggested that we should remove all limits of liability for vessels.

I again would like to make it clear to all interested parties that the Subcommittee on Merchant Marine intends to conduct a broad examination of these issues and proposals. They should make their views known so that we may arrive at reasonable solutions to provide adequate compensation to those who have been injured and to those families who have lost a loved one without unduly burdening the competitiveness of the U.S. fleet. It is a challenge that is certain to raise controversy—but it is a challenge I intend to meet.

However, the elements of H.R. 3486 are not in controversy and most interested parties have expressed their support for promoting maritime safety and for increasing limitation of liability funds. I believe it deserves the support of all of us. I urge your adoption of H.R. 3486.●

Mr. JONES of North Carolina. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. JONES) that the House suspend the rules and pass the bill (H.R. 3486), as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

NOAA PERSONNEL MEDICAL AND DENTAL CARE

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3968) to authorize the Secretary of Commerce to budget for medical and dental care for personnel of the National Oceanic and Atmospheric Administration entitled to that care.

The Clerk read as follows:

H.R. 3968

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the Act of December 31, 1970 (33 U.S.C. 857-3) is amended by adding "(a)" after "SEC. 3." and by adding at the end the following new subsection:

"(b) The Secretary may provide medical and dental care, including care in private facilities, for personnel of the Administration entitled to that care by law or regulation."

SEC. 2. (a) The matter before subsection (b) in the first section of the Act of July 19, 1963 (42 U.S.C. 253a(a)), is amended by striking "at facilities of the Public Health Service: *Provided,* That" and inserting in lieu thereof "by Public Health Service if".

(b) The first sentence of subsection (b) of the first section of that Act (42 U.S.C. 253a(b)) is amended—

(1) by striking out "at its hospitals and relief stations"; and

(2) by striking out "at hospitals of the Public Health Service: *Provided,* That" and inserting in lieu thereof "by the Public Health Service if".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from North Carolina (Mr. JONES) will be recognized for 20 minutes and the gentleman from New Jersey (Mr. FORSYTHE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. JONES).

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join with my colleagues—Mr. D'AMOURS and Mr. FORSYTHE, in urging the House to pass H.R. 3968.

H.R. 3968 is a noncontroversial bill, introduced at the request of the Department of Commerce, which simply seeks to provide continued health care to certain employees of the National Oceanic and Atmospheric Administration (NOAA); namely, NOAA Corps, wage marine employees, and persons retired on or before July 19, 1963, or in continuous active service since that date.

Until fiscal year 1983, health care for these employees was provided by Public Health Service hospitals under Health and Human Services. Currently, the Department of Commerce reimburses Health and Human Services for health care provided to their employees.

Section 1 of H.R. 3968 would grant the Secretary of Commerce permanent authority to budget for the health care of these employees. The Secretary of Commerce was given temporary authority under the continuing appropriations for fiscal year 1983.

The Secretary of Commerce could provide this care by contracting directly with private facilities or through reimbursement to another agency, including the Public Health Service, qualified to provide care either directly or by contract with private facilities.

Section 2 of the bill strikes references to "facilities" and "hospitals" of Public Health Service and is designed to provide relief to those NOAA employees, or retired NOAA employees, and dependents whose hospitalization benefits were inadvertently terminated by closure of PHS facilities under the Omnibus Budget Reconciliation Act of 1981 and by interpretation of other law that hospitalization at "facilities of the Public Health Service" does not include health services by contract.

Since this care is presently being provided by the Department of Commerce through reimbursement to the Department of Health and Human Services, this legislation is not expected to result in any additional cost to the Federal Government.

Mr. Speaker, I urge my colleagues to support this noncontroversial legislation.

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

Mr. Speaker, I rise in support of H.R. 3968.

This bill authorizes the Secretary of Commerce to budget for medical and dental care for those employees of the National Oceanic and Atmospheric Administration (NOAA), NOAA Corps officers, their dependents, survivors, and crew members of NOAA vessels whose health services were previously provided and budgeted by the Public Health Service. These services have been terminated by the phaseout of Public Health Service hospitals and related fiscal adjustments. The bill further authorizes the Secretary to provide medical and dental care to eligible NOAA employees by contracting directly with private facilities or by reimbursing another agency to provide such care, either directly or by contract with private facilities. It has been determined that fiscal accountability would be improved if NOAA, and other affected agencies like the Coast Guard, made provision in their budgets for health care services of their agency's personnel.

Finally, H.R. 3968 makes several technical—but critical—amendments to current law, the effect of which is to continue hospitalization for a small group of older NOAA employees who have either been retired or in continuous active service for at least 20 years.

To my knowledge, H.R. 3968 does not change any existing basic entitlements, it merely changes administrative authority for these health benefits. Further, it contains no new authorizations for appropriations for fiscal year 1984. The Merchant Marine and Fisheries Committee reported H.R. 3968 with a unanimous voice vote. I also am not aware of any opposition to the bill by the administration. In fact, the draft legislation was submitted to the Merchant Marine and Fisheries Committee by the Secretary of Commerce.

Mr. Speaker, I support H.R. 3968 and urge my colleagues to adopt the legislation.

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

Mr. JONES of North Carolina. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. JONES) that the House suspend the rules and pass the bill, H.R. 3968.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3969, H.R. 3486, and H.R. 3968, the three bills just passed.

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

There was no objection.

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

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries may be permitted to sit tomorrow, November 16, 1983, during the 5-minute rule.

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

There was no objection.

EXTENDING CASH NUTRITION ASSISTANCE PROGRAM IN PUERTO RICO

Mr. PANETTA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4252) to repeal the noncash benefit requirement for the Puerto Rico nutrition assistance program, as amended.

The Clerk read as follows:

H.R. 4252

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That effective for the period beginning January 1, 1984, and ending July 31, 1985, section 19(a)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2028(a)(1)(A)) is amended by striking out "noncash".

SEC. 2. The Secretary of Agriculture shall conduct a study of the food assistance program in Puerto Rico carried out under section 19 of the Food Stamp Act of 1977 (7 U.S.C. 2028) which shall include (1) an assessment of its impact on the adequacy of the nutritional level of the diets of households receiving food assistance in the form of cash rather than in a noncash form, (2) an assessment of the expenditure levels for food of such households, and (3) any other factors the Secretary considers appropriate. The Secretary shall submit a final report of the findings of the study to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate no later than March 1, 1985.

SEC. 3. Section 3(c) of the Food Stamp Act of 1977 (7 U.S.C. 2012(c)) is amended by—

(1) in the second sentence, striking out all that follows "except that" and inserting in lieu thereof "the foregoing limits on the certification period may, with the approval of the Secretary, be waived by a State agency for certain categories of households where such waiver will improve the administration of the program."; and

(2) adding at the end of clause (2) the following new sentence: "The maximum limit of 12 months for such period under the foregoing proviso may be waived by the Secretary where such waiver will improve the administration of the program.".

SEC. 4. Section 5(f)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(f)(2)) is amended by redesignating subparagraph (B) as subparagraph (C), and inserting after subparagraph (A) the following new subparagraph:

"(B) Household income for households that (i) are permitted to report household circumstances at specified intervals less frequent than monthly under section 6(c)(1) of this Act, (ii) have no earned income and in which all adult members are elderly or disabled members, or (iii) are any other households, other than a migrant household, not required to report monthly or at less frequent intervals under section 6(c)(1) of this Act, may, with the approval of the Secretary, be calculated by a State agency on a prospective basis, as provided in paragraph (3)(A) of this subsection.".

SEC. 5. Section 6(c)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)(1)) is amended by inserting after the first sentence the following new sentence: "The Secretary may permit State agencies to accept, as satisfying the requirement that households report at such specified less frequent intervals, (i) recertifications conducted in accordance with section 11(e)(4) of this Act, (ii) in person interviews conducted during a certification period, (iii) written reports filed by households, or (iv) such other documentation or actions as the Secretary may prescribe.".

SEC. 6. Section 6(c)(3) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)(3)) is amended by striking out the third sentence and inserting in lieu thereof: "Reports required to be filed monthly under paragraph (1) shall be the sole reporting requirement for subject matter included in such reports.".

SEC. 7. Section 11(e)(19) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(19)) is amended to read as follows:

"(19) that—

"(A) in any case in which information is available from agencies administering State unemployment compensation laws under section 303(d) of the Social Security Act (42 U.S.C. 503(d)), the information shall be requested and utilized by the State agency to the extent permitted under such section;

"(B) in any case in which information is not available from agencies administering State unemployment compensation laws under section 303(d) of the Social Security act—

"(i) information available from the Social Security Administration under section 6103(1)(7) of the Internal Revenue Code of 1954 shall be requested and utilized by the State agency to the extent permitted under such section; or

"(ii) similar information available from other sources shall be requested and utilized by the State agency to the extent approved by the Secretary and permitted by any law controlling access to the information.".

The SPEAKER pro tempore. Is a second demanded?

Mr. EMERSON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. PANETTA) will be recognized for 20 minutes and the gentleman from Missouri (Mr. EMERSON) will be recognized for 20 minutes.

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

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

Mr. Speaker, I would point out at the outset of consideration of this bill that additional provisions have been included that were not contained in the bill as reported by the committee on agriculture. The changes address administrative matters that have posed significant difficulties to the State agencies administering the food stamp program. The changes, which I will describe more fully in my remarks, have been developed in consultation with the administration and have the support not only of the majority and minority members of our committee, but also the majority and minority members of the Senate Committee on Agriculture, Nutrition, and Forestry.

H.R. 4252, as reported by the Agriculture Committee, amends the Food Stamp Act of 1977 to suspend through July 31, 1985, the requirement that benefits in the nutrition assistance program (NAP) in Puerto Rico be paid in noncash form. Unless a change in the law is enacted prior to January 1, 1984, Puerto Rico would be required to implement a noncash benefit delivery system. H.R. 4252 also mandates the Secretary of Agriculture to complete a

study of the effectiveness of the current NAP by March 1, 1985.

The additional amendments I am offering today would make it easier for States to administer the monthly reporting and retrospective budgeting requirements currently in the law. While I continue to believe that monthly reporting and retrospective budgeting should be optional with the States, I believe we should also make these changes to ease the burden on States while these requirements remain in effect.

Perhaps the most important change these amendments make is to allow States to conduct recertification interviews more often than every 6 months for households subject to the monthly reporting requirements. Some States think it is more cost effective to have frequent, probing face-to-face interviews than to require the filing of a written report monthly.

In addition, these amendments would achieve several other purposes:

First, they would respond to a widespread State concern by allowing retrospective budgeting (the practice of basing benefits and eligibility upon household circumstances in a prior month) to be waived for households that are either exempt or waived from monthly reporting requirements;

Second, they would permit the Secretary to allow certain elderly and disabled households to be certified for more than 12 months at a time;

Third, they would allow periodic reporting requirements to be satisfied by in person interviews, as well as the filing of a written form; and

Fourth, they would allow States to design shorter and less complicated monthly report forms, so long as recipients would not be required to file more than one written form a month addressing the subject matter in the reports.

Altogether, these amendments should simplify program administration and allow States to target monthly reporting and retrospective budgeting on those for whom it is cost effective.

Now I would like to provide more background on both parts of the bill before you. Puerto Rico has operated a cash nutrition assistance program since July of 1982, as the result of legislation in 1981 replacing the food stamp program there with a block grant. Based upon the evidence available so far, the agriculture committee believes the current NAP program is worthy of continuation. This program is well administered, has eliminated many of the accountability and integrity problems of the Puerto Rico food stamp program, and enjoys widespread support among clients and program workers. Both a study by the U.S. Department of Agriculture (USDA) and hearing testimony fail to show any significant drop in food expenditures by participating households as a result of the conversion of the form of payment from stamps to cash.

However, since the evidence on the effect of this conversion on the food expenditures and consumption of these households is inconclusive, the committee believes a more definitive evaluation of the cash form of nutritional assistance should be conducted by the Secretary of Agriculture. H.R. 4252 directs USDA to conduct a study and submit by March 1, 1985, a final report of its findings to the appropriate House and Senate committees.

I am pleased that H.R. 4252 was approved in subcommittee and full committee by unanimous vote. The bill is carefully drafted to respond to the preference of the government of Puerto Rico and USDA to continue the current program, yet also builds in an opportunity for program skeptics to debate the program again in 1985, following completion of the USDA study. By establishing a July 31, 1985, expiration date for authorization of the cash program, the bill would facilitate congressional consideration of the Puerto Rico cash assistance program separate from reauthorization of the entire food stamp program and the 1981 farm bill.

I would stress that passage of this bill should in no way be viewed as a precedent for change in the administration of the food stamp program in other States and jurisdictions. The NAP is a response to circumstances unique to Puerto Rico. Participation of over 50 percent of the island on food stamps created administrative and accountability problems in that program unlike those anywhere else. Congressional passage of the block grant at sharply reduced funding created additional pressures to minimize administrative costs and maximize benefits. I do not support extending block grants allowing cash assistance to any other jurisdiction and would oppose efforts to do so.

I would like to express my appreciation to the chairman of the House Committee on Agriculture and the chairman of the Senate Committee on Agriculture, Nutrition, and Forestry for their leadership in expediting passage of this bill. It is extremely important to the people of Puerto Rico and it has been most helpful to have this bill considered apart from other more controversial food stamp issues. I would also like to express my thanks to Representative TOM COLEMAN for his cooperation in reaching a satisfactory compromise on the Puerto Rico NAP issue.

As far as the other amendments offered today, our committee has in recent months heard much testimony and received widespread reports of problems posed by monthly reporting and retrospective budgeting systems. The research conducted to date on these systems indicates that they generally do not reduce costs and have little effect on error rates—but do increase administrative burdens and expenditures and do result in the denial of benefits to some recipients in legitimate need. Given these problems, most States have asked the Congress to make the use of these systems a State option in the food stamp program rather than a mandatory Federal requirement.

At my request, a proposal to retain a State option in this area was included in the Wright amendment passed by the House last week as part of the continuing resolution. I would have preferred that the problems posed by monthly reporting be addressed in this manner. However, this provision was dropped in conference. And now, with the deadline for mandatory monthly reporting approaching, it is incumbent upon Congress to do what we can to ease the burdens States will shortly face in implementing monthly reporting systems.

The proposed amendments contain several provisions dealing with USDA's authority to grant waivers under which States may exempt categories of households from monthly reporting. At present, households covered by monthly reporting—as well as households exempted from monthly reporting under the waiver authority—may not be recertified any more frequently than every 6 months. This requirement has caused significant problems. Up until now, and prior to the onset of monthly reporting, many food stamp households have been certified for periods of less than 6 months. A number of States believe that maintaining these more frequent recertifications (at which households are generally interviewed in person and household circumstances can be probed in greater depth than is usually the case in the monthly reporting process) would be more effective for certain types of households than placing them under the monthly reporting regimen. Yet if States wish to exempt some of these households from monthly reporting, they must now lengthen their certification periods to 6 months.

An amendment before us fixes this. It provides that States requesting waivers to exempt certain categories of households from monthly reporting may also seek waivers to recertify such households at intervals of less than 6 months. The amendment does not require that certification periods of less than 6 months be used for households exempted from monthly reporting—it simply gives States flexibility so that they may elect, with the Secretary's approval, to use shorter certification periods for some or all households for which waivers from monthly reporting are being requested.

In addition, the amendment also allows States—with the approval of the Secretary—to use certification periods of less than 6 months for categories of households who are subject to monthly reporting. If a State wishes to combine shorter certification periods with use of monthly reporting for particular types of households, this should not be precluded by law. Here again, the amendment provides additional State flexibility.

I would note that it is our clear intention that the Secretary would normally grant State requests to use certification periods of less than 6 months—both for households waived from and those subject to monthly reporting—if the requests are made on a reasonable basis.

An amendment also deals with the income accounting procedures to be used for households exempt or waived from monthly reporting. In most cases, it makes sense to use prospective accounting for households who are not subject to monthly reporting. However, the statute currently requires use of retrospective accounting for elderly and disabled households not subject to monthly reporting as well as for households waived from monthly reporting at the request of a State. The requirement for use of retrospective accounting in these circumstances has caused administrative difficulties for a number of States.

The amendment remedies this problem. It authorizes States to secure waivers that would allow them to use prospective budgeting for the categories of households to which I just referred. We expect that, where monthly reporting is not being used, prospective accounting procedures would ordinarily be the procedure put in place and that the Secretary would readily approve State requests to do so.

Another amendment clarifies that when households are exempt from monthly reporting and have to report at specified less frequent intervals instead, the Secretary could allow recertifications to be used to satisfy this reporting requirement. The Secretary could also permit in person interviews in the Food Stamp Office during a certification period, the submission of a specified type of report from, or other means to be used to satisfy this requirement.

An additional amendment would facilitate the use of simpler and shorter monthly reporting forms. Section 6(c)(3) would be modified to make clear that if States wanted to shorten their monthly report forms by say, dropping items relating to expenses or assets or other items, participants would still be expected to report on eligibility factors that are not covered in the monthly reports. To the extent that certain subject matters, such as household income or household size, are covered in the monthly written report, a participating household could not be required, contrary to the practice in the AFDC program, to file an additional written form during the month if a change should occur in a matter that is included in the report.

This change in the law is necessary because the law currently states that a household subject to a monthly reporting requirement cannot be required to meet any other reporting requirement. As a result, the Department has required that monthly reports must be quite comprehensive in scope. Many States would like to simplify the reports to cover eligibility factors that are the most subject to change and would rely on other reporting mechanisms to provide additional information that might be needed to determine eligibility and benefit levels. The proposed amendment would allow this to happen, while still protecting clients from having to file written reports on any eligibility factor more than once in a month. The intent of this amendment is simply to give States greater flexibility in designing reporting requirements. It is not intended to authorize the Department to place any new reporting requirements on the States or participants. It is firmly intended that for those households exempt from monthly and periodic reporting requirements, such as migrants and certain elderly and disabled households, no new reporting requirements can be imposed beyond those in effect now. The sole purpose of this amendment is to allow greater flexibility in procedures affecting households subject to monthly reporting.

Mr. Speaker, these changes are intended to resolve serious problems that have cropped up in the monthly reporting waiver process. These changes will be of considerable importance to the States. We would expect the Secretary to notify all States of the new waiver guidelines immediately upon enactment, and to inform all States that they may revise or expand earlier waiver requests, or submit new waiver requests, based on these new guidelines.

It is now clear that monthly reporting works only if it is well targeted. The research data to date is not favorable to monthly reporting when it is used on a broad scale. Given the lack of data showing cost-effectiveness from monthly reporting and given the potential for increased administrative costs, we would expect the Secretary to grant most waiver requests concerning exemptions from monthly reporting for specified household categories. The burden should now be placed on the Secretary, in the event that waiver requests are denied, to justify why approvals were not granted. This is a matter of considerable interest for the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition. We plan to follow the Department's actions on waiver requests closely and to exercise our oversight function in this area.

We would also expect that, since so little time exists between now and January 1, 1984 (when the monthly reporting mandate takes effect), the Secretary would grant temporary waivers to States submitting waiver requests under these guidelines, if necessary beyond January 1, 1984. The Secretary followed this approach in late September, allowing temporary waivers to be placed in operation while the longer term State waiver requests were examined. This procedure should now be used again so that States do not incur unnecessary administrative burdens and costs in shifting categories of households to monthly reporting on January 1 only to remove them from monthly reporting a month or two later when a waiver request is granted.

These amendments are offered with the clear intent to affect the process for issuing waivers on monthly reporting and retrospective budgeting prior to the date these procedures become mandatory, January 1, 1984. It is our intent that no State should be required to implement mandatory monthly reporting and retrospective budgeting until it has had the opportunity to avail itself of the changes in the law we are now making. It is our intention that the Secretary would immediately entertain State requests for waivers relating to 6 month certification periods, retrospective budgeting, and other features of these amendments.

A final provision included in these amendments pertains to wage matching. It would permit States to utilize alternative sources of information for wage matching, in lieu of using wage data from the Social Security Administration as required by current law. Apparently some States are unable to match the social security wage data with their food stamp rolls in an effort to screen out ineligible persons.

Mr. Speaker, these amendments will not solve all the problems with monthly reporting and retrospective budgeting (MRRB). For some States, these procedures will never be cost-effective and most States will still have to engage in an unwieldy and burdensome process of gaining waivers from USDA to reduce the number of households subject to MRRB to the relatively few (estimated to be 10–15 percent) for whom it may be cost effective.

I continue to believe that monthly reporting and retrospective budgeting should remain a State option. There are already strict sanctions in the law for States with high error rates. I do believe we should provide States with a large degree of flexibility to determine how they will meet the error rate sanction standards, rather than man-

date an across-the-board method for administering this program that may well lead to more errors and higher costs.

I urge my colleagues to support this bill, as amended, as a reasonable approach to improving several important aspects of the food stamp program.

□ 1810

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

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

Mr. Speaker, as a cosponsor of H.R. 4252 I support this measure to allow Puerto Rico to continue, for a specified period of time, to have flexibility to determine the method by which they will issue food assistance benefits under their block grant and to require the Secretary of Agriculture to study this issue in depth.

The representatives from the Commonwealth of Puerto Rico—the Governor, the Resident Commissioner and the Secretary of Human Resources—all believe that the method they have chosen to issue food assistance benefits is correct for Puerto Rico. They have set forth several reasons for issuing benefits by check. As I stated in our committee, some of the reasons, as described by the representatives from Puerto Rico, are:

First, substantial savings are achieved. Administering a check issuance system costs approximately $10 million per year less than administering a coupon system. Eliminated are expenses associated with the printing of the coupons, their timely distribution, the hiring of guards to prevent their theft, the certification and monitoring of food stores, the rental of office and vault space at issuing centers, and the employment of issuance clerks at each such center.

Second, the temptation to spend nutritional assistance funds on nonessential items is minimal. A study by the Puerto Rico Department of Health revealed that in 1981 food expenses are greater than food assistance for most recipient families.

Third, the possibilities for fraud are reduced. A chronic problem nationally with the food stamp program involves brokers, who convert coupons to cash in exchange for a percentage of their face value. In addition, unscrupulous merchants have frequently accepted coupons in payments for nonfood items. Puerto Rico is employing a high-security check, extremely difficult to falsify and very easy to trace, to determine where it was cashed.

I support the bill as it was amended in our subcommittee markup. I agree that the Secretary should be required to study this matter. As I understand it the study to be conducted by the Secretary will include an assessment of the impact on the nutritional levels of households receiving food assistance in cash as compared to households receiving food assistance in noncash or in-kind forms; an assessment of the cash food assistance program in Puerto Rico to determine whether the money issued is used for food, rather than nonfood items; and, any other factor the Secretary deems appropriate.

The USDA agrees that they can complete the study by March 1, 1985. I expect that between March 1, 1985, the time at which the Secretary is required to submit a final report, and July 31, 1985, the results of the study will be fully evaluated and a determination will be made concerning the continuation of the cash food assistance program in Puerto Rico.

I believe this is a reasonable solution to the issue before us.

I urge Members to vote for H.R. 4252.

I concur with amendments on monthly reporting. It gives States flexibility and gives the Secretary authority to grant waivers so that a workable and cost effective program can be put in place.

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

Mr. PANETTA. Mr. Speaker, I yield 4 minutes to the gentleman from Puerto Rico, (Mr. CORRADA).

Mr. CORRADA. Mr. Speaker, I am pleased to rise in support of H.R. 4252, legislation which I introduced with the cosponsorship of Mr. DE LA GARZA, Mr. PANETTA, Mr. EMERSON, Mr. MORRISON, and Mr. OLIN.

This bill is a truly bipartisan effort and was reported unanimously by the Agriculture Committee. Both the Governor of Puerto Rico Carlos Romero Barceló and the Reagan administration support this bill as introduced.

This legislation will allow Puerto Rico to continue its nutritional assistance program which is scheduled to expire January 1, 1984, in its present operating form, that of cash benefits. The system was developed by the government of Puerto Rico and the USDA following removal of Puerto Rico from the national food stamp program.

As many Members know, the Omnibus Budget Reconciliation Act of 1981 took Puerto Rico out of the national food stamp program effective July 1, 1982. In its place, Congress allowed the island to develop a new program under the mandate of a "block grant" for nutritional assistance. This was accompanied by a 25-percent reduction from the projected level of Federal assistance.

Following this event, and using guidlines, regulations, and the advice of the U.S. Department of Agriculture, Governor Romero and the Secretary of Social Services of Puerto Rico developed a new system which provides a direct check mailed to eligible families. Approximately 300,000 individuals were dropped from the food stamp program in Puerto Rico as a result of the implementation of the current program which we would further extend under this bill. Puerto Rico tightened eligibility requirements to the most needy individuals and families.

The continuing resolution we passed at the beginning of this fiscal year gave Puerto Rico an extension of a requirement that we revert to a noncash program. That extension would end on January 1, 1984.

It is the general consensus of the House Agriculture Committee that there has not been ample time to thoroughly analyze a program which has been tried no place else in the United States but evidence so far available shows that the current program is working well, that fraud, abuse, and errors have been minimized and administrative savings accomplished. Furthermore, the overwhelming majority of the beneficiaries appear to favor the current program.

H.R. 4252, as amended by the committee, extends the cash out nutrition assistance plan in Puerto Rico through August 1, 1985. It provides, however, that the U.S. Secretary of Agriculture will conduct a study of the program which would assess its impact on the nutritional diet of beneficiaries and an assessment of the expenditure levels for food of those households utilizing the cash assistance. This study shall be made available to the Congress no later than March 1, 1985. This proposal has my endorsement for the simple reason that the program has only been in place for just over 1 year and a more thorough study is required to determine the nutritional impact of the cash system.

I believe our Governor, Carlos Romero Barceló, and our secretary of social services, Jenaro Collazo, have responded to the needs of our citizens for an adequate nutritional diet by efficiently utilizing the Federal benefits which accrue to us in the form of a fixed block grant of $825 million. This program is extremely important to our poor families and H.R. 4252 would keep it in place until August 1, 1985.

I wish to commend Chairman DE LA GARZA, ranking member, Mr. MADIGAN, Subcommittee Chairman PANETTA, Mr. EMERSON, and others for moving expeditiously this legislation. I urge all Members to support this bill.

Mr. EMERSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri (Mr. COLEMAN).

Mr. COLEMAN of Missouri. Mr. Speaker, I am gratified that the committee adopted the amendment in the nature of a substitute I offered to H.R. 4252. I believe the committee's requirement that the Secretary study the impact of issuing cash as compared to noncash or in-kind benefits in

a food assistance program and whether the cash benefits issued in Puerto Rico are spent on food is a wise decision.

Since the government of Puerto Rico has chosen to issue food assistance benefits in cash, I have been concerned about the impact of this decision—both on the people receiving benefits in Puerto Rico and the precedent this decision has for the entire food stamp program. I would have the same concern had this decision been made in my own State of Missouri.

Be assured, this is not an issue unique to Puerto Rico. It has implications for the entire food stamp program and therefore for the needy people who rely on this program for themselves and their families. I believe the committee has shown that it is also uneasy about allowing a permanent change in the method of delivering food assistance from the current noncash or in-kind system. Therefore the committee required that a study be conducted and provided that the authority to continue the cash food assistance program in Puerto Rico will expire on July 31, 1985.

I expect that between March 1, 1985, the deadline for submission of a final report on the study, and July 31, 1985, the committee will be able to evaluate the results of the study and make a decision as to the continuation of cash as the form of delivering food assistance in Puerto Rico.

The committee has chosen to treat this issue of Puerto Rico in separate legislation in 1983; therefore, any future action with regard to this issue must be looked at and fully debated as a separate issue in 1985.

It is my desire to see a food assistance program in Puerto Rico that meets the needs of the low-income population and insures that the goals of the food stamp program are met. While I do not believe that either can be achieved when cash is distributed in any food assistance program, I offered what I felt was a reasonable approach to the issue before us.

The concern voiced because of this issue began in 1982. The government of Puerto Rico decided to issue cash in their food assistance program beginning in July 1982. The Commonwealth of Puerto Rico participates in the food stamp program through a block grant, set at $825 million each year. The block grant was designed to allow the government of Puerto Rico to formulate its own food assistance program, one that would be responsive to the needs of the low-income people living in Puerto Rico.

There were several reasons for providing Puerto Rico a block grant for food assistance. The food stamp program as it is designed for the States had changed Puerto Rico. Any program of such magnitude as existed in Puerto Rico would have to have a profound impact on the island's people and their economic status. This was certainly the case with the food stamp program.

In 1981, prior to the block grant, about 56 percent of the Puerto Rican population received food stamps; 8 percent of the entire food stamp budget went to Puerto Rico, and 7 percent of the personal income of the people of Puerto Rico was derived from the food stamp program. It seemed to me that the old food stamp program was inappropriate for the island and a majority of the Congress agreed with this. Food stamps were no longer a program that responded to the food need of the low income and the unemployed people of Puerto Rico. Instead they were a part of the economy of the island—big part—and a way of life for many.

Additionally, the food stamp program changed their economic base. Less land was used for farming and cultivated cropland fell. More and more the people of Puerto Rico had to rely upon imported—and, therefore, more expensive—foods. For all of these reasons I believed that Puerto Rico should have the ability to design its own food assistance program. Legislation was enacted and by July 1, 1982, Puerto Rico had designed a food program for its low-income population and began issuing benefits.

However, these benefits were issued in cash—by a check that could be cashed anywhere, with the money spent on any item. What happened to the $825 million food assistance program? It became the $825 million assistance program. For the first time, the food stamp program was being administered with neither stamps nor necessarily for food.

I would like to mention that while I disagree with the method chosen to deliver food assistance benefits—in cash—I do understand that the basic design of the Puerto Rico program and the manner in which they have implemented it has more than satisfied the Department of Agriculture. Conversion to the new program went smoothly, without a disruption of benefits and with a minimum of administrative problems.

I commend those involved in that process. I only wish they had exercised similar good judgment in determining the method of delivery of food assistance benefits.

My disagreement is not only with the Puerto Rico decision to issue cash in their food assistance program but also with the administration for approving such a system. By approving this cash-out concept, the administration virtually washed its hands of responsibility over millions of dollars' worth of taxpayers' money. The administration appeared to be more concerned with form rather than substance. Simply turning over the administration of a Federal program to a State, a territory, or in this case a Commonwealth is not New Federalism. That is passing the buck—and in this case, literally passing millions of bucks.

I would like to mention that while the letter submitted by the Department of Agriculture expressing their views on H.R. 4252 contains a statement with reference to congressional intent and the Puerto Rico cash food assistance grant, it is a statement I believe that was improvidently added. The Department's conclusion has no foundation in legislative history.

During debate on the food assistance block grant program, there was no discussion of cashing out the food stamp program in Puerto Rico. It was the clear intent of Congress to provide $825 million worth of food assistance to the Commonwealth under the Food Stamp Act.

When the Puerto Rico plan was implemented as a cash-out program, it changed from a food assistance program to a guaranteed income program, with—ironically—absolutely no guarantee that these millions of dollars will be used for food.

Obviously many, if not most, people in Puerto Rico will buy food with their cash grants and, yes, the present food stamp program using food coupons does have serious flaws. There is illegal trafficking of food stamps, as well as the selling of food stamps at discounts. Steps are being taken to crack down on these illegal activities. For instance, electronic transfer systems using magnetic ID cards are being tested in major cities. Also, I successfully sponsored legislation in 1981 that gives tougher law enforcement powers to USDA Inspectors General charged with investigating large-scale illegal trafficking in food stamps. That law is being used to track down these fraudulent and criminal activities.

The fact that we have serious abuses in the food stamp program, however, is no reason to give up on its basic premise—that of providing food assistance to needy individuals. Cashing out the food stamp program in Puerto Rico could well mean opening the door to nationwide repudiation of feeding our poor.

It should not be assumed that this is a parochial, unique issue to Puerto Rico. As I said before, I would oppose such a delivery system even if offered by my State of Missouri. Indeed, cashing out of the food stamp program could become a reality in each of the 50 States if the block grant concept is extended to them.

Many may argue that by cashing out the program, we can get rid of fraud and abuse in food stamps. Such an argument is specious. We will not eradicate fraud in the food stamp program through cash-out. What we will do is

remove the ability to find out where the fraud exists. There will be no audit trails, no possibility of finding out who is abusing the program.

Have we given up on the battle on fraud in the food stamp program so easily? Do we want to give up any assurances that the poor can receive food assistance? Surely not. Cashing out the food stamp program in Puerto Rico may be the first step toward cashing out the entire program, and this could only be the beginning. If one considers other New Federalism ideas, we can certainly see other programs turning into cash giveaways. For example, if extended to the school lunch program, children would be directly given money to purchase their lunches in the hope that some of it would actually end up in the school cafeteria to pay for their meals.

Cashing out the food stamp program is not a new idea; it has been debated in the Halls of Congress for years. What is surprising is that this administration would carry out the liberal philosophy offered by others, in the past, under the guise of States' rights. Whatever happens to the concept of New Federalism, the Congress must not give up on the goals and purposes for which programs are established.

Policy decisions on program goals must not be blurred because of the type of delivery system used. Certainly this is the converse of the recent past, where many program goals were lost in the shuffle because of faulty administration of the program. Closer scrutiny by the White House of what happens to these block-granted programs once they are given to the States would insure that the New Federalism truly will be an improvement over the Old Federalism.

Part of this closer scrutiny is a clear, objective study of what happens when cash is issued in a food assistance program. It is my hope that the study to be conducted by the Secretary will provide some answers and data on which the Congress can base a decision on the future of the food stamp program, in Puerto Rico and elsewhere.

□ 1820

Mr. EMERSON. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

● Mr. DE LA GARZA. Mr. Speaker, I rise in support of H.R. 4252.

The bill deals with a relatively small segment of the Federal nutrition assistance program carried out under the Food Stamp Act of 1977. But it is a segment of great importance to the Commonwealth of Puerto Rico and its low-income households.

For some time, Puerto Rico participated in the food stamp program in much the same fashion as other jurisdictions in the United States. This situation was changed by the 1981 Reconciliation Act. That legislation established a block grant food assistance program for the Commonwealth. While it significantly reduced funding for the program, it gave the Government of Puerto Rico added flexibility in program structure and administration.

With the approval of the Secretary of Agriculture, the Commonwealth initiated a nutrition assistance program that made benefits available to participants in cash. This practice caused some concern to the Congress, at least in part because of its possible adverse impact on the nutritional status of recipients. As a result, the 1982 Reconciliation Act amended the Food Stamp Act to require that Puerto Rico make nutrition program benefits available in noncash form. The effective date for this change has been postponed by law until January 1, 1984.

A report by the Department of Agriculture, a hearing held in Puerto Rico by our Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition, and other information have disclosed that the cash assistance program has had some positive results. It has simplified program administration, reduced fraud and abuse, and generally pleased recipients. Importantly, there is evidence, though admittedly inconclusive, that program recipients have not reduced their food expenditures under the cash program.

In these circumstances, the Committee on Agriculture concluded that the Commonwealth should not be required to abandon the cash benefits approach on January 1 of next year. Pending the development of more complete information on the program, H.R. 4252 would permit the present program to continue on an interim basis—until August 1, 1985. Meanwhile, the bill would direct the Secretary of Agriculture to study the impact of the cash program on the nutritional status and food expenditures of recipient households. The study would compare these factors with those existing when the program used stamps as the form of assistance. The Secretary will be required to report the findings of the study to the committees of jurisdiction by March 1, 1985. This will give Congress an opportunity to review the findings and take any action considered appropriate on the Puerto Rico program prior to the effective date of the noncash mandate earlier enacted.

We believe that this is a balanced and reasonable approach to this matter. It allows the Commonwealth to continue for a reasonable time what appears to be an effective program. And it will furnish to the Congress accurate and reliable information to permit it to make an informed judgment on the Puerto Rico program before it undertakes a general review of the food stamp program in connection with its reauthorization.

Mr. Speaker, in addition to the provisions relating to Puerto Rico in H.R. 4252, the Agriculture Committee is offering several amendments relating to minimum certification periods and monthly reporting/retrospective budgeting (MRRB) in the food stamp program. These amendments are noncontroversial, having been worked out with the minority here in the House, the majority and minority of the Senate Committee on Agriculture, Nutrition, and Forestry, and the administration.

These amendments are designed to address several problems that have arisen under the Food Stamp Act amendments in the 1981 and 1982 reconciliation bills—Public Law 97-35 and Public Law 97-253. The Food Stamp Act currently requires a certification period of at least 6 months for those households required to submit monthly or periodic reports on changes in household circumstances. A number of States, including my State of Texas, feel that a shorter certification period would be more effective in this regard. These amendments would thus give the Secretary of Agriculture authority to allow States to certify households subject to either monthly or periodic reporting for a lesser number of months.

Further, the amendments would provide additional authority to the Secretary to permit State agencies to use prospective accounting for certain households and to use other means of satisfying the periodic reporting requirements. The provision of the law pertaining to monthly reports would be modified to allow simpler and shorter report forms, provided that no requirement could be placed on participants to file written reports on any eligibility factor more than once in a month.

Finally, broader authority is provided to the States for utilization of information for wage matching purposes upon approval of the use of such information by the Secretary. All of these amendments are designed to provide the State greater flexibility in implementing procedures that should improve accountability and reduce errors in the administration of the food stamp program.

The chairman of the subcommittee (Mr. PANETTA) and the ranking minority member (Mr. EMERSON) have worked diligently and expeditiously on this legislation. I commend their effective and cooperative efforts to achieve a reasonable resolution to these vexing problems.

I trust my colleagues will join in giving their support to H.R. 4252.●

Mr. EMERSON. Mr. Speaker, I yield back the balance of my time.

Mr. PANETTA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. PANETTA) that the House suspend the rules and pass the bill, H.R. 4252, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to suspend the noncash benefit requirement for the Puerto Rico nutrition assistance program, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PANETTA. 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 just passed.

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

There was no objection.

GENERAL LEAVE

Mr. PANETTA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 1.

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

There was no objection.

ROCKY MOUNTAIN LOW-LEVEL RADIOACTIVE WASTE COMPACT

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

Mr. WIRTH. Mr. Speaker, I am today introducing legislation on behalf of myself, Mr. BROWN of Colorado, Mr. CHENEY, Mr. HANSEN, Mr. KOGOVSEK, Mr. KRAMER, Mr. LUJAN, Mr. MARRIOTT, Mr. NIELSON OF UTAH, Mr. REID, Mr. RICHARDSON, Mrs. SCHROEDER, Mr. SCHAEFER, Mr. SKEEN, and Mrs. VUCANOVICH, which will grant congressional consent to the Rocky Mountain low-level radioactive waste compact in accordance with section 4(A)(2) of the Low-Level Radioactive Waste Policy Act of 1980 (42 U.S.C. 2021d (A)(2)).

My colleagues will recall the near national crisis in 1979 which precipitated the passage of the 1980 Waste Policy Act. At that time, the Nation's three existing low-level radioactive waste disposal sites were either temporarily closed or found it necessary to severely limit the amount of waste they could accept. That scenario naturally created considerable confusion among both the States and the public at large. While the States of Washington, Nevada, and South Carolina rightfully took such actions to prevent their States from becoming the national dumping grounds for the disposal of low-level radioactive wastes, it was also clear at that time that a comprehensive national strategy for the control and disposal of such wastes was a crucial need whose time had clearly arrived.

At the urging of the States, and with their full cooperation, the Congress responded to the confusion of 1979 through the passage of the Low-Level Radioactive Waste Policy Act of 1980—easing the immediate pressure on the States for the disposal of low-level wastes and creating the impetus for the development of a thorough national policy for the future. At the heart of the 1980 act were two key components. The 1980 act recognized that each State was "responsible for providing for the availability of capacity either within or outside the State for the disposal of waste." However, recognizing that the development of low-level waste disposal sites in each individual State would potentially pose unnecessary and, in many cases, needless costs on each State, the Congress opted to follow the very logical course of authorizing the States to enter into negotiations for the purpose of establishing interstate compacts for the purposes of meeting their responsibilities for the safe disposal of low-level radioactive waste.

Recognizing that the States were the appropriate lead actors in developing a national program for the disposal of low-level radioactive wastes, Congress granted the States a great deal of flexibility in developing the regional compacts called for in the 1980 Waste Policy Act. The States were free to determine which States would be members of which compact and to establish their own general guidelines for siting and disposal of low-level waste within their region. Additionally, the provisions of the 1980 act also recognized that the resulting compact States would be solely responsible for disposal of wastes generated within their respective regions and allowed the individual compacts the authority, after January 1, 1986, to restrict the use of their regional disposal facilities to only those wastes generated within the respective compact region.

Following on the heels of congressional passage of the 1980 Waste Policy Act, the States began the process of discussion and negotiation leading up to the formal drafting of the individual compacts. Naturally, the compacts which were subsequently formed generally followed appropriate geographic boundaries across the country—as evidenced by the compacts currently pending before the Congress and the compact which I introduce today.

The Rocky Mountain low-level radioactive waste compact results from the direct efforts of six Western States—Arizona, Colorado, Nevada, New Mexico, Utah, and Wyoming—and is indicative of the very careful and bipartisan spirit in which these Rocky Mountain area States approached their task. To be sure, the questions confronting the States in the development of the compact were not easy. Yet, working together for the good of the region and the individual States involved, the resulting compact provides the foundation for the precise regional strategy called for in the 1980 act. And I would like to personally congratulate the States for the care they have taken in drafting this compact.

Mr. Speaker, to date four of the eligible States—Colorado, Nevada, New Mexico, and Wyoming—have taken the necessary action to formally ratify their respective State's entry into the Rocky Mountain compact. Additionally, Arizona is currently considering their membership in the compact and Utah, while also a member of the Northwest compact, remains eligible to join in the Rocky Mountain compact. These States have taken thorough and decisive action in meeting the responsibilities laid before them, and I am pleased that all of my colleagues from those States which have formally joined the Rocky Mountain compact, as well as my colleagues from Utah, have chosen to recognize that action by joining me as original cosponsors of this congressional consent legislation.

It is now incumbent upon the Congress to act upon the formal consent to this and the other compacts pending before it. In my own State of Colorado, over 80 percent of the low-level radioactive waste is generated by State institutions, such as universities and hospitals. Traditionally, these generators are also those least able to store or dispose of the wastes they create as a byproduct of their research or common treatment or diagnostic practices. Facing the existing January 1, 1986, deadline wherein the existing waste disposal sites might once again exercise their option to exclude waste generated from outside of their State and/or region, I trust my colleagues will agree with me as to the necessity for timely consideration of this issue.

Finally, following these remarks, I commend to the Members' attention a summary of the major provisions of the Rocky Mountain low-level radioactive waste compact.

ROCKY MOUNTAIN LOW-LEVEL RADIOACTIVE WASTE COMPACT

SUMMARY OF KEY PROVISIONS

I. Findings and purpose

States are responsible for providing for the management of non-federal low-level radioactive waste.

II. Definitions

1. Host state means a state in which a regional facility for the disposal or incineration of low-level radioactive waste is located.

2. Low-level waste excludes federal waste, high-level waste, material contaminated with transuranic elements emitting more than 10 nanocuries per gram, and mining and milling waste.

3. Facility means any property, equipment or structure used for the management (collection, consolidation, storage, treatment, incineration, disposal) of low-level waste.

III. Responsibilities of party and host states

1. At least one regional facility other than Beatty, Nevada must be open and operating in a party state other than Nevada within 6 years after Nevada and at least one other state have adopted the compact.

2. Low-level waste generated within the region shall be managed at regional facilities without discrimination among the party states.

3. Each party state that generates 20 percent or more of the region's waste has an obligation to host a regional facility.

4. A state seeking to fulfill its obligation to become a host state shall cause a regional facility to be developed on a timely basis as determined by the board.

5. Once a party state has served as a host state it shall not be obligated to serve again until each other party state having an obligation to host a regional facility has fulfilled that obligation.

6. The decisions on how and where to site a facility are left to the laws and policies of the host state(s).

7. All party states shall maintain an inventory of all generators within the state that may have low-level waste to be managed at a regional facility.

8. All party states must enforce transportation and packaging regulations.

IV. Board approval of regional facilities

The board must approve or disapprove all regional facilities, based only on consideration of economic feasibility and capacity requirements.

V. Surcharges

1. The board will impose a surcharge on waste disposed at regional facilities to provide funding for administration of the compact.

2. A host state may impose a surcharge on waste disposed at a regional facility in order to offset regulatory costs, local government impacts, to provide for closure and long-term care and to provide a positive financial incentive for state and local governments.

3. The board is authorized to ensure that all surcharges are reasonable.

VI. The board

1. The board, which shall meet at least once per year, is composed of one representative from each party state.

2. Each party state must pay $70,000 to fund the initial two-year operating costs of the compact.

3. The board shall keep an inventory of all waste generators and regional facilities.

4. The board shall prepare a contingency plan in the event a regional facility is closed and may develop a regional low-level waste management plan and provide information to the party states.

5. The board shall submit an annual report to the party states' governors and legislatures.

6. The board is authorized to assure that charges by regional facilities are reasonable.

VII. Prohibited acts

1. It is unlawful for low-level waste to be disposed of at other than a regional facility approved by the board.

2. After January 1, 1986, low-level radioactive waste may not be shipped out of the region without approval of the board and host state(s).

3. After January 1, 1986, no low-level radioactive waste may be shipped into the region unless approved by the board and host state(s).

4. No defense or federal low-level radioactive waste or any other type of waste not defined by the compact as low-level waste may be managed at a regional facility unless authorized by the board and host state.

5. The board may impose civil penalties and seek court orders to enforce the provisions of the compact.

VIII. Eligibility, entry into effect, congressional consent, withdrawal, exclusion

1. The States of Arizona, Colorado, Nevada, New Mexico, Utah and Wyoming are eligible to join.

2. Other states may join with the unanimous consent of the board.

3. The compact must be ratified by Congress.

4. If a state fails to fulfill its obligations under the compact, it may be excluded by a two-thirds vote of the remaining states on the board.

5. A state may withdraw from the compact two years after legislative repeal of the compact.

6. If a host state chooses to withdraw from the compact, its facility will continue to be available to the remaining party states for five years so that another facility can be developed.

● Mr. CHENEY. Mr. Speaker, I am pleased to join with my colleague from Colorado (Mr. WIRTH) and others from the Rocky Mountain area, to propose legislation to ratify the Rocky Mountain low-level radioactive waste compact which involves my own State of Wyoming.

As my colleagues know, the individual States are responsible for the management of low-level waste generated within their borders. Congress has, however, by enacting the "Low-Level Radioactive Waste Policy Act," encouraged the use of interstate compacts to provide for the establishment and operation of facilities for regional management of low-level waste. Such compacts are a means of insuring cooperative effort among the States to provide adequate storage facilities without duplication of effort and expense, and to protect the safety, health, and welfare of citizens in the involved States.

My State of Wyoming has agreed to participate in the Rocky Mountain compact, and the legislation we are introducing today will provide the necessary congressional approval for the States to proceed. I am pleased to be a sponsor of this proposal.●

● Mrs. VUCANOVICH. Mr. Speaker, I rise in strong support for the legislation introduced today by my colleague from Colorado (Mr. WIRTH) providing for congressional consent to the Rocky Mountain low-level radioactive waste compact. To date, four States—Colorado, Nevada, New Mexico, and Wyoming—have formally joined the Rocky Mountain compact through action by their State legislatures. The Nevada State Legislature overwhelmingly passed the compact legislation, and on May 24, 1983, became an official member of the compact.

Nevada has had a low-level radioactive waste site at Beatty, Nev., for 21 years. In the past, this site has received up to 20 percent of our Nation's low-level radioactive waste. In recent years, this level has dropped dramatically and in 1981, Beatty only received 4 percent of the national low-level radioactive waste. Passage of this vital Federal legislation will insure that a new low-level radioactive waste site will be built within 6 years. What this means to Nevada is that the Beatty site will close, and Nevada will not be a host State for low-level radioactive waste until all the member States in the compact have served as host States.

This legislation will allow those States which produce the majority of low-level radioactive waste to serve as sites for that waste to be discarded. It also excludes States that are not members of the Rocky Mountain compact from dumping their waste into our States. This legislation will allow our region to develop new low-level radioactive waste management facilities without allowing the region to become the dumping ground for the Nation. Nevada has served long enough as the Nation's dumping ground for low-level radioactive waste. It is time to change this policy, and I believe the compact will accomplish that goal.●

GENERAL LEAVE

Mr. WIRTH. 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 H.R. 4388.

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

There was no objection.

WAIVING ALL POINTS OF ORDER ON THE CONFERENCE REPORT ON H.R. 2915, DEPARTMENT OF STATE AUTHORIZATION ACT, FISCAL YEARS 1984 AND 1985

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all points of order be waived against the conference report on the bill (H.R. 2915) to au-

thorize appropriations for fiscal years 1984 and 1985 for the Department of State, the United States Information Agency, the Board for International Broadcasting, the Inter-American Foundation, and the Asia Foundation, to establish the National Endowment for Democracy, and for other purposes.

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

There was no objection.

PERISHABLE AGRICULTURAL COMMODITIES ACT AMENDMENTS

Mr. PANETTA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3867), to amend the Perishable Agricultural Commodities Act, 1930, by impressing a trust on the commodities and sales proceeds of perishable agricultural commodities for the benefit of the unpaid seller, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3867

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5 of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499e) is amended by adding at the end thereof a new subsection to read as follows:

"(c)(1) It is hereby found that a burden on commerce in perishable agricultural commodities is caused by financing arrangements under which commission merchants, dealers, or brokers, who have not made payment for perishable agricultural commodities purchased, contracted to be purchased, or otherwise handled by them on behalf of another person, encumber or give lenders a security interest in, such commodities, or on inventories of food or other products derived from such commodities, and any receivables or proceeds from the sale of such commodities or products, and that such arrangements are contrary to the public interest. This subsection is intended to remedy such burden on commerce in perishable agricultural commodities and to protect the public interest.

"(2) Perishable agricultural commodities received by a commission merchant, dealer, or broker in all transactions, and all inventories of food or other products derived from perishable agricultural commodities, and any receivables or proceeds from the sale of such commodities or products, shall be held by such commission merchant, dealer, or broker in trust for the benefit of all unpaid suppliers or sellers of such commodities or agents involved in the transaction, until full payment of the sums owing in connection with such transactions has been received by such unpaid suppliers, sellers, or agents. Payment shall not be considered to have been made if the supplier, seller, or agent receives a payment instrument which is dishonored. The provisions of this subsection shall not apply to transactions between a cooperative association (as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)), and its members.

"(3) The unpaid supplier, seller, or agent shall lose the benefits of such trust unless such person has given written notice of intent to preserve the benefits of the trust to the commission merchant, dealer, or broker and has filed such notice with the Secretary within thirty calendar days (i) after expiration of the time prescribed by which payment must be made, as set forth in regulations issued by the Secretary, (ii) after expiration of such other time by which payment must be made, as the parties have expressly agreed to in writing before entering into the transaction, or (iii) after the time the supplier, seller, or agent has received notice that the payment instrument promptly presented for payment has been dishonored. When the parties expressly agree to a payment time period different from that established by the Secretary, a copy of any such agreement shall be filed in the records of each party to the transaction and the terms of payment shall be disclosed on invoices, accountings, and other documents relating to the transaction.

"(4) The several district courts of the United States are vested with jurisdiction specifically to entertain (i) actions by trust beneficiaries to enforce payment from the trust, and (ii) actions by the Secretary to prevent and restrain dissipation of the trust.".

SEC. 2. Section 2(4) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499b(4)) is amended by adding after the semicolon at the end of the paragraph "or to fail to maintain the trust as required under section 5(c);".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California (Mr. PANETTA) will be recognized for 20 minutes and the gentleman from Missouri (Mr. EMERSON) will be recognized for 20 minutes.

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

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

Mr. Speaker, I rise in support of H.R. 3867 which was sponsored by the chairman of the full committee, Mr. DE LA GARZA, Mr. MADIGAN, myself, and Mr. EMERSON, and 33 other cosponsors. By a 7 to 0 vote, the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition which I chair recommended to the full committee and to the House passage of H.R. 3867.

H.R. 3867 amends the Perishable Agriculture Commodities Act of 1983 to increase the protection for unpaid sellers and suppliers of perishable farm commodities by impressing a trust until full payment of sums due have been received by them. This legislation is supported by USDA and represents a general consensus in the industry.

The statutory trust concept in this bill is analogous with the protection afforded the livestock producers 7 years ago under the Packers and Stockyard Act. The trust provisions under the Packers and Stockyards Act have operated very successfully for the livestock industry without imposing a regulatory burden.

H.R. 3867 provides the protection needed by the trust beneficiaries without creating an undue hardship to any person. The trust impressed in H.R. 3867 is a nonsegregated floating trust that would apply to the commodities, products derived therefrom, and any receivables or proceeds from their sale in the hands of the commission merchant, dealer, or broker. Any failure to maintain the trust would constitute an unfair trade practice. To benefit from the trust, the unpaid seller or supplier must provide written notice of intent to preserve the trust to the commission merchant within 30 calendar days after payment must be made.

This legislation would give the industry and the Department effective new tools to assure prompt payment throughout the marketing chain. Timely payment, according to contract terms, permits a steady flow of perishables to consumers and a prompt return of earnings to the sellers throughout the market chain. Sound credit, fair trade practices, and a reliable payment performance are essential to the health of the entire industry.

For this industry, because of the perishable nature of this product, time is essential. Consumers want the highest quality fruits and vegetables that retain their high nutrient content. Sales must often be consummated verbally to insure that commodities are quickly en route across the country to a buyer. Under such conditions, credit checks, conditional sales agreements, and other traditional safeguards, that require several days to secure, are not possible.

Since 1930, the Perishable Agriculture Commodities Act has provided a code of fair trading in the marketplace and has protected sellers and buyers of fruits and vegetables from unfair and fraudulent market practices. PACA has minimized many interruptions in the marketing of perishables.

However, under current law, in the case of slow pay or nonpay, sellers of fruits and vegetables are treated as unsecured creditors, which means they get little protection in the event of financial claim against buyers. Produce, under accounts receivable, is often assigned to the lender without any guarantee that the seller will recover more than a small amount of the value of his produce. Consequently, the financial position of sellers is extremely vulnerable vis-a-vis collecting on the debt when the buyer becomes insolvent.

In recent years, there has been a substantial increase in instances where commission merchants, dealers, or brokers have failed to pay on time or at all for perishable commodities received by them. During the last year alone, USDA has estimated that over $65 million was lost through failure to pay the sellers of perishable crops.

If slow or nonpayments continue, consumers also lose. A certain shrinkage factor is included in the consumer

price of fruits and vegetables to offset for loss through spoilage, slow or nonpayment. USDA estimates that this factor adds 10 percent to the consumer purchase price.

Since enactment of H.R. 3867 would benefit both the consumer and the industry, I urge my colleagues to vote in favor of this legislation.

□ 1830

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

Mr. Speaker, I rise in support of H.R. 3867, a bill designed to provide protection for sellers of perishable commodities in situations in which buyers of such commodities fail to pay.

As most of you know the Perishable Agricultural Commodities Act was enacted in the 1930's. The purpose of the act is to encourage fair trade practices between buyers and sellers of perishable commodities and, if applicable, to provide the means to collect damages from buyers and sellers who fail to live up to their agreements. However, in the past few years incidents in which buyers of perishable commodities are slow to pay or fail to pay at all have increased.

According to testimony received in our subcommittee the Perishable Agricultural Commodities Act or PACA has been an effective tool in bringing stability to the fruit and vegetable market. The fruit and vegetable industry is made up of approximately 222,000 fruit and vegetable farmers who market their crops through 15,000 licensed trading firms made up of approximately 200,000 individuals. The majority of the firms involved are small business operations. Producer-marketers outnumber buyers by 15 to 1. Payment for goods and services must be timely made to assure an uninterrupted flow of food to the consumer, and a prompt turnaround return of earnings to the grower and other sellers in the marketing chain. The production and marketing cycles can then repeat without unwarranted interruption.

Historically, the industry has operated informally with large amounts of commodities being committed and shipped on a good faith basis. In general, there are no written contracts and the buyer does not see the product before shipment. Because the commodities are perishable and distances to markets are great, sellers are under pressure to dispose of these commodities as rapidly as possible. Since trading agreements are primarily verbal rather than written, there are misunderstandings and a vulnerability to deception and fraud. The PACA has brought stability to the marketplace by protecting trade against persons who engage in unfair and fradulent practices.

The Department and the industry had reported three problems that this bill before us should address. They are:

First, hidden security agreements which encumber liquid assets of buyers and divert money due to suppliers for fruits and vegetables away from the suppliers.

Second, climbing overhead costs including costs of debt servicing which impact trading and are reflected by a marked increase in slow pay.

Third, a steady increase in business failures and bankruptcy losses with no possibility of meaningful recovery because assets are diverted away from fruit and vegetable creditors and into the hands of secured interest holders.

Most business failures today mean a total loss to fruit and vegetable suppliers. By the time they learn that a customer has closed its doors, available funds have been diverted to secured interest holders. A recovery of as much as 10 cents on a dollar is unusual. PACA experience reflects the impact of these burdensome factors. During fiscal year 1982, reported losses due to slow pay and no pay aggregated approximately $32 million. Reported business failures and bankruptcies reflected losses of another approximately $32 million. The same situation continued into fiscal year 1983. Most firms in the fruit and vegetable industry are small businesses which cannot withstand severe losses. Too frequently because the domino effect prevails, they join the ranks of the business failures.

The Secretary of Agriculture is currently without the authority to deal with these problems meaningfully.

H.R. 3867 amends the Perishable Agricultural Commodities Act by establishing a trust on the commodities and on the proceeds of the sales of commodities for the benefit of unpaid sellers.

A new subsection is added to the Perishable Agricultural Commodities Act that requires buyers of perishable agricultural commodities to set up a trust equal to the value of the commodities received to protect the unpaid seller. The unpaid seller will notify the buyer and the USDA within 30 days after payment is due and not received in order to activate the trust.

The buyers and sellers may then agree to other payment periods but a record of this agreement must be kept. U.S. district courts will have jurisdiction over disputes concerning the trusts.

In addition, the buyers' of the perishable agricultural commodities failure to establish a trust will be considered an unfair trade practice. The penalties for unfair trade practices range from a 90-day suspension of a license to complete revocation of a license.

The Department of Agriculture and the fresh fruit and vegetable industry support this bill. I urge you to vote for H.R. 3867.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3867, the bill under consideration.

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

There was no objection.

● Mr. DE LA GARZA. Mr. Speaker, I rise in support of H.R. 3867, a bill to amend the Perishable Agricultural Commodities Act, 1930, to impress a trust on the commodities and sales proceeds of perishable agricultural commodities for the benefit of the unpaid seller-supplier.

The Perishable Agricultural Commodities Act establishes a code for fair trading in the marketplace, provides for aid in the enforcement of contracts for marketing these commodities and serves to suppress unfair and fraudulent practices in the marketing of fresh and frozen fruits and vegetables. PACA, as this act is commonly referred to, has served the fruit and vegetable industry well since its enactment in 1930. However, the fruit and vegetable industry pointed out to our committee a problem of major concern. That concern is that in recent years we have unfortunately seen an increasing number of cases in which commission merchants, dealers, or brokers have either been slow in making payments for perishables or have not paid at all.

The growing number of these cases has brought attention to what now appears to be a weak spot in the protective features of the act. During periods when there were few cases of failures to pay, that weakness was not apparent or very serious. Now, however, we are confronted with a situation that demands action.

The record indicates a disturbing increase in the number of cases in which payment to sellers is slow or is not made at all. All total, according to estimates made by the U.S. Department of Agriculture, the sellers-suppliers of perishable agricultural commodities lost about $65 million last year alone, and the same or higher amount is predicted for this year.

Sellers of perishable commodities often are located thousands of miles from their customers. Many times, sales must be made while commodities are en route and under conditions which make it impossible to conduct normal business practices such as credit checks and conditional sales agreements. Under present law, in the case of failure of a commission merchant, dealer or broker, to pay sellers of fresh fruits/vegetables, no special protection is given to the unpaid seller, even though their produce pro-

vided much of the equity capital to support the financial strength of the buyer's operation. Produce, under accounts receivable, are often assigned to the lender, without any guarantee that the seller will recover more than a small amount of the value of this produce.

There is widespread agreement that, under current conditions, fairness demands some new protective features for those who sell agricultural commodities.

H.R. 3867 is designed to help address this problem by incorporating provisions similar to those of the Packers and Stockyards Act which would make sellers, who have not received payment for their produce, the beneficiaries of a statutory trust. H.R. 3867 impresses a trust on all perishable agricultural commodities received by a buyer and all inventories of food or other products derived from perishable agricultural commodities, and any receivables or proceeds from the sale of such commodities or products for the benefit of the unpaid seller.

Other important provisions of the bill include the following:

Buyers of perishable commodities would have to maintain the trust assets until sellers receive full payment.

When an account is not paid by due date, seller, in order to preserve the trust must notify both the buyers and the Secretary of Agriculture within time limits set by the bill.

The U.S. district courts would be directed to entertain actions by sellers to enforce payments from trusts, and actions by the Secretary of Agriculture to prevent dissipation of trusts.

The failure of a buyer to maintain a trust when required by the new bill would be classed as an unfair trade practice under the Perishable Agricultural Commodities Act, making the person involved subject to penalties including suspension or revocation of his or her PACA license.

I want to point out that the provisions of this new legislation are not new to the agricultural marketing field. They have been in effect since 1976 for those businessmen whose activities are covered by the Packers and Stockyards Act.

Finally, Mr. Speaker, I want to note that this legislation has the support of the administration and the produce industry, and it has a distinguished list of cosponsors including the chairman and ranking minority member of the subcommittee and the ranking minority member of the full Committee on Agriculture.

I ask all Members to join me in supporting enactment of H.R. 3867.●

● Mr. GUNDERSON. Mr. Speaker, I rise in support of H.R. 3867 that would amend the Perishable Agricultural Commodities Act to require buyers, wholesalers, and brokers of fresh fruits and vegetables to establish a trust of the proceeds, receivables, or inventories created by those commodities in favor of their unpaid producers.

In recent years, Mr. Speaker, there has been an increasing use of credit purchases in the fresh fruit and vegetable industry. In fact, in some areas of the country, less than 5 percent of the initial producer sales of these commodities are on a cash basis.

This means, of course, in more economically troubled times such as those recently experienced, a number of innocent producers are never paid for their crops when middlemen who purchased on credit go bankrupt. This phenomenon results from the prioritization of debts by the bankruptcy laws that place such unsecured producers near the bottom of the payment list.

H.R. 3867 would alter this inequity by establishing a trust of the funds and assets of the buyer resulting from the sale or inventory of perishable commodities purchased from the producer and requiring that the trust proceeds be first used to compensate any remaining indebtedness of the buyer to the producer.

The establishment of such a trust not only benefits producers, but consumers as well by keeping producer losses due to bad credit arrangements at a minimum. USDA has estimated that the savings to the consumer may be as high as 10 percent of the value of the commodity itself.

I, therefore, urge my colleagues to join me in supporting H.R. 3867.●

Mr. EMERSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. PANETTA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. PANETTA) that the House suspend the rules and pass the bill, H.R. 3867, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CREDIT CARD PROTECTION ACT

Mr. ANNUNZIO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3622) to amend the Truth in Lending Act to protect consumers by placing restrictions on the disclosure of their credit card numbers, as amended.

The Clerk read as follows:

H.R. 3622

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 "Credit Card Protection Act".

RESTRICTIONS ON DISCLOSURE OF PAYMENT DEVICE NUMBERS

SEC. 2. (a) Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by adding at the end thereof the following:

"§ 137. Restrictions on disclosure of payment device numbers

"(a) No person shall disclose any payment device number unless—

"(1) such person is disclosing a payment device number in connection with an authorization, processing, billing, collection, chargeback, insurance collection, fraud prevention, or payment device recovery that relates to such payment device number, an account accessed by such payment account number, or debts or obligations arising, alone or in conjunction with another means of payment, from the use of the payment device number;

"(2) such person is the holder of the payment device number or is disclosing the payment device number to the holder *or issuer* of the payment device number;

"(3) such disclosure is reasonably necessary in connection—

"(A) with the sale or pledge, or negotiation of the sale or pledge, of all or a portion of a business or the assets of a business; or

"(B) with the management, operation, or other activities involving the internal functioning of the business of such person making such disclosure;

"(4) such person makes the disclosure to a consumer reporting agency as defined in section 603(f) of the Fair Credit Reporting Act; or

"(5) such person makes the disclosure solely under a circumstance specified in section 604 of the Fair Credit Reporting Act regardless of whether such person is a consumer reporting agency as defined in section 603(f) of the Fair Credit Reporting Act and regardless of whether the disclosure is a consumer report, except that such person shall not disclose any payment device number prior to receipt of an individual written certification from the requestor—

"(A) containing the specific reason that the payment device number is required; and

"(B) that the payment device number—

"(i) cannot be obtained under a circumstance specified in this section; or

"(ii) that such payment device number is needed for security, or loss or fraud prevention purposes.

"(b) No person shall intentionally obtain any payment device number except as provided under this section.

"(c) Nothing in this section shall affect the rights or limitations of persons to disclose payment device numbers to, or at the direction of, governmental entities under any other provision of law.

"(d) For purposes of this section—

"(1) the term 'payment device number' means any code, account number, or other means of account access (other than a check, draft, or other similar paper instrument) that can be used to obtain money, goods, services, or any thing of value, or for purposes of initiating a transfer of funds; and

"(2) the term 'holder' means any person—

"(A) who was issued a payment device number;

"(B) who is authorized by such holder to use such payment device number; or

"(C) who is authorized at the specific request of the holder to receive such payment device number on behalf of the holder.

"(e) Any person who fails to comply with any requirement imposed under this section shall be a creditor for purposes of section 130.".

(b) The table of sections contained at the beginning of chapter 2 of the Truth in Lending Act is amended by adding at the end thereof the following:

"137. Restrictions on disclosure of payment device numbers.".

FRAUDULENT USE OF A CREDIT CARD

SEC. 3. Section 134 of the Truth in Lending Act (15 U.S.C. 1644) is amended—

(1) in subsection (a)—

(A) by striking out "use any" and inserting in lieu thereof "use one or more"; and

(B) by striking out "credit card" and inserting in lieu thereof "payment devices";

(2) in subsection (b), by striking out "credit card" and inserting in lieu thereof "payment device";

(3) in subsection (c), by striking out "credit card" and inserting in lieu thereof "payment device";

(4) in subsection (d)—

(A) by striking out "with a" and inserting in lieu thereof "with one or more"; and

(B) by striking out "credit card" and inserting in lieu thereof "payment devices";

(5) in subsection (e)—

(A) by striking out "credit cards" and inserting in lieu thereof "payment devices"; and

(B) by striking out "or" at the end thereof;

(6) in subsection (f)—

(A) by striking out "of any" and inserting in lieu thereof "of one or more";

(B) by striking out "credit card" and inserting in lieu thereof "payment devices"; and

(C) by striking our "obtained—" and inserting in lieu thereof "obtained; or";

(7) by inserting before "shall be" the following:

"(g) Whoever, with unlawful or fraudulent intent, possesses ten *five* or more counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained payment devices that have moved in, been part of, or constituted interstate or foreign commerce—"; and

(8) by adding at the end thereof the following: "For purposes of this section, the term 'payment device' means any card, plate, code, account number, or other means of account access that can be used, alone or in conjunction with another payment device, to obtain money, goods, services, or any other things of value, or for the purpose of initiating a transfer of funds (other than a transfer originated by check, draft, or other similar paper instrument).".

CONFORMING AMENDMENT

SEC. 4. Section 135 of the Truth in Lending Act (15 U.S.C. 1645) is amended by striking out "and 134" and inserting in lieu thereof "134, and 137".

EFFECTIVE DATE

SEC. 5. The amendments made by this Act shall take effect sixty days after the date of enactment of this Act, except that the amendments made by section 3 shall take effect upon the date of enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. WYLIE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. ANNUNZIO) will be recognized for 20 minutes, and the gentleman from Ohio (Mr. WYLIE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. ANNUNZIO).

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

Mr. Speaker, we are faced in this country with a little-known epidemic. There are some 580 million credit cards in circulation in this country. Every year an estimated 73 million cards are reported lost or stolen. Of that total, some 20,000 credit cards are fraudulently used every day.

We are not talking about penny ante crime here; financial institutions lost an estimated $128 million from bank card fraud alone in 1982, an increase of more than 35 percent over 1981. About $40 million of that figure came from the use of counterfeit credit cards. It is believed that losses resulting from illegally used credit cards approached the $1 billion mark last year, a threefold increase since 1979.

And make no mistake about it, those losses are borne by consumers as surely as if a gunman put a gun to their head and robbed them. The losses suffered by financial institutions and credit card issuers are passed on to consumers in the form of higher fees for cards and increased interest costs. While credit card crime exists to the greatest extent in our major cities, there is also evidence that fraudulent credit card transactions go on in every community in our country.

Unfortunately, most credit card criminals operate with little fear of being caught. And if they are caught, they usually get off with a small fine or minimal jail sentence. A bank robber may serve 20 years for stealing a few thousand dollars from a bank, while a credit card criminal might well steal $20,000 a day and, if caught, face only the lightest of sentences.

We must change the rules of the game for those who seek to play. We must make certain that credit card criminals no longer get a free ride. We must also make certain that questionable businesses using lists of credit card numbers do not charge consumers for products or services that they do not receive or do not want.

The Credit Card Protection Act will go a long way in cracking down on credit card crime. It will: First, make it illegal to distribute credit card or debit card numbers except on a very limited basis; second, make possession of five or more stolen or counterfeit credit or debit cards a Federal crime; third, make it a crime to illegally use a credit or debit card number, as well as a card itself; and fourth, correct a problem in existing law which will make it a crime to use stolen credit cards to obtain $1,000 in cash or merchandise in a 1-year period. Present Federal law only comes into play when an individual charges more than $1,000 on a single credit card. This change makes the $1,000 figure applicable to one card or a group of cards.

As I mentioned earlier, this is an epidemic that has not received much attention. It does not have the media appeal of bank robbery or the exotic overtones of drug dealings. But by spotlighting credit card crime, it is my hope that we can begin a major crackdown on credit card criminals. My goal is, through legislation, prosecution, and publicity, to put an end to the epidemic.

I am asking credit card issuers, law enforcement agencies, judges, and the general public to help out. I am asking credit card issuers to improve their card security. I am asking law enforcement agencies across the country to begin vigorous crackdowns on credit card criminals. I am asking judges across the country to treat these criminals as they should be treated, as major economic dangers to the community. And I am asking consumers to be on the alert for credit card schemes to defraud them and to report such schemes promptly.

The version of the Credit Card Protection Act we consider today is a product of many hours of hearings and discussions of how best to restrict the unwarranted trafficking and selling of credit card numbers without ignoring the legitimate needs of businesses to use and disclose those numbers in commerce. I am pleased that the legislation before us today is so carefully constructed that it not only should put an end to the unwarranted trafficking in credit numbers, but also has gained the support of virtually every group and company that had originally expressed reservations concerning the bill, even after it was amended and reported by the Banking Committee.

This support was possible because of five amendments to the bill. Four of these amendments are simply clarifying amendments concerning the application of the disclosure of account numbers to existing business practices. The fifth amends the effective date of some provisions of the act to give adequate time for businesses to make the operational changes needed to comply with the act.

The first amendment adds the words "credit card or" before the term "payment device number" throughout the legislation. This amendment is intended to indicate that the legislation does not intend to eliminate distinctions between debit cards and credit cards.

The amendment is intended to preserve the distinctions between debit and credit transactions, without affecting their treatment under the legislation. It would be just as much a crime to use a counterfeit debit card as to use a counterfeit credit card, but the legislation would not affect the transactional distinctions between credit and debit card systems.

The second amendment clarifies that account number disclosures within the corporate structure are permitted. Parent companies may disclose to or receive from subsidiaries or controlled affiliates account numbers, and the subsidiaries and controlled affiliates may likewise exchange account numbers between themselves. The amendment recognizes that there are strong business and competitive reasons for corporations to protect their relationships with consumers which extend to their subsidiaries and controlled affiliates.

The amendment clarifies that disclosures with the various entities of a corporation are permitted. At the same time, the amendment restricts these disclosures if they are for marketing purposes by requiring that holders of active accounts be notified that their credit card or payment device numbers may be disclosed to a subsidiary or controlled affiliate for marketing purposes. The consumer would then have the option of prohibiting such disclosures by notifying the account issuer in writing that the consumer forbade such disclosures. The consumer could later revoke election, and should the account be inactive for 12 months, the account issuer could treat the election as having lapsed.

The third amendment makes several changes to the provision governing disclosures of numbers by credit bureaus. The amendment clarifies that the certification required prior to obtaining the numbers may be oral or electronic as well as written means. This change recognizes that many requests for consumers' reports necessarily must be made orally, such as by telephone, or electronically, such as through a computer terminal. The amendment also deletes the requirement that the certification state the "specific" reason that the number is needed. This clarifies that the certification only needs to indicate in a very brief manner why the disclosure is required. The amendment also clarifies that only a single certification for a report is required, even if the report contains more than one number.

The fourth amendment clarifies that encoded or truncated numbers are excluded from the definition of payment device numbers. While the House report on H.R. 3622 makes this clear, it is prudent to include the language in the statute itself. Numbers are frequently used in third party marketing arrangements in which the account issuer permits a third party, such as an insurance company, to offer its goods or services to the issuers' account holders. If the issuer encodes or truncates the payment device number or has the number so encoded by its service bureau or mailing house, this encoded or truncated number does not come within the definition of payment device number.

In encoding a number, the issuer may have the number transformed to a series of letters or may assign the consumer a new number. In truncation, the issuer would delete one or more of the digits in the account number so as to render it unusable. These transformations should provide an effective deterrent to the fraudulent use of account numbers, while allowing legitimate marketing activities that do not entail a risk of fraudulent charges to the consumer' account. As indicated earlier, the encoding or truncating may be done by a third party processor.

The final amendment permits a 90- rather than 30-day delay in the effective date for compliance with the bill. Credit bureaus would be provided 1 year in which to prepare the operational changes necessary to comply with the act. These changes would not alter the effective date for the amendments to the criminal provisions of the Truth in Lending Act, which would continue to take effect upon enactment of the legislation.

These amendments, the work of much negotiation, have resulted in the legislation being supported by many in the retail and credit industry. I have received letters of support from Sears Roebuck, J.C. Penney Co., the credit subsidiary of Zale Corp., American Express Co., Associated Credit Bureaus, the Credit Bureau, Inc., National Home Life Assurance Co., American Heritage Life Insurance Co., and the National Association of Life Cos. In addition, the legislation is supported by the Justice Department, the American Bankers Association, VISA, and MasterCard. All these organizations recognize that credit card fraud is an epidemic that needs treatment. H.R. 3622 is strong medicine, but it has been carefully formulated to avoid any adverse side effects.

Mr. Speaker, I urge the passage of H.R. 3622.

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

Mr. Speaker, I rise in support of H.R. 3622, the Credit Card Protection Act, of which I am an original cosponsor.

This bill has received strong bipartisan support and sponsorship within the Banking Committee. I have worked closely with the gentleman from Texas (Mr. PAUL), the ranking minority member, and with the chairman of the subcommittee, Mr. ANNUNZIO, to move this legislation quickly to the floor today.

H.R. 3622 addresses the skyrocketing problem of credit card fraud in this Nation to which the chairman, Mr. ANNUNZIO, alluded. The problem involves hundreds of millions of dollars a year, a cost that must be borne by every honest consumer. This bill imposes new penalties for the fraudulent use or possession of credit cards and restricts disclosure of credit card numbers and other payment device numbers, thereby limiting their availability for fraudulent purposes.

I have just one question for the gentleman from Illinois, the chairman of our Subcommittee on Consumer Affairs. Just to clarify the bill he is offering.

The text of the bill, as I understand it, is the one we talked about last week, and one which was circulated among the members of the Banking Committee, providing for the limited exchange of credit account number information, and also providing that truncated or encoded payment device numbers will not be subject to the restrictions in this legislation. Am I correct in that?

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

Mr. WYLIE. I would be glad to yield to the gentleman from Illinois.

Mr. ANNUNZIO. I thank the gentleman for yielding.

Mr. Speaker, my distinguished ranking minority member is absolutely correct.

Mr. WYLIE. I thank the gentleman for that affirmative answer.

Then, Mr. Speaker, I urge all of my colleagues to support the Credit Card Protection Act, which is supported by the administration. I again want to thank and compliment the chairman of the subcommittee for his cooperation and for the work which he has put into this bill to bring it to the floor today. It is a much needed piece of legislation.

BACKGROUND

Mr. Speaker, the principal section of this bill proscribes the unlawful or fraudulent use or possession of counterfeit credit cards and other fraudulently obtained payment devices. There appears to be a general consensus that such additional restrictions are needed. The second major section of this bill restricts the disclosure of credit card numbers and other payment device numbers. This section originally caused several significant concerns for a number of financial institutions, retail merchants, credit reporting agencies, insurance companies and other affected businesses.

Such businesses recognized the mounting problems due to credit card fraud, but would have encountered serious operational problems due to the

potential sweep of the original bill's restrictions on disclosure of payment device numbers. The committee has sought to address these concerns by adopting several perfecting amendments. We also intend to resolve several questions by explaining more fully the intent of certain provisions at this time.

The committee recognized that there are many legitimate and reasonable disclosures of account numbers in daily business transactions which should not be prohibited. Due to the complexity and diversity in business practices, it would be difficult, if not impossible, to catalog all such present or future disclosures which are not intended to be prohibited. Therefore, we intend that the bill's exceptions which authorize certain disclosures should be interpreted broadly to allow businesses adequate flexibility in operating under the statute.

SPECIFIC ISSUES

Most questions have been resolved by the clarifying committee amendments. It will be helpful for subsequent interpretive purposes to further explain the intent of several key provisions.

ALLOWABLE DISCLOSURES FOR INTERNAL FUNCTIONS

Section 2 of the bill generally proscribes the disclosure of any payment device number except in five enumerated circumstances. Perhaps the most important is the third exception which states, "such disclosure is reasonably necessary in connection * * * with the management, operation, or other activities involving the internal functioning" of the business making such disclosure. This exception is to be construed broadly in order to accommodate present and future credit systems. A critically important area allowed by this internal functioning exception involves third party processing.

For example, for many retailers the Christmas holiday selling season comprises as much as 50 to 60 percent of their yearly sales volume. With so many of their sales occurring in a compressed period of time, retailers often must hire outside firms to help process and market credit sales transactions. It often would be unduly expensive to maintain year-round costly processing systems to accommodate this Christmas-time volume aberration. Exception (3)(B) is to be construed to permit internal and external processing where it is accomplished for the creditor as such transactions do not impose undue security risks.

The committee amendment which adds new subsection 137(a)(3)(C) clarifies that the disclosure proscription is not applicable to disclosures to or between entities within the same corporate structure. Parent companies are thus permitted to disclose or receive such numbers to or from subsidiaries or controlled affiliates. In addition, controlled affiliates and subsidiaries may also disclose such numbers to or between one another. The proviso gives the holders of credit cards or payment device numbers the ability to prevent disclosures of account numbers to subsidiaries or controlled affiliates for marketing purposes. Issuers who intend to make such disclosures are required to notify holders of active accounts, at least annually, that such disclosures may be made unless the account holder notifies the issuer that such use is not permitted.

It is intended that an issuer may select the month in which disclosure is made and notify those account holders active for that month of their election capabilities. An issuer receiving a notification, at the issuer's prescribed address, from a holder in response to the notice would be required within 45 days to respond to the notice by prohibiting the disclosure of that account number to a subsidiary or controlled affiliate during the effective period of the election.

ENCODED NUMBERS

The committee amendment to the definition of payment device numbers clarifies that encoded numbers would not come within the meaning of payment device numbers. For example, disclosure of credit card or payment device numbers is often made in joint marketing activities, such as arrangements between card issuers and insurance companies to market insurance by direct mail. Such disclosure for marketing purposes would continue to be allowed so long as the number is encoded before it is initially released to the insurance company or other firm involved in a joint marketing effort. Encoding should provide an effective deterrent to the fraudulent use of account numbers.

Encoding could detail, for example, changing a numerical number to an alphabetical sequence, or assigning a number to the consumer that is different from his or her regular account number, or by truncating the existing account number. Truncation could be accomplished by changing, deleting, or adding one or more numbers to the regular account number. Encoding could be done directly by the card issuer, or on its behalf by another firm such as a service bureau or mailing house pursuant to the internal functioning and processing exceptions set forth in the bill.

DISCLOSURE FOR AUTHORIZATION, PROCESSING, AND OTHER PURPOSES

An important provision, which to some extent overlaps with several of the other exceptions, is contained in exception 1 which authorizes disclosures "* * * in connection with an authorization, processing, billing, collection, chargeback, insurance collection, fraud prevention, or credit card payment device recovery * * *." This general listing of authorized disclosures should be construed flexibly to accommodate legitimate business practices.

While some large credit or debit card issuers may perform functions—such as recording and billing the customer—"in house," many smaller issuers must rely on individuals outside the issuing company to perform one or more of these functions. For example, a retailer may use an outside firm to emboss account numbers on its credit cards, perform credit authorization or billing functions, or collect delinquent accounts. Transfers of account numbers to such firms are necessary and are intended to be authorized by this subsection or by the internal functioning exception discussed earlier. Card issuers also must obtain account numbers from other issuers and consumer reporting agencies for credit authorization, new account processing, account collection and servicing, and similar purposes. Exception 1 is intended to allow disclosure for such established business practices.

DEFINITIONS OF PAYMENT DEVICE AND PAYMENT DEVICE NUMBER

The committee amendment which adds the words "credit card or" wherever the words "payment device number" appear is a recognition that many creditors have objected to the bill as reported out of the committee because of its use of the terms "payment device number" and "payment device" as merging two different means of payment—the debit and credit card—into one definition.

It is clear through this amending language that the committee does not intend any substantive change in the distinction between credit and debit transactions nor would one result from the use of the term "payment device" which, on its face, applies only "for the purposes of this section" (that is, the "Credit Card Protection Act" section of the Truth in Lending Act).

A second concern is that the definition of payment device number could be interpreted to include items that should not be covered by the bill. This concern can be understood by examining the specific language of the definition. For example, the term "payment device" is defined as "any * * * means of account access * * * that can be used" to obtain goods or services or to initiate a transfer of funds. This arguably could include such items as a person's name, address, social security number, or driver's license number, since some credit grantors will access accounts or authorize an extension of credit on the basis of such information. However, it is not intended that this language be interpreted so broadly as to include such items as one's name, address, or similar identifying data that is not ordinarily considered to be an account number.

CERTIFICATION PROCEDURE

Another important committee amendment affects exception 5 which permits disclosure for valid business purposes pursuant to a prior individual certification of the need and reason for such disclosure. The amendment would allow certification to be made by oral, written, or electronic means. This change is required because many requests for consumer reports have to be made orally, such as by telephone, or electronically, such as when a creditor accesses a credit reporting agency's file by electronic means, or in writing. It is intended that the requestor would have to maintain a record of the reason that the numbers were requested and that the consumer reporting agency or other person making the disclosure would have to record only whether the consumer's account numbers were disclosed. It is intended that record retention under this subsection would be for a 12-month period.

The amendment also would delete the requirement that the certification must contain the specific reason that the credit card or payment device number is required. Instead, the certification would only indicate the general reason, such as "credit authorization," as to why the disclosure was required. The amendment also makes it clear that the certification would apply to reports which may contain a number of credit card or payment device numbers.

The committee amendments would also extend the effective date for provisions to allow industry adequate time to meet the requirements of the bill. It is intended that the 12-month delay in the effective date as to credit reporting agencies relates to the disclosure by, and the receipt by issuers of, numbers from credit reporting agencies.

Thank you, Mr. Speaker.

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

Mr. WYLIE. I would be glad to yield to the gentleman from New York.

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Speaker, I commend the distinguished subcommittee chairman and the ranking minority member for bringing this measure to the floor.

Mr. Speaker, I am pleased to rise in support of H.R. 3622, the Credit Card Protection Act which relates to title 15 of our United States Code and which deals with our banking provisions. Credit card fraud has ballooned enormously in the last few years, making it increasingly necessary to alter and amend sections of the Truth in Lending Act.

This measure would prohibit the disclosure of payment device numbers, with certain exceptions, would modify the definition of a payment device that is now found lacking, makes possession of five or more fraudulent payment devices a Federal offense, and clarifies the $1,000 threshold that is necessary to consider fraudulent use of payment devices a Federal offense.

This legislation, along with legislation that I cosponsored, along with my colleague from New York (Mr. FISH), H.R. 3181, together address the very serious problems associated with credit card fraud. H.R. 3181 centers on the counterfeiting of payment devices, as well as the fines associated with fraudulent use. Each measure addresses a different title of the United States Code, the latter relating to title 18, dealing with criminal offenses. I urge swift passage of the legislation before us now, and further urge my colleagues to support H.R. 3181 as well. Our distinguished colleague, Mr. FISH, as the ranking minority member of the Committee on the Judiciary, has fashioned a measure which together with H.R. 3622, help alleviate the millions of lost dollars and untold anguish which results from credit card fraud.

Mr. WYLIE. I thank the gentleman for his support and for his contribution.

Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. FISH).

Mr. FISH. I thank the gentleman for yielding this time to me.

Mr. Speaker, the chairman knows the regard I hold for him.

Mr. Speaker, I rise in support of the Credit Card Protection Act. Mr. ANNUNZIO's bill, H.R. 3622 closes several loopholes that have weakened the effectiveness of current law. The Federal banking laws in title 15 of the United States Code prohibit the credit-card fraud that was envisioned in the early 1970's. Unfortunately, as technology has increased, so has the ability of the criminal mind to use this technology to circumvent both industry security and the law.

Today, using a credit-card account number to fraudulently obtain goods, services, or currency is not illegal under Federal law. Account numbers are indiscriminately disseminated without punishment. A person can make fraudulent purchases of hundreds of thousands of dollars without violating Federal law as long as no more than $1,000 is applied to a single credit card. A person possessing 50 fraudulent cards is not breaking the law.

In addition to these problems is another loophole that is wreaking havoc on the credit-card industry. Counterfeiting credit cards is not prohibited by Federal law. The counterfeiting problem is the focal point of legislation I have introduced which is now pending before the Committee on the Judiciary Subcommittee on Crime. The Credit Card Counterfeiting and Fraud Act of 1983, H.R. 3181, outlaws the act of counterfeiting credit cards, the subsequent improper use of validly issued cards, and possession of fraudulent cards, and punishes those acts with prison sentences and substantially increased fines.

I have crafted H.R. 3181 to complement the bill before the House of Representatives today. The two bills work together to insure that credit-card fraud of all types are swiftly reduced and effectively punished.

The existing law was adopted at a time when film-flammers were stealing cards or shaving off old numbers and names and glueing on new ones. Today photo-offset printing and silk screening are only two of the modern, technologically advanced processes used by organized rings of counterfeiters. Their impact on the industry in 1983 is expected to cause losses approaching $100 million. Who pays this $100 million bill? Consumers are the victims of this inexcusable, profit-motivated, modern-day scam. The film-flammers at the root of these schemes are sophisticated bankers. They deserve our swift and efficient punishment, which will both deter these activities and take the punishment out of crime.

It is my understanding that H.R. 3622 has been crafted to permit legitimate business activities involving credit-card numbers while outlawing fraudulent misuse of those numbers. I urge the adoption of the bill before us because it will vastly improve our banking laws dealing with credit-card fraud. The Committee on the Judiciary Subcommittee on Crime has held two hearings on my bill and I am extremely hopeful that the Subcommittee on Crime will process H.R. 3181 in the very near future. I also urge this body to support H.R. 3181, my bill directed toward the act of counterfeiting credit cards and additional fraudulent acts.

Mr. ANNUNZIO. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Minnesota (Mr. VENTO), a member of the committee.

Mr. VENTO I thank the chairman for yielding.

Mr. Speaker, I want to rise as a sponsor of this measure with our chairman in support of the Credit Card Protection Act, H.R. 3622, this evening, and I want to commend in one instance the masterful job that the chairman of our subcommittee has done in terms of steering and guiding this legislation to the floor. I think that he singlehandedly did bring this to the attention of our committee and gained, I think, significant support there and made it possible for us to move swiftly and promptly in terms of acting on this very serious problem.

The fact of the matter is that there are over 600 million credit cards in circulation in this country. It was an ap-

palling thing for me, and I think for other Members, to learn of the type of abuse that these credit cards are subject to today, and the devastating impact that has upon consumers and upon retail establishments in the normal course of business activity in this country. It is really with this in mind, of course, that we tried to craft this legislation.

I think the gentleman has walked a fine balance in trying to meet legitimate objections and concerns that arise in the normal course of business, and at the same time taking cognizance of the technology and the leapfrogging over, really, existing law in dealing with those who would abuse and really commit crimes with regard to credit cards.

For instance, the example of just the utilization of numbers in terms of committing a fraudulent use of that, or purchase, has resulted in significant problems with regard to law, as well as the number of credit cards in possession. It was amazing for us to learn in details some of the problems where a single credit card, for example, could be subject to abuse where an individual might run up $20,000 worth of fraudulent bills on the use of a single card; where criminals, for instance, actually have formed schools that teach others how to use and abuse this credit system in this country.

So it is with a great deal of pride that I rise to support and commend my chairman and other members of our committee who I think have done a very good job in terms of trying to bring credit-card law in synchronization with the 1980's and the type of technology that we face.

I certainly hope that this receives prompt action on the part of the Senate and that we will have this as a necessary consumer protection for the 1980's, and that we will continue such diligence over the subject matter is certainly a credit to the chairman, that he has brought this here and done this primary work on this issue. I commend him for his work.

Mr. WYLIE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ANNUNZIO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. ANNUNZIO) that the House suspend the rules and pass the bill, H.R. 3622, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1850

EXTENDING BAN ON CREDIT CARD SURCHARGES

Mr. ANNUNZIO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4278) to provide for the temporary extension of the ban on credit card surcharges.

The Clerk read as follows:

H.R. 4278

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3(c)(2) of Public Law 94-222 (15 U.S.C. 1666f note) is amended to read as follows:

"(2) The amendments made by paragraph (1) shall cease to be effective on July 31, 1984.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Illinois (Mr. ANNUNZIO) will be recognized for 20 minutes and the gentleman from Ohio (Mr. WYLIE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. ANNUNZIO).

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

Mr. Speaker, this legislation is necessary in order to determine whether a potentially serious problem exists involving the surcharging of credit card purchases.

The law prohibiting credit card surcharges expires on February 27 of next year. Given the limited number of legislative days between now and the expiration date, it would be extremely difficult to hold hearings on the legislation to determine if it should be extended.

There are some Members who favor the elimination of the ban, which would mean that a merchant could charge extra for credit card purchases. While I am totally opposed to such surcharges, I nevertheless feel that those Members should have an opportunity to present their positions.

There are some who have suggested that we merely let the surcharge ban expire. If we do that without additional legislation, we in fact would accomplish nothing at all. In almost every State a credit card surcharge would be considered a finance charge. And since most credit card interest rates are already right up against the State usury ceiling, a credit card surcharge would violate State usury ceilings and cause tremendous legal problems.

I am strongly opposed to overriding State usury laws, whether it be for credit card surcharges or for any credit purchases. But if that is the will of the Congress, it should be accomplished only after complete hearings.

The Federal Reserve Board has conducted a study on credit card surcharges. But because of an extremely crowded legislative schedule no hearings have been held on that study. I do not think it would be wise for this body to deal with the surcharge issue without in-depth hearings on the Federal Reserve Board study.

H.R. 4278 takes no position on the surcharge bill, rather it is designed to give the House time to consider the matter with full and meaningful hearings. It will give both opponents and proponents of the surcharge ban an opportunity to fully present their cases.

I know of no opposition to this legislation, and it has been cleared with the ranking Republican members of both the full Committee on Banking, Finance and Urban Affairs, the gentleman from Ohio (Mr. WYLIE), and the ranking Republican member of the Consumer Affairs and Coinage Subcommittee, the gentleman from Texas (Mr. PAUL).

Let me once again state that this bill takes no position on the surcharge issue, but rather is a simple extension of the termination date of the ban so that we can legislate on the issue with full hearings.

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

Mr. Speaker, I rise in support of this temporary extension of the credit card surcharge ban, without which the provisions of the Cash Discount Act, Public Law 97-25, would expire on February 27, 1984.

The existing statute was enacted in the previous Congress following hearings, with some witnesses favoring and others opposing the ban on credit card surcharges. To address concerns raised in the hearings, the act called for the Federal Reserve to conduct a study of the relative costs of various forms of credit and to address the issue of whether cash sales subsidize credit card sales. The Federal Reserve report was submitted to Congress on July 27, 1983.

To support the request of the chairman of the subcommittee, the gentleman from Illinois (Mr. ANNUNZIO), in seeking this short extension of the bill at this time because the question of extending this ban on credit card surcharges deserves critical consideration by the Committee on Banking, Finance and Urban Affairs. The time remaining before the expiration of the Cash Discount Act in February would not permit the appearance of witnesses or the full discussion of the credit card surcharge issue that we would like.

The Cash Discount Act, prohibiting credit card surcharges, has been a part of the law since 1976, and the gentleman from Illinois (Mr. ANNUNZIO) and I have both cosponsored legislation since that date to see that it was enacted into law. We have extended the act before. It is hoped that the hearings next year will look critically at

the pricing of retail credit in our economy. Perhaps the hearings will cause the Banking Committee to conclude that the ban should be made permanent or, in the alternative, to eliminate the ban and let the free market determine the pattern of prices.

Certainly before taking either step, the committee should have hearings and give due consideration to arguments on both sides of the issue.

I must point out, with due deference to the gentleman from Illinois, that the administration has sent a letter in opposition to the temporary extension of the ban on credit card surcharges because: First, it says that it constitutes unwarranted Government interference in private business; and second, that there is no functional difference between a credit card surcharge, currently prohibited, and a discount for paying with cash. I happen to think that there is a real difference between a discount for cash and a surcharge, and have stated that before, and I respectfully disagree with the administration's position on this point.

In any event, Mr. Speaker, until that issue can be resolved, I do urge adoption of H.R. 4278 today.

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

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

Mr. ANNUNZIO. Mr. Speaker, I appreciate the gentleman's yielding, and I want to extend to him my thanks for all the help and the contributions he has made over the years on this particular legislation.

I want to say to the gentleman that as far as costs are concerned, there is no cost to the Federal Government on the legislation, and I am delighted that he agrees with me that before the full committee takes any more action, we must have full and complete hearings.

Mr. Speaker, I thank the gentleman again for his support.

Mr. WYLIE. Mr. Speaker, I thank the gentleman from Illinois (Mr. ANNUNZIO). It has been a real pleasure for me to work with the chairman of the subcommittee on this legislation, and I compliment him for the leadership he has exemplified in bringing it here today.

Mr. Speaker, the gentleman from Pennsylvania (Mr. WALKER) has asked me to yield 2 minutes to him, and I do that at this time.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding, and I take these 2 minutes to propound a parliamentary inquiry of the Chair.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. WALKER. Mr. Speaker, it is my understanding that the majority side found that it could not live with the procedures they adopted earlier today with regard to the ERA, so, therefore, they have requested unanimous consent for general leave for everyone to revise and extend their remarks. The gentleman from California (Mr. PANETTA), I understand, made that request.

Now, given that situation, I wanted to receive some assurance from the Chair that the remarks that are put into the RECORD under that general leave will be bulleted. Is that correct?

The SPEAKER pro tempore. Under the rules of the Joint Committee on Printing, that is the way that would happen.

Mr. WALKER. And, Mr. Speaker, will any remarks that are revised within the limits of that request also be bulleted?

The SPEAKER pro tempore. Only those remarks that were not actually spoken. Those that were actually spoken, of course, will be revised.

Mr. WALKER. In other words, Mr. Speaker, if I understand the Chair correctly, what the gentleman from California (Mr. PANETTA) has gotten is an ability of Members to doctor the RECORD with their remarks in their revisions? We will not have an actual representation of what was spoken on the floor in the debate during the 20 minutes today?

The SPEAKER pro tempore. As the gentleman might imagine, that is not in the nature of a proper parliamentary inquiry. The Chair cannot anticipate what Members might submit.

Mr. WALKER. Then, Mr. Speaker, I will put it in terms of a parliamentary inquiry.

Can the Chair advise me as to whether or not it will be possible for Members to take such action under that permission which the gentleman from California got?

The SPEAKER pro tempore. The rules of the Joint Committee on Printing permit revisions and extensions of remarks. It permits revision of remarks actually spoken, but without a bullet, as the gentleman may know.

Mr. WALKER. I thank the Chair for clarifying the situation.

Mr. Speaker, if I do understand it correctly, though, any remarks under general leave will be bulleted under the rules; is that correct?

The SPEAKER pro tempore. The gentleman is correct.

Mr. WALKER. I thank the Chair.

Mr. WYLIE, Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. ANNUNZIO) that the House suspend the rules and pass the bill, H.R. 4278.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1900

GENERAL LEAVE

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bills just considered, H.R. 4278 and H.R. 3622.

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

There was no objection.

CONFERENCE REPORT ON H.R. 2780, LOCAL GOVERNMENT FISCAL ASSISTANCE AMENDMENTS OF 1983

Mr. BROOKS submitted the following conference report and statement on the bill (H.R. 2780) to extend and amend the provisions of title 31, United States Code, relating to the general revenue sharing program:

CONFERENCE REPORT (H. REPT. No. 98-550)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2780) to extend and amend the provisions of title 31, United States Code, relating to the general revenue sharing program, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Local Government Fiscal Assistance Amendments of 1983".

EXTENSION OF PROGRAM

SEC. 2. Section 6701(a)(1) of title 31, United States Code, is amended to read as follows:

"(1) 'entitlement period' means each one-year period beginning on October 1, of 1982, 1983, 1984, and 1985.".

TERMINATION OF STATE SHARE

SEC. 3. Section 6703(b)(1) of title 31, United States Code, is amended by inserting after "each entitlement period" the following: "beginning before October 1, 1983,".

STATE VARIATIONS OF LOCAL GOVERNMENT ALLOCATIONS

SEC. 4. Subsection (a) of section 6711 of title 31, United States Code, is amended—

(1) by adding "and" at the end of clause (1);

(2) by striking out "; and" at the end of clause (2) and inserting in lieu thereof a period; and

(3) by striking out clause (3).

MODIFICATION OF INTRASTATE ALLOCATION FORMULA IN CERTAIN CASES

SEC. 5. Subsection (c) of section 6713 of title 31, United States Code, is amended—

(1) by striking out "and" at the end of clause (1);

(2) by striking out the period at the end of clause (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new clause:

"(3) for purposes of intrastate allocations under sections 6708, 6709, and 6712, consider any reduction in the amount of adjusted taxes of any unit of general local government if such reduction—

"(A) results from a specific economic dislocation which causes—

"(i) the closing of places of employment,

"(ii) declines in assessed value of, or receipt of taxes from, real property, or

"(iii) declines in sales or income tax collections of such government, and

"(B) would reduce the allocation of the unit of local government for an entitlement period by an amount equal to or greater than 20 percent of such allocation for the preceding entitlement period.".

PUBLIC HEARINGS

SEC. 6. Section 6714 of title 31, United States Code, is amended—

(1) by striking out paragraph (1) of subsection (a);

(2) by redesignating paragraphs (2) and (3) of subsection (a) as paragraphs (1) and (2), respectively;

(3) by striking out "subsection (a)(2)" in subsection (b)(1) and inserting in lieu thereof "subsection (a)(1)";

(4) by striking out clause (1) of subsection (c);

(5) by striking out "subsection (a)(2)" in subsection (c)(2) and inserting in lieu thereof "subsection (a)(1)"; and

(6) by redesignating clauses (2) and (3) of subsection (c) as clauses (1) and (2), respectively.

DISCRIMINATION PROCEEDINGS

SEC. 7. Section 6717 of title 31, United States Code, is amended—

(1) by striking out "the Secretary submits a notice of noncompliance to the government" in subsection (b) and inserting in lieu thereof "the government receives a notice of noncompliance from the Secretary of the Treasury"; and

(2) by striking out "shall suspend payments to the government under this chapter unless by the 10th day after the decision" in the second sentence of subsection (c) and inserting in lieu thereof "shall notify the government of the decision and shall suspend payments to the government under this chapter unless, within 10 days after the government receives notice of the decision,".

AUDIT REQUIREMENTS

SEC. 8. (a) Section 6723(a)(1) of title 31, United States Code is amended—

(1) by striking out "expecting to receive" and "which receives";

(2) by striking out "at least once every 3 years" and inserting in lieu thereof "at least as often as is required by paragraph (2)"; and

(3) by striking out "auditing standards" and inserting in lieu thereof "government auditing standards issued by the Comptroller General of the United States".

(b) Section 6723(a)(2) of such title is amended to read as follows:

"(2) Paragraph (1) of this subsection does not apply to a government for a fiscal year in which the government receives less than $25,000 under this chapter. A government which receives at least $25,000 but not more than $100,000 under this chapter for a fiscal year shall have an audit made in accordance with paragraph (1) at least once every 3 years. A government which receives more than $100,000 under this chapter for a fiscal year shall have an audit made in accordance with paragraph (1) for such fiscal year, except that, if the government operates on a biennial fiscal period, such audit may be made biennially but shall cover the financial statement or statements for, and compliance with the requirements of this chapter during, both years within such period.".

(c) Section 6723(b)(1) of such title is amended.—

(1) by striking out "at least once every 3 years" in clause (A) and inserting in lieu thereof "at least as often as would be required by subsection (a)(2)";

(2) by striking out "auditing standards" and inserting in lieu thereof "government auditing standards issued by the Comptroller General of the United States".

(d) Section 6723(c)(2) of such title is amended—

(1) by striking out "generally accepted auditing standards" the first place it appears and inserting in lieu thereof "generally accepted government auditing standards issued by the Comptroller General of the United States"; and

(2) by striking out "generally accepted auditing standards" the second place it appears and inserting in lieu thereof "such auditing standards".

(e) Section 6723(e) of such title is amended by adding at the end thereof the following: "Not later than 30 days following completion of the audit, the audit report shall be made available for public inspection by the State government or unit of local government.".

TECHNICAL AMENDMENTS

SEC. 9. (a)(1) Subsection (a) of section 6701 of title 31, United States Code, is amended by adding at the end thereof the following new clauses:

"(8) 'adjusted taxes of a unit of general local government' means the taxes imposed by the unit of general local government for public purposes (except employee and employer assessments and contributions to finance retirement and social insurance systems and other special assessments for capital outlay) determined by the Secretary of Commerce for general statistical purposes and adjusted (under regulations of the Secretary of the Treasury) to exclude amounts properly allocated to education expenses.

"(9) 'urbanized population' has the meaning given to such term by the Secretary of Commerce for general statistical purposes.".

(2) Section 6701(c) of such title is amended by striking out the last sentence and inserting in lieu thereof the following: "Except as provided in regulations prescribed by the Secretary of the Treasury, the Secretary shall make all data computations based on the ratio of the estimated population of the part to the population of the entire unit of general local government.".

(3) Section 6701(d) of such title is amended by inserting "annexation," after "constitutional change,".

(4) Section 6701(e)(2) of such title is amended by striking out "having one unit of general local government" and inserting in lieu thereof "and the sole unit of general local government in the area".

(b) Section 6704(a) of such title is amended—

(1) by inserting "under this chapter" before the semicolon at the end of clause (1);

(2) by striking out "received under" in clause (3) and inserting in lieu thereof "so received in accordance with";

(3) by striking out "consistent" in clause (5) and inserting in lieu thereof "in accordance";

(4) by striking out "section 6723(b)" in clause (7) and inserting in lieu thereof "section 6723(g)";

(5) by striking out "and" at the end of such clause (7);

(6) by striking out the period at the end of clause (8) and inserting in lieu thereof "; and ; and

(7) by inserting after such clause the following new clause:

"(9) the government will comply with the requirements of sections 6714 and 6723.".

(c) Section 6707(c)(5) of such title is amended by striking out the last sentence.

(d) Clause (A) of section 6709(a)(2) of such title is amended to read as follows:

"(A) the adjusted taxes of the unit of general local government, divided by".

(e) Section 6713(a) of such title is amended by inserting "before the beginning of the entitlement period" immediately after "Secretary of Commerce".

(f) Section 6716 of such title is amended by striking out "when" in subsections (a) and (b) and inserting in lieu thereof "if".

(g) Section 6716(c)(1) of such title is amended by inserting before the period at the end the following: "with respect to which the allegation of discrimination is made".

(h) Section 6717 of such title is amended—

(1) by striking out "a part" in subsection (b)(3) and inserting in lieu thereof "any part";

(2) by striking out "except when" in subsection (c) and inserting in lieu thereof "unless";

(3) by striking out "When" in such subsection and inserting in lieu thereof "If"; and

(4) by inserting "of discrimination" after "The holding" in subsection (e).

(i) Section 6718(b) of such title is amended by striking out "about" and inserting in lieu thereof "based on".

STUDY OF FEDERAL/STATE/LOCAL FISCAL RELATIONSHIPS

SEC. 10. (a) The Secretary of the Treasury shall undertake a study of the following issues:

(1) The various factors used in the current allocation formulas under chapter 67 of title 31, United States Code, and possible alternatives to such formulas and factors (such as State gross domestic product, the representative tax system, and the inclusion of user fees in factors based on tax collections), including an analysis of the strengths and weaknesses of such formulas and factors.

(2) The long-term outlook for the fiscal condition and fiscal capacity of Federal, State, and local governments.

(3) The concept of returning revenue sources to State and local governments along with responsibility for programs and activities for which responsibility for programs and activities for which financial assistance is now provided by the Federal Government.

(4) The impacts of the cyclical nature of the economy and other factors, such as unemployment, on the expenditures, needs, and fiscal capacities of Federal, State, and local governments, and the responsiveness of the distribution of Federal financial assistance to the cyclical nature of the economy and such other factors.

(5) The responsiveness of the distribution of Federal assistance to the fiscal capacities of State and local governments, and the responsiveness of the distribution of Federal assistance to the need for services of State and local governments and to cost-of-living and cost-of-government differentials.

(6) The mathematical forms, data, and administration of Federal grant formulas, including the formulas examined under paragraph (1).

(7) The impact on State and local governments of—

(A) modification of the provisions of the Internal Revenue Code of 1954 with respect to—

(i) the deductibility of State and local government taxes, and

(ii) the tax exempt status of State and local securities used for purposes other than the financing of public facilities and cash management, and

(B) increases in allocations under chapter 67 of title 31, United States Code, made to compensate for the modifications described in clause (A).

(b) The Secretary of the Treasury, in consultation with the Secretary of Commerce, the Comptroller General of the United States, the Advisory Commission on Intergovernmental Relations, and recognized organizations of elected officials of State and local governments, including regional organizations of such officials and officials of States that may receive substantially reduced funding under alternative methods of allocating Federal grants-in-aid, shall develop a plan for the completion of the study required by subsection (a). Such plan may provide for the participation of such individuals and organizations in the conduct of the study.

(c) Upon completion of the study required by subsection (a), the Secretary shall solicit the views of the persons and organizations with whom he was required to consult by subsection (b) and shall append such views to a final report to the President and the Congress. Such report shall be submitted no later than June 30, 1985.

(d) There are authorized to be appropriated for each of the fiscal years 1984 and 1985 such sums as may be necessary to carry out this section, not to exceed for each such fiscal year an amount equal to 3 percent of the cost of administering chapter 67 of title 31, United States Code, for the preceding fiscal year.

ADJUSTING DEFINITION OF MASSACHUSETTS TAX EFFORT

SEC. 11. (a) For the purposes of allocating amounts under sections 6708 and 6709 of title 31, United States Code, among units of general local government within the Commonwealth of Massachusetts for the entitlement period beginning October 1, 1983, the adjusted taxes of those governments shall include property taxes levied for the Commonwealth's 1982 fiscal year and recognized as fiscal year 1982 receipts pursuant to Massachusetts General Laws, chapter 59, sections 21 and 23, and chapter 44, sections 35 through 46.

(b) No tax collections credited to any unit of general local government under subsection (a) for the Commonwealth's 1982 fiscal year shall be credited to that unit of general local government for any other fiscal year.

EFFECTIVE DATE

SEC. 12. (a) Except as provided in subsection (b), the amendments made by this Act shall apply to entitlement periods (as such term is defined in section 6701(a)(1) of title 31, United States Code) beginning on or after October 1, 1983.

(b) The amendments made by section 8 shall apply with respect to any fiscal year (or period) of any State government or unit of general local government beginning on or after October 1, 1983.

And the Senate agree to the same.

JACK BROOKS,
TED WEISS,
JOHN CONYERS,
SANDER LEVIN,
BUDDY MACKAY,
E. TOWNS,
FRANK HORTON,
ROBERT S. WALKER,
ALFRED A. MCCANDLESS,
Managers on the part of the House.

BOB DOLE,
JOHN C. DANFORTH,
JOHN HEINZ,
DAVID DURENBERGER,
RUSSELL B. LONG,
LLOYD BENTSEN,
GEORGE J. MITCHELL,
Managers on the part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill H.R. 2780, to extend and amend the provisions of title 31, United States Code, relating to the general revenue sharing program, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute test.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a complete substitute for the Senate amendment, and the Senate agrees to the same. The differences among the House bill, the Senate amendment and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SECTION 1—SHORT TITLE

House bill

The House bill is entitled the "State and Local Fiscal Assistance Amendments of 1983."

Senate amendment

The Senate amendment is entitled the "Local Government Fiscal Assistance Amendments of 1983."

Conference substitute

The conference substitute is the same as the Senate amendment.

SECTION 2—EXTENSION OF PROGRAM

The House bill, the Senate amendment, and the Conference substitute extend the program for three years, October 1, 1983, through September 30, 1986.

FUNDING LEVEL

House bill

The House bill increases the entitlement for local governments by $450 million to $5.02 billion per year.

Senate amendment

The Senate amendment retains the current funding level of $4.57 billion per year.

Conference substitute

The Conference substitute is the same as the Senate amendment.

SECTION 3—TERMINATION OF STATE SHARE

House bill

The House bill terminates the authorization for payments to State governments.

Senate amendment

The Senate amendment retains the current authorization for payments to State governments of $2.3 billion per year, subject to the appropriations process and the provisions requiring a dollar-for-dollar tradeoff of categorical grant funds for revenue sharing funds.

Conference substitute

The conference substitute is the same as the House bill.

SECTION 4—STATE VARIATIONS OF LOCAL GOVERNMENT ALLOCATIONS

House bill

Under current law, each State government may, subject to certain constraints, develop its own formula for allocating revenue sharing funds to local governments within the State. The House bill extends this option through fiscal year 1986.

Senate amendment

The Senate amendment extends this option permanently.

Conference substitute

The conference substitute is the same as the Senate amendment.

SECTION 5—MODIFICATION OF INTRASTATE ALLOCATION FORMULA IN CERTAIN CASES

House bill

No provision.

The Senate amendment revises the intrastate allocation formula to disregard a reduction in a local government's adjusted taxes if: A) the reduction is caused by a "specific economic dislocation", and B) the reduction would mean a decrease of 20 percent or more in the government's allocation.

Conference substitute

The conference substitute adopts the Senate provision.

SECTION 6—PUBLIC HEARINGS

House bill

Under current law, each recipient is required to hold two public hearings concerning the use of its revenue sharing allocation—one on the "possible uses" of such funds, and one the "proposed use" of the funds. The "possible uses" hearing may be waived if the cost would be "unreasonably burdensome" in comparison to the recipient's allocation.

The House bill retains the current requirements, but the committee report calls on the Treasury Department to inform recipients of the waiver provision.

Senate amendment

The Senate amendment eliminates the requirement for a public hearing on the "possible uses" of revenue sharing funds.

Conference substitute

The Conference substitute eliminates the requirement for a separate "possible uses" hearing. This revision is not, however, intended to diminish public participation in the process of deciding how a recipient's revenue sharing funds are to be used. It is expected, therefore, that when a recipient holds its hearing on the "proposed use" of its revenue sharing allocation, interested

persons will be given an opportunity to suggest alternative uses of such funds.

SECTION 7—DISCRIMINATION PROCEEDINGS

House bill

The House bill retains the current provisions for handling discrimination proceedings under the general revenue sharing program.

Senate amendment

The Senate amendment revises the method of computing the time periods within which a recipient must respond to a "notice of noncompliance" with the nondiscrimination provisions of the program. The time periods would run from the date such a notice is received by a local government, rather than from the date the notice is issued by the Secretary of the Treasury, as is currently the case.

Conference substitute

The Conference substitute adopts the Senate provision.

SECTION 8—AUDIT REQUIREMENTS

House bill

Under current law, governments receiving $25,000 or more per year in revenue sharing funds are required to obtain and audit once every three years. This provision has been construed to mean that the audit need only cover one of the three years. The audits must be conducted in accordance with generally accepted auditing standards.

The House bill requires governments receiving $25,000 or more per year in revenue sharing to obtain annual audits. Governments operating on a biennial fiscal period, however, may obtain an audit every two years as long as the financial statements for both years are covered. Audits must be conducted in accordance with generally accepted government auditing standards issued by the Comptroller General of the United States.

The House bill deletes the provision of current law permitting State and local governments to waive the audit requirements under certain conditions, and establishes a requirement that audit reports be submitted to the Secretary of the Treasury and be available for public inspection.

The House bill also deletes the provision of current law that permits the Secretary of the Treasury to waive the requirement that audits meet generally accepted auditing standards and be independent if the audits are conducted by a State audit agency and such agency demonstrates substantial progress toward meeting such standards of becoming independent.

Finally, the House bill deletes the provision of current law that permits a government receiving less than $25,000 per year in revenue sharing to use an audit required by State or local law to comply with the revenue sharing audit requirements.

Senate amendment

The Senate amendment retains the current audit requirements.

Conference substitute

The Conference substitute requires governments receiving $100,000 or more per year in revenue sharing to obtain annual audits, or biennial audits covering both years for governments operating on a two-year fiscal period. Governments receiving between $25,000 and $100,000 are subject to the current requirement for an audit once every three years. Such audits need only cover one year. Audits must be conducted in accordance with generally accepted government auditing standards issued by the Comptroller General and be available for public inspection.

The Conference substitute retains the current waiver authority for the Secretary of the Treasury and recipient governments, but deletes the option for governments receiving less than $25,000 per year to use an audit required by State or local law to meet the revenue sharing audit requirement.

SECTION 9—TECHNICAL AMENDMENTS

Both the House bill and the Senate amendment contain various technical and clarifying changes to Chapter 67, title 31, U.S. Code. The Conference substitute incorporates all of these changes.

SECTION 10—STUDY OF FEDERAL/STATE/LOCAL FISCAL RELATIONSHIPS

House bill

The House bill requires the Secretary of the Treasury, in consultation with the Secretary of Commerce, the Comptroller General of the United States, and the Advisory Commission on Intergovernmental Relations (ACIR), to evaluate: (1) the representative tax system for use in the general revenue sharing allocation formulas; (2) alternatives to personal income as a measure of the fiscal capacity of State and local governments in the revenue sharing formulas; and (3) Federal aid formulas in general. The bill does not include a specific authorization of funds.

Senate amendment

The Senate amendment requires the Secretary of the Treasury, the Secretary of Commerce, the Comptroller General, and the Chairman of the ACIR to conduct a series of studies on the areas covered by the House bill, as well as the following additional issues: (1) the overall revenue sharing program; (2) the concept of returning Federal revenue sources to State and local governments along with the responsibility for programs currently financed by Federal grants-in-aid; (3) the fiscal condition and capacity of all levels of government; (4) the relationship between changes in the economy and the distribution of Federal financial assistance; (5) alternative measures of fiscal capacity; and (6) Federal grant allocation formulas.

The amendment specifically provides for extensive participation by organizations representing State and local governments in the design of the studies. The amendment authorizes such funds as are necessary for fiscal years 1984–1986, but the annual authorization is limited to five percent of the cost of administering the general revenue sharing program.

Conference substitute

The Conference substitute requires the Secretary of the Treasury to undertake a study on the following issues: (1) The factors used in current allocation formulas for revenue sharing and possible alternatives to such formulas and factors; (2) the long-term outlooks for the fiscal condition and fiscal capacity of Federal, State, and local governments; (3) the concept of returning revenue sources to State and local governments, along with the responsibility for programs and activities currently funded by Federal financial assistance; (4) the impacts of the cyclical nature of the economy and other factors on Federal, State, and local governments' expenditures, needs, and fiscal capacities, and the responsiveness of the distribution of Federal financial assistance to the cyclical nature of the economy and such other factors; (5) the responsiveness of the distribution of Federal assistance to State and local governments' fiscal capacities, and to such governments' need for services, and to cost-of-living and cost-of-government differentials; (5) the mathematical forms, data, and administration of Federal grant formulas, including current and possible alternative revenue sharing formulas, and (7) the impact of modifying the Internal Revenue Code with respect to the deductibility of State and local taxes, and tax exempt status of certain State and local securities, along with increases in revenue sharing allocations which would be made to compensate for modifications in the above tax provisions.

The Conference substitute requires the Secretary of the Treasury, in consultation with the Secretary of Commerce, the Comptroller General, the Advisory Commission on Intergovernmental Relations, and recognized organizations of elected officials of State and local governments, including regional organizations of such officials and officials of States that my receive substantially reduced funding under alternative allocation methods to develop a plan for completion of the study described above. This plan may provide for the participation of the individuals and organizations listed above in the conduct of the study. The conferees intend that responsibility for conduct of the portion of the study dealing with a proposed "representative tax system" shall remain with the Secretary of the Treasury and shall not be delegated to the Advisory Commission of Intergovernmental Relations.

The Conference substitute requires the Secretary, upon completion of the study, to solicit the views of the individuals and organizations with whom he was required to consult above, and to append such views to a final report to be submitted to the President and Congress no later than June 30, 1985.

The Conference substitute authorizes the appropriation in Fiscal Year 1984 and Fiscal Year 1985 of such sums as may be necessary to carry out the study provision, not to exceed for each fiscal year an amount equal to three percent of the cost of administering the revenue sharing program for the previous fiscal year.

SECTION 11—ADJUSTING DEFINITION OF MASSACHUSETTS TAX EFFORT

House Bill

The House bill allows local governments in the Commonwealth of Massachusetts to include in their fiscal year 1982 "tax effort", property taxes levied in fiscal year 1982 but not actually collected until the following year. This provision does not affect the amount of revenue sharing funds that will be allocated to Massachusetts or to any other State.

Senate amendment

The Senate amendment contains a similar provision. In the Senate version, however, the adjustment in "tax effort" is contingent upon local governments in Massachusetts adopting "generally accepted accounting principles" by fiscal year 1985.

Conference substitute

The Conference substitute is the same as the House bill. The Conference Committee has, however, received written assurance from the Massachusetts Department of Revenue that local governments within the Commonwealth are in the process of converting to generally accepted accounting principles.

SECTION 12—EFFECTIVE DATE

House bill

The House bill contains a specific effective date provision to accommodate the changes it makes in audit requirements.

Senate amendment

The Senate amendment is effective upon its enactment.

Conference substitute

The Conference substitute is the same as the House bill.

JACK BROOKS,
TED WEISS,
JOHN CONYERS,
SANDER LEVIN,
BUDDY MACKAY,
E. TOWNS,
FRANK HORTON,
ROBERT S. WALKER,
ALFRED A. MCCANDLESS,
Managers on the Part of the House.

BOB DOLE,
JOHN C. DANFORTH,
JOHN HEINZ,
DAVID DURENBERGER,
RUSSELL LONG,
LLOYD BENTSEN,
GEORGE J. MITCHELL,
Managers on the Part of the Senate.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO HAVE UNTIL WEDNESDAY, DECEMBER 7, 1983, TO FILE VARIOUS AND SUNDRY REPORTS

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations have until Wednesday, December 7, to file various and sundry reports.

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

There was no objection.

VERMONT WILDERNESS ACT OF 1983

Mr. SEIBERLING. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4198) to designate certain national forest system lands in the State of Vermont for inclusion in the National Wilderness Preservation System and to designate a national recreation area, as amended.

The Clerk read as follows:

H.R. 4198

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 "Vermont Wilderness Act of 1983".

TITLE I—NEW WILDERNESS AREAS

FINDINGS AND POLICY

SEC. 101. (a) The Congress finds that—

(1) in the vicinity of major population centers and in the more populous eastern half of the United States there is an urgent need to identify, designate, and preserve areas of wilderness by including suitable lands within the National Wilderness Preservation System;

(2) in recognition of this urgent need, certain suitable lands in the national forest system in Vermont were designated by the Congress as wilderness in 1975;

(3) there exist in the national forest system in the vicinity of major population centers and in Vermont additional areas of undeveloped land which meet the definition of wilderness in section 2(c) of the Wilderness Act (78 Stat. 890);

(4) these and other lands in Vermont which are suitable for designation as wilderness are increasingly threatened by the pressures of a growing and concentrated population, expanding settlement, spreading mechanization, and development and uses inconsistent with the protection, maintenance, and enhancement of their wilderness character; and

(5) the Wilderness Act established that an area is qualified and suitable for designation as wilderness which (i) though man's works may have been present in the past, has been or may be so restored by natural influences as to generally appear to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable, and (ii) which may, upon designation as wilderness, contain certain preexisting nonconforming uses, improvements, structures, or installations; and the Congress has reaffirmed these established policies in the subsequent designation of additional areas, exercising its sole authority to determine the suitability of such areas for designation as wilderness.

(b) The purpose of this title is to designate certain national forest system lands in the State of Vermont as components of the National Wilderness Preservation System, in order to preserve such areas as an enduring resource of wilderness which shall be managed to perpetuate and protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all the American people, to a greater extent than is possible in the absence of wilderness designation.

DESIGNATION OF WILDERNESS AREAS

SEC. 102. In furtherance of the purposes of the Wilderness Act, the following lands in the State of Vermont are designated as components of the National Wilderness Preservation System:

(1) certain lands in the Green Mountain National Forest, Vermont, which comprise approximately twenty-one thousand four hundred and eighty acres, as generally depicted on a map entitled "Breadloaf Wilderness—Proposed", dated September 1983, and which shall be known as the Breadloaf Wilderness;

(2) certain lands in the Green Mountain National Forest, Vermont, which comprise approximately six thousand seven hundred and twenty acres, as generally depicted on a map entitled "Big Branch Wilderness—Proposed", dated September 1983, and which shall be known as the Big Branch Wilderness;

(3) certain lands in the Green Mountain National Forest, Vermont, which comprise approximately six thousand nine hundred and twenty acres, as generally depicted on a map entitled "Peru Peak Wilderness—Proposed", dated September 1983, and which shall be known as the Peru Peak Wilderness;

(4) certain lands in the Green Mountain National Forest, Vermont, which comprise approximately one thousand and eighty acres, as generally depicted on a map entitled "Lye Brook Additions—Proposed", dated September 1983, and which are hereby incorporated in and shall be deemed to be a part of the Lye Brook Wilderness as designated by Public Law 93-622; and

(5) certain lands in the Green Mountain National Forest, Vermont, which comprise approximately five thousand and sixty acres, as generally depicted on a map entitled "George D. Aiken Wilderness—Proposed", dated September 1983, and which shall be known as the George D. Aiken Wilderness.

MAPS AND DESCRIPTIONS

SEC. 103. As soon as practicable after this title takes effect, the Secretary of Agriculture shall file the maps referred to in this title and legal descriptions of each wilderness area designated by this title with the Committee on Energy and Natural Resources, United States Senate, and the Committees on Agriculture and Interior and Insular Affairs of the United States House of Representatives, and each such map and legal description shall have the same force and effect as if included in this title: Provided however, That correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

ADMINISTRATION OF WILDERNESS

SEC. 104. (a) Subject to valid existing rights, each wilderness area designated by this title shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that, with respect to any area designated in this title, any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this title.

(b) As provided in section 4(d)(8) of the Wilderness Act, nothing in this title shall be construed as affecting the jurisdiction or responsibilities of the State of Vermont with respect to wildlife and fish in the national forest in the State of Vermont.

(c) Notwithstanding any other provision of the Wilderness Act or any other provision of law, the Appalachian Trail and related structures, the Long Trail and related structures, and the associated trails of the Appalachian Trail and the Long Trail may be maintained.

EFFECT OF RARE II

SEC. 105. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second Roadless Area Review and Evaluation (RARE II); and

(2) the Congress has made its own review and examination of national forest system roadless areas in the State of Vermont, and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to national forest system lands in States other than Vermont, such statement shall not be subject to judicial review with respect to national forest system lands in the State of Vermont;

(2) with respect to the national forest system lands in the State of Vermont which were reviewed by the Department of Agriculture in RARE II, that review and evaluation shall be deemed for the purposes of the initial land management plans required for

such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976 to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the initial plans and in no case prior to the date established by law for completion of the initial planning cycle;

(3) areas in the State of Vermont reviewed in such final environmental statement and not designated as wilderness upon enactment of this Act need not be managed for the purpose of protecting their suitability for wilderness designation pending revision of the initial plans; and

(4) unless expressly authorized by Congress the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of national forest system lands in the State of Vermont for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

TITLE II—WHITE ROCKS NATIONAL RECREATION AREA

FINDINGS AND POLICY

SEC. 201. (a) The Congress finds that—

(1) Vermont is a beautiful but small and rural State, situated near four large cities with combined metropolitan populations of of over fifteen million;

(2) geographic and topographic characteristics of Vermont provide opportunities for large numbers of people to experience the beauty of primitive areas, but also place unusual pressure to provide options to maximize the availability of such lands for a variety of forms of recreation;

(3) certain lands designated as the Big Branch and Peru Peak Wilderness Areas by title I of this Act are suitable for inclusion as part of the National Recreation Area;

(4) Certain other lands on the Green Mountain National Forest not designated as wilderness by this Act are of a predominantly roadless nature and possess outstanding wild values that are important for primitive recreation, watershed protection, wildlife habitat, ecological study, education, and historic and archeological resources, and are deemed suitable for preservation and protection as part of a national recreation area.

(b) The purpose of this title is to designate certain national forest system lands in the State of Vermont as the White Rocks National Recreation Area in order to preserve and protect its existing wilderness and wild values and to promote wild forest and aquatic habitat for wildlife, watershed protection opportunities for primitive recreation, scenic, ecological and scientific values.

DESIGNATION OF WHITE ROCKS NATIONAL RECREATION AREA

SEC. 202. In furtherance of the findings and purposes of this title certain lands in the Green Mountain National Forest, Vermont, which comprise approximately thirty-six thousand and four hundred acres, as generally depicted on a map entitled "White Rocks National Recreation Area—Proposed", dated September 1983, are hereby designated as the White Rocks National Recreation Area.

MAPS AND DESCRIPTIONS

SEC. 203. As soon as practicable after this title takes effect, the Secretary of Agriculture shall file the map referred to in this title and legal descriptions of the National Recreation Area designated by this title with the Committee on Energy and Natural Resources, United States Senate, and the Committees on Agriculture and on Interior and Insular Affairs of the United States House of Representatives, and each such map and legal description shall have the same force and effect as if included in this title: *Provided however,* That correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

ADMINISTRATION OF THE NATIONAL RECREATION AREA

SEC. 204. (a) Subject to valid existing rights, the White Rocks National Recreation Area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the findings and purpose of this title and the laws, rules, and regulations applicable to the national forest in a manner compatible with the following objectives:

(1) the continuation of existing primitive and semiprimitive recreational use in a natural environment;

(2) utilization of natural resources shall be permitted only if consistent with the findings and purposes in this title;

(3) preservation of and protection of forest and aquatic habitat for fish and wildlife; and

(4) protection and conservation of special areas having uncommon or outstanding wilderness, biological, geological, recreational, cultural, historical or archeological, and scientific and other values contributing to the public benefit.

(b) Notwithstanding any other provision of law, Federally owned lands within the White Rocks National Recreation Area as designated by this Act are hereby withdrawn from all forms of appropriation under the mineral leasing laws, including all laws pertaining to geothermal leasing, and all amendments thereto.

(c) The Secretary shall permit hunting, fishing, and trapping on lands and waters under his jurisdiction within the boundaries of the recreation area in accordance with applicable laws of the United States and the State of Vermont.

(d) Within eighteen months from the date of enactment of this Act the Secretary shall develop and submit to the Committees on Agriculture and Interior and Insular Affairs of the United States House of Representatives and Energy and Natural Resources of the United States Senate a comprehensive management plan for the recreation area.

(e) In conducting the reviews and preparing the comprehensive management plan required by this section, the Secretary shall provide for full public participation, shall consider the views of all interested agencies, organizations and individuals, and shall particularly emphasize the values enumerated in subparagraph 201(a)(4) of this title.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Ohio (Mr. SEIBERLING) will be recognized for 20 minutes and the gentleman from Alaska (Mr. YOUNG) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

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

Mr. Speaker, I rise in support of H.R. 4198 as reported by the Interior Committee, H.R. 4198 represents a compromise wilderness proposal reached by representatives of the major interest groups concerned. While there are some elements of both the conservation community and industry groups who do not agree with the proposal, the Vermont delegation is of the opinion that it is the best they can do under difficult circumstances and has asked us to move the legislation forward. I have personally spent a great deal of time on this issue and agree wholeheartedly with the delegation's assessment.

H.R. 4198 designates four new wilderness areas and one small addition to the existing Lye Brook Wilderness. Two of the wilderness proposals, Breadloaf and George D. Aiken, are freestanding proposals which represent mountainous terrain in central and southern Vermont. The Breadloaf area is especially noteworthy by virtue of its relatively large size (21,480 acres), which will make it the largest wilderness area in the State, and one of the larger wildernesses in the Eastern United States. The area is also centrally located between the main population centers of Burlington, Barre-Montpelier, and Rutland, and will thus insure that opportunities for primitive recreation are available to residents of those communities in the future.

The proposed 5,060-acre George D. Aiken Wilderness covers the watery Woodford Plateau and is characterized by beaver ponds and dams which provide important habitat for a number of wildlife species.

The two other wilderness proposals, Big Branch and Peru Peak, will be located within the proposed 36,400-acre White Rocks National Recreation Area. This area has always been the most hotly contested.

In order to become more familiar with this area and to give Vermonters the opportunity to be heard on the issue, the subcommittee conducted a field inspection on July 8 of this year, followed by a public hearing on July 9 in Manchester, Vt., at which some 123 witnesses appeared. Subsequent to the hearing, the Vermont delegation staged a series of negotiating sessions attended by representatives of key interest groups, and in early September a near consensus agreement was reached. I and my subcommittee staff have conferred with Congressman JEFFORDS and the two Senators and their staff since that date in order to fine tune the proposal embodied in the substitute adopted by the subcommittee.

In designating a portion of the forest as the White Rocks National Recreational Area, the bill is modeled after previous acts of Congress, such as the Hells Canyon NRA and Rattlesnake NRA laws, which designated national recreations areas containing a wilderness unit or units incorporated within the boundaries of the NRA. In the bill before us today, we propose a 36,400-acre NRA with two wilderness units of approximately 7,000 acres each. Lands lying outside the boundaries of the two wilderness areas, some of which contain existing roads and receive heavy off-road vehicle use, will be managed pursuant to the National Forest Management Act with special emphasis on retaining the natural values which make the area highly popular for primitive and semiprimitive recreation. Specific committee report language, already worked out with the Vermont delegation, will provide guidance to the Forest Service on how to administer the area.

I personally would have preferred that more of the proposed NRA would have been designated as wilderness and that the existing snowmobile trails would have been rerouted outside the wilderness. However, in an effort to avoid continued controversy, Vermont conservationists and snowmobilers agreed to the NRA/wilderness concept as set fourth in the bill as a compromise means of protecting ongoing recreation and at the same time accommodating snowmobile use. Given the good faith bargaining that led to this compromise, and given the fact that Congress has sanctioned the combination NRA/wilderness approach in the past, I believe it should be honored as the best solution available at this time.

I, therefore urge my colleagues' support of this meritorious legislation.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Vermont Wilderness bill has not been without controversy and a number of groups in Vermont still oppose it; however, by in large, I believe the bill is a compromise and should move ahead.

The gentleman from Vermont (Mr. JEFFORDS) has worked closely with our committee and we appreciate the problems he has had to overcome.

The citizens of Vermont are strong-minded people and know what is best for their State. They do not always trust the Federal Government. They have a lot in common with Alaska.

The Vermont bill provides for a 36,400-acre national recreation area worked out as an alternative to wilderness. The NRA will have a management plan developed with full citizen participation. I believe it is a good alternative to the no management dictum imposed by wilderness designation and I hope it works for Vermont.

As one who represents a State with a land base of over 365 million acres of which 65 million acres has been designated wilderness, I can understand those who oppose even 64,000 acres more wilderness. However, the gentleman has something else in common with me—he is the sole representative in the House for his State and, as such, his position carries great weight. I shall support his bill.

Mr. Speaker, I submit the following statement of principles and other material from the Vermont Forest Coalition:

VERMONT FOREST COALITION—STATEMENT OF PRINCIPLES

Vermont's Green Mountain National Forest is an invaluable resource and heritage for the people of Vermont. It must be managed wisely to preserve a wide range of uses for today's Vermonters, visitors, and future generations.

The U.S. Forest Service, charged with the management of the Green Mountain National Forest, must continually attempt to resolve the competing demands of a wide diversity of interests. We believe that to the maximum extent allowed by the National Forest Management Act, user conflicts should be resolved in Vermont. They should not be decided by people in Washington, whose attitudes and interests are often wholly different from those of the people of our state.

To resolve these competing demands, Vermonters need an ongoing process whereby those representing different interests can come together, in a spirit of mutual accommodation, to seek fair and reasonable adjustment of conflicts. We believe that in a proper framework reasonable people can eventually find a way to accommodate all interests fairly in an atmosphere of mutual understanding. We believe that such a framework must allow periodic reexamination and modification of recommendations in response to the changing economic and recreational preferences of Vermonters of the future.

To make such an ongoing process work there must be a continuing and meaningful opportunity for Vermonters to make recommendations to the local Forest Service office as it prepares and implements the forest management plans required by law. Without such an opportunity the possibility for mutual accommodation recedes, and the use of the forest must necessarily become a controversial political issue.

For Congress to designate more perpetual wilderness in Vermont would mean that, for the forest lands included, a once-and-for-all decision by Congress would forever control the future uses of Vermont's national forest, regardless of changing circumstances and Vermonters' future preferences. Such action by Congress would also destroy the chance for establishing a meaningful process of accommodating conflicting interests by Vermonters here in Vermont. This we cannot accept.

We can—and we do—accept the responsibility for working together with those who favor more wilderness designation to try to produce consensus recommendations to the Forest Service for management plans which are as fair and reasonable as possible to all of the various interests involved. We believe a consensus could be reached on the long term setting-aside of many thousands of acres of Green Mountain National Forest as primitive areas. In such areas there could be a moratorium on timber or mineral production and commercial development that would irrevocably alter the character of the forest. But unlike Congressionally-designated wilderness, reasonable adjustments could be allowed to keep trails open with motorized equipment, continue economical pond stocking for better fishing, maintain rustic bridges and primitive trail shelters, and provide wintering areas for the deer population.

There could be arrangements to relocate snowmobile trails, or to limit snowmobiling to certain areas at certain times. There could be special provision made for accommodating the recreational needs of the handicapped. Limited harvesting of dead and down wood for the fuel needs of Vermonters could be allowed. Response to emergencies or natural disasters would be enhanced. None of these reasonable provisions would be allowed in Congressionally-designated wilderness.

There would also be an opportunity to recommend the issuing of permits to qualified organizations to manage certain forest areas as wilderness or nature reserve.

In New Hampshire the Governor and Congressional delegation took the initiative to create a semi-official White Mountain National Forest Advisory Council to address the Carter Administration's RARE II study in 1978. Its membership today includes representatives of the Sierra Club, Society for the Preservation of New Hampshire Forests, the ski and timber organizations, the Audubon Society, the Appalachian Mountain Club, the University of New Hampshire, the New Hampshire Snowmobile Association, and the public.

Largely as a result of the work of this Council, strongly supported by elected officials, New Hampshire has been spared the violent political battles over wilderness that have plagued Vermont, despite the fact that there is half again as much wilderness in the White Mountain National Forest. By the accounts of the participating organizations and of the Forest Service, the Council has been a smoothly working forum for resolving disputes and producing a responsible consensus. We believe this represents an approach which would benefit Vermont and Vermonters. We thus call upon Governor Snelling to take the initiative in recommending the prompt creation by the Secretary of Agriculture of a Green Mountain National Forest Advisory Council, as authorized by section 309 of the Federal Land Policy and Management Act of 1976.

Such a Council would be composed of up to 15 Vermonters representing the various interests relating to the Green Mountain National Forests, including appropriate local and state government officials. The Council would review the planning and management of the Forest, stimulate increased public participation in the Forest Service planning process, and provide a forum in which Vermonters could work toward a consensus for the resolution of competing user demands. We have every reason to believe that the Forest Service would welcome such citizen input and make every effort to implement its consensus recommendations.

The Vermont Forest Coalition pledges, on behalf of the organizations represented in it, to give full support to the efforts of such a Council, and to make a sincere effort to arrive at fair and reasonable accommodations of forest use conflicts in the interest of all. Through participation in this process,

wilderness advocates would also gain a voice with respect to a wide range of matters which the Forest Service now supervises throughout the National Forest.

We know that it is not possible for all competing interests to achieve their fullest demands for the use of a limited and valuable natural resource. Yet we believe that the creation of the process found to work so well in our neighboring state would maximize the changes of mutual accommodation and reduce the political polarization which now afflicts Vermont on matters of National Forest use. It would leave decisions about the future use of our National Forest in the hands of Vermonters, rather than remove that decision-making power to Washington to be exercized by others with little knowledge of our state and the interests of our people. It could lead to the achievement of the goals of a large number of organizations—wise resource use, wildlife preservation, responsible recreation, and at last, a consensus behind the protection of forest areas better left to future generations in the form of wilderness untrammelled by the works of man.

Adopted in Rutland, Vermont, August 10, 1983.

The Vermont Forest Coalition is composed of the following organizations:

Vermont Association of Snow Travellers (VAST).

Vermont State Farm Bureau.

Vermont State Grange.

Vermont Federation of Sportsmens Clubs.

Vermont Sportsmens Alliance.

National Rifle Association, Vermont membership.

Vermont Trappers Association.

Vermont Timber Truckers and Producers Association.

Society of American Foresters (Green Mountain Division).

Vermont Taxpayers Association.

Vermont Ski Areas Association.

Devil's Den Committee.

Bristol Cliffs Association.

The officers of the Vermont Forest Coalition, elected August 10, 1983, are:

Chairman: Bruce Shields of Wolcott, Secretary of the Vermont Timber Truckers and Producers Association.

First Vice Chairman: Stan Zecher of Manchester, President of the Green Mountain Trail Blazers Snowmobile Club.

Second Vice Chairman: George McNeill of Dorset, Executive Director of the Vermont Sportsmens Alliance.

Secretary-Treasurer: Roland Q. Seward of East Wallingford, board member of the Devil's Den Committee.

Honorary Vice Chairman: Perry Merrill of Montpelier, long time Vermont Commissioner of Forest and Parks.

For further information contact: Bruce Shields, Chairman, Box 1130, Wolcott, Vermont 05680.

VERMONT OPEN FOREST RESOLUTION

Whereas, Vermont's Green Mountain National Forest is an invaluable resource and heritage for the people of Vermont, and

Whereas, this great resource provides an important contribution to our state's economy, along with diverse recreational opportunities for Vermonters and visitors to Vermont, and

Whereas, Congress has already designated 17,258 acres of Green Mountain National Forest as permanent wilderness, to meet the needs of those who desire a wilderness experience in Vermont, and

Whereas, the use of these wilderness areas has been relatively infrequent, and in fact has declined since 1979, making it clear that there is no urgent need for their expansion, and

Whereas, the designation by Congress of additional permanent wilderness areas in Vermont will in such areas forbid all timber harvesting which, in addition to having a negative effect on jobs for Vermonters, will also endanger the provision of Federal payment in lieu of taxes to forest town, and prevent the removal of dead and down wood for winter fuel for Vermonters, and

Whereas, the designation by Congress of additional permanent wilderness areas in Vermont will in such areas prohibit all snowmobiling, thereby increasing the recreational pressure on private lands and the threat of land posting; and make it extemely difficult for Vermont trappers to maintain trap lines in the forest, and

Whereas, the designation by Congress of additional permanent wilderness areas in Vermont will in such areas prevent the practical management of deer yards and the stocking of ponds for sportsmen, and the maintenance of trials, fire roads and emergency access routes, by rigidly prohibiting all use of power tools, and

Whereas, the designation by Congress of additional permanent wilderness areas in Vermont will impose these strict prohibitions for all time, regardless of changing circumstances and the future preferences of Vermonters, and

Whereas, Vermont tradition and common sense hold that public policy conflicts ought to be settled to the maximum extent practicable by Vermonters, close to home, instead of by a distant Congress, almost all of whose members know little or nothing of Vermont; now therefore be it

Resolved, That no further permanent wilderness should be designated in Vermont for the indefinite future, and that all areas not presently in permanent wilderness ought to be returned promptly to continuing professional multiple use management by the United States Forest Serivce; and be it further

Resolved, That the Governor and the Congressional delegation should use their good offices to bring together Vermonters representing all affected interests, including wilderness interests, in a continuing process for seeking mutually acceptable solution to user conflicts in Green Mountain National Forest; such solutions to be transmitted as recommendations to the Forest Service as it prepares its land management plane; and be it further

Resolved, That in any such process serious consideration should be given to the recommendation of semi-primitive areas in the forest, where permanent alterations are held in abeyance for the indefinite future, to keep options open for future generations of Vermonters, and be it further

Resolved, That the Vermont Congressional delegation be requested to withdraw its proposed legislation (S. 897, H.R. 2275) to designate additional permanent wilderness in Green Mountain National Forest.

VERMONT FOREST COALITION,
East Wallingford, Vt., September 12, 1983.

Hon. MORRIS UDALL,
Chairman, Committee on Interior and Insular Affairs, House Office Building, Washington, D.C.

DEAR CHAIRMAN UDALL: We understand that your Committee's Public Lands Subcommittee is preparing to mark up H.R. 2275, the Vermont Wilderness Bill. This measure was the subject of a hearing in Vermont on June 9, chaired by Congressman Seiberling and attended only by Congressman Jeffords, not a member of your committee.

H.R. 2275 is opposed by the constituent organizations of the Vermont Forest Coalition, which include:

Vermont State Bureau.

Vermont State Grange.

Vermont Association of Snow Travelers.

Vermont Federation of Sportsmen's Clubs.

Vermont Sportsmen's Alliance.

Vermont Trappers Association.

Vermont Timber Truckers and Producers Association.

Vermont Ski Association.

Society of American Foresters, Green Mountain Division.

National Rifle Association, Vermont division.

Devils Den Committee.

Bristol Cliffs Committee.

Vermont Taxpayers Association.

Representatives of the Coalition would like to have the opportunity to explain to the majority of the members of the Public Lands Subcommittee, or of the full Committee, why we think that the present 17,250 acres of wilderness in Vermont is quite sufficient for the time being, and how designation of the large number of acres proposed in H.R. 2275 (64,800) operates adversely to the interests of our organizations and to those of a number of towns in which the Forest lies. In addition, Governor Richard Snelling has informed us that he cannot support any wilderness designation of more than 36,000 acres, and that he is prepared to so testify in person before a Congressional committee.

We therefore request one day of hearings at which our views may be made known to all or most of the members of your committee.

Sincerely,

BRUCE SHIELDS, *Chairman.*

VERMONT FOREST COALITION,
East Willingford, Vt., October 20, 1983.

DEAR MEMBER OF CONGRESS: Before the end of this session you may be called upon to vote on HR 2275, the Vermont Wilderness bill. There are a few things you should know about this effort.

At this writing, the bill would designate some 39,000 acres of Vermont's Green Mountain National Forest as permanent wilderness, plus an additional 23,000 acres of "National Recreation Area" in which restrictions could be made as strict as those in a permanent wilderness.

Four years ago, under the RARE II study, 55,720 acres of our Forest was studied for possible wilderness designation. Massive opposition here in Vermont, culminating in a resolution adopted by our state legislature, caused the Carter Administration to recommend no additional wilderness in Vermont.

But now the wilderness advocates, a relatively small but hyperactive group which unfortunately includes both our Senators and Congressman James Jeffords, have attempted to slip through a wilderness bill which affects even more acreage than was overwhelmingly rejected in 1979–80.

Strangely, incresed pressure on Vermont's existing permanent wilderness (17,300 acres) has nothing to do with the demands for more wilderness. Forest Service reports show that visits to the existing wilderness areas have decreased steadily since 1979!

The wilderness people simply want more wilderness for its own sake, regardless of what it costs their neighbors in lost jobs and recreational opportunities.

This new wilderness grab has produced broad and deep opposition in the state. That opposition includes—

Vermont State Farm Bureau.

Vermont State Grange.

Vermont Association of Snow Travellers.

Vermont Federation of Sportsmen's Clubs.

Sportsmen's Alliance for the Vermont Environment.

Society of American Foresters, Green Mountain Division.

Vermont Timber Truckers & Producers Association.

National Rifle Association, Vermont Division.

Vermont Trappers Association.

Governor Richard A. Snelling, though favoring some additional wilderness, has declined to endorse the delegation's legislation and has expressed his opposition to its magnitude and the selection of lands to be included.

The Vermont legislature is on record, in 1979, for continued multiple use management of Green Mountain National Forest. We are quite sure that that position will be reaffirmed when it reconvenes in January, 1984.

The U.S. Department of Agriculture, in a letter from Secretary Block to Chairman Udall dated July 7, 1983, has expressed its opposition to enactment of H.R. 2275.

There has been one Congressional subcommittee hearing on this measure, in Manchester Center, Vermont in June. Congressman Seiberling was the only subcommittee member present, and it was perfectly clear that his mind was fully made up in advance. Citizens were allowed three minutes to testify. Our written request for a subcommittee hearing in Washington, where members other than Mr. Seiberling could hear our point of view, was not even dignified with a letter of rejection.

We know full well that it matters little to 434 members of Congress what happens in Vermont's Green Mountain National Forest.

You can score points with your environmentalists back home by voting to lock up tens of thousands of acres of productive forests in our little state—forever banning timber harvesting, forever destroying jobs in our forest industries, forever prohibiting snowmobiling, forever stopping effective deer yard improvement, pond stocking and trail management.

But we hope you won't.

We hope you will refuse to enact this wilderness grab—at least until we have had the chance to present all the facts and all of our views on this issue so vital to us and to the people of our little state.

That, it seems to us, is only simple justice. We appeal to you to show that justice. We ask you to insist that we get some semblance of due process before a little band of wilderness advocates succeeds in setting aside 28% of our national forest for their special use.

For the Vermont Forest Coalition:

ROLAND Q. SEWARD,
Secretary.

Mr. JEFFORDS. Mr. Speaker, I rise in support of H.R. 4198, legislation to resolve the wilderness controversy in Vermont and end a debate that has been ongoing for the last decade. While this bill will not satisfy all Vermonters, I believe it addresses the desires and needs of the vast majority.

Few issues have generated more debate in my State than this one. The latest round of the debate began in 1978 with the Forest Service's second roadless area review and evaluation. It intensified last winter when the Vermont congressional delegation introduced legislation, H.R. 2275, to try to provide a focus for discussion and negotiation.

Since last March, there have been two hearings on wilderness in Vermont, and the congressional delegation and its staff have spent countless hours discussing the issue with those on all sides of the issue. We have held several negotiating sessions during which representatives of all of the affected interests sat down to discuss their areas of agreement and disagreement.

The bill before the House today is the product of this process. It takes into account the specific concerns of thousands of Vermonters and the more general views of thousands more. Excellent alternatives were also offered by Governor Snelling through the diligent and thorough work of the Agency of Environmental Conservation; by a group of State legislators from the areas of the State where the wilderness areas will be; and by the Vermont Wilderness Association. The Forest Service in Vermont far exceeded the call of duty in its outstanding technical assistance and impartial advice.

My colleagues in the other body, Senator STAFFORD and Senator LEAHY, have worked with me throughout the crafting of this compromise. Our staffs have devoted an enormous amount of time and effort to this issue. I want to give particular thanks to David Wilson of my staff. He has worked hard and well on this legislation, and deserves much of the credit for it.

In the final analysis, this bill might not have been possible had it not been for the help of the leading advocates of both the pro- and anti-wilderness factions, who worked hard and negotiated in good faith despite pressure from others not to compromise.

This bill designates over 39,000 acres of wilderness and also establishes a national recreation area totaling nearly 36,400 acres. It is important to note that the acreage of the national recreation area includes roughly 12,600 acres of wilderness.

For the benefit of the Members of the House, I would like to point out two very important features of this bill as they pertain to the national recreational area. First, in section 204, the bill states that "utilization of natural resources shall be permitted only if consistent with the findings and purposes" of the NRA. I would point out that the usual words "and disposal" after "utilization" were not included. The Vermont congressional delegation wants to indicate as clearly as possible that this area is intended for recreational purposes and is not intended as a timber stand.

Second, section 204, paragraph (g) specifically states that the terms of the management plan for the NRA "shall particularly emphasize the values enumerated in subparagraph 201(a)(4)" of the findings and purposes of title II. Specifically, this means that this land is of a predominantly roadless nature and that it is important for primitive recreation, watershed protection, wildlife habitat and ecological study. I will further explain the delegation's intent below in my remarks on the administration of the national recreation area.

In the northern unit of the Green Mountain National Forest (GMNF), this bill designates the Breadloaf Wilderness Area, which has essentially the same boundaries as contained in our initial bill. Some alterations were made to leave particularly productive timber stands out of the wilderness area near the Granville Gulf Reservation and to leave out several short snowmobile runs.

Breadloaf is highlighted by the 3,835-foot peak of Breadloaf Mountain. It also takes in Mounts Wilson, Roosevelt, Cleveland, and Grant of the Vermont Presidential Range. Most of the area is above 2,500 feet, the altitude recognized by Vermont law as being ecologically fragile.

The east side of this ridge collects water for the White River watershed. The west side serves the same function for the Otter Creek watershed.

Skylight Pond, one of Vermont's highest, lies near the crest of the ridge at 3,350 feet. Its pristine appearance and general remoteness provide an outstanding wilderness experience for hikers along the famous Long Trail.

At the southern end of the State, this bill designates the George Aiken Wilderness Area, named in honor of our State's former Governor and U.S. Senator. Governor Aiken has retired to Putney, which is not far from this area, and the delegation felt it appropriate to recognize the countless contributions of one of the authors of the Eastern Wilderness Act of 1974.

The Aiken Wilderness covers about 5,000 acres of the watery Woodford plateau, drained by the west branch of the Deerfield River. The area is characterized by extensive wetlands at altitudes above 2,000 feet.

The area has seen a great deal of activity by beaver over the years and their construction of ponds and flows along the many streams have created openings in the forest cover that provide important natural habitat for many wildlife species.

At the south end of the existing Lye Brook Wilderness Area, we have added a 1,200-acre addition. This area reaches the Kelly Stand Road at the south edge and the steep upper ravine on Bacon Hollow on the northwest. The addition of this small tract will allow for wilderness designation of parts of the Branch Pond Brook, which drains Branch Pond to the east.

In H.R. 2275, we proposed a 33,830-acre Big Branch Wilderness Area near the town of Mount Tabor. This was the most controversial of all of the areas in the bill. Based on the negotiation process we established, this bill sets forth a compromise that we believe takes into account local use patterns and other important activities in this area.

In the area south of Forest Service Road 10, we have designated two wilderness areas. The Peru Peak wilderness takes in Styles Peak, Peru Peak, and Pete Parent Peak and totals close to 7,000 acres.

On the west side of Griffith Lake, the Big Branch Wilderness takes in about 6,700 acres of National Forest. Its prominent features include the Lost Pond Bog, a quaking bog located in the 2,700-foot saddle between Buck and South Buckball Peaks. Scientists have displayed interest in the distinctive vegetation of the bog mat and the bog forest.

The area also takes in Baker Peak, a tremendously scenic spot which affords a panoramic view of nearby peaks and valleys.

Much of the area of the Big Branch Wilderness proposed in H.R. 2275 will be designated as the White Rocks National Recreation Area in H.R. 4198. Included within the boundaries of the White Rocks area will be the Big Branch and Peru Peaks Wilderness Areas. It will also include land north of Forest Service Road 10 and the area between the two wilderness areas.

The White Rocks area is the foundation of the compromise. The Vermont delegation expects that it will be managed by the Forest Service with special emphasis placed on maintaining existing roadless and wild values and preserving existing opportunities for primitive recreation.

As I mentioned earlier in my statement, the language regarding the national recreation area is unique for a purpose. It is the unequivocal intention of the Vermont congressional delegation that this land should be managed as follows:

First. There should be no new road construction, including skid roads, with the possible exception of relocating portions of existing roads only for environmental reasons or building turnouts to facilitate access to trailheads. Existing roads not essential for the management of the area will be closed and allowed to revegetate.

Second. The use of wheeled vehicles—4-wheel drives, ATV's motorcycles, and so forth—will be limited to roads currently passable by 2-wheel drive passenger cars. Wheeled vehicle use will be prohibited in the rest of the area.

Third. Snowmobile use will be allowed in the area only along existing trails currently authorized by the Forest Service.

Fourth. Timber harvest for commercial purposes shall not take place. Cutting of timber will be permitted only for preservation of existing wildlife habitat and will be limited to selective cutting in areas where access will not require new roadbuilding, skid roads, or any other disturbance of the land surface.

Fifth. Motorboat use will be prohibited on all ponds in the area.

The national recreation area (NRA) designation will provide the kinds of protection for these wild, valuable lands that they deserve while still allowing for existing local use patterns such as snowmobiling, hunting, fishing, and trapping.

Included in the NRA are many of the features mentioned in the inventory of Vermont natural areas that was done 10 years ago. One of the most important is the 95-acre Wallingford Pond, which is the largest undeveloped pond in the State. It also contains the remote Fifield Pond, Little Rock Pond—one of the most popular destinations on the Long Trail—and Griffith Lake, a large, high altitude pond.

One of the most prominent features of the NRA is its namesake, White Rocks Mountain, which is at the northern end of the area. Its white cliff face forms a prominent landmark that is visible for many miles. This cliff was the last known nesting site of the peregrine falcon and is now being used to try to reestablish the species in Vermont.

This area also takes in almost the entire Big Branch watershed. The Big Branch Cascades down through the Big Branch Wilderness, having carved out a spectacular gorge.

These are some of the many important features of the land covered in H.R. 4198. While no side in this debate was able to get all it wanted, all sides made numerous, responsible concessions to accommodate one another.

For example, the boundaries were redefined in order to leave open all portions of a major north-south snowmobile corridor which had crossed three of the originally proposed wilderness areas. Branch Pond was left out of the Lye Brook addition because of its popularity with snowmobilers. The NRA allows almost all snowmobile trails inside the original Big Branch area to remain open. In addition, several thousand acres of highly productive timber land was dropped from consideration.

Most, though not all, of the conflicts involving access to the wilderness areas by sportsmen were resolved. Hunting, fishing, and trapping are allowed in wilderness areas, and boundary changes have been made to provide adequate access.

For perspective, it should be noted that Vermont has 530,000 acres of State and Federal land. With the acreage included in this bill, we will have about 56,000 acres of wilderness and 22,000 nonwilderness acres in the White Rocks NRA. The remaining 452,000 acres of public land, including 215,000 acres of the GMNF, are not affected by this bill.

I do not expect this compromise to receive rave reviews from everyone who has been active in this controversy. The strong, sincere beliefs of both sides do not easily lend themselves to compromise. But compromise is essential if we are to accommodate the competing needs and interests of Vermont's diverse population. I think this is a good and equitable compromise, and urge my colleagues to support it.

● Mr. FOLEY. Mr. Speaker, as you are aware, under rule X. section 1(a)(13), the Committee on Agriculture has jurisdiction over this bill. Mr. Speaker, this bill has not been acted upon by the committee. The bill was recently reported by the Committee on Interior and Insular Affairs.

Because the Congress will soon adjourn its first session, the Committee on Agricuture has been requested to allow this bill to proceed to the floor of the House and we have no objection to its consideration at this time.

Mr. Speaker, as the distinguished chairman of the committee, Mr. DE LA GARZA, indicated in his letter to you dated today, if any of the provisions of this bill which relate to matters within the jurisdiction of the Agriculture Committee should become an issue with the Senate, the Agriculture Committee will request representation in conference. Further, if the bill is not enacted in the 98th Congress, the Agriculture Committee will seek a referral for full consideration of the merits in any subsequent Congress.●

● Mr. CONTE. Mr. Speaker, I rise in support of H.R. 4198, the Vermont Wilderness and Recreation Area Act as introduced by Congressman JEFFORDS.

The bill will designate approximately 40,000 acres of wilderness in Vermont's Green Mountain National Forest and another 23,000 acres made part of a national recreation area.

My original concern for this legislation was that it would not adequately address the valid, existing rights of one particular resident of the Woodford, Vt. area. My good friend, Mr. Richard Myers, of North Adams, Mass.

has owned a camp in Woodford for over 50 years and expressed concern that a designated wilderness area which included his camp would preclude his ability to access his property by road.

I have been assured by Congressman JEFFORDS that the existing rights to access Mr. Myers' camp will continue. An agreement has been reached with the National Forest Service, and the passage of this legislation will in no way affect this gentleman's ability to reach his camp by means of an existing road.

I thank Congressman JEFFORDS for his attention to and cooperation in this matter, and for his attention to the interests which have been expressed by the many hunters, trappers, fishermen, and snowmobilers of the proposed wilderness area.●

Mr. YOUNG of Alaska. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SEIBERLING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. SEIBERLING) that the House suspend the rules and pass the bill, H.R. 4198, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

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

There was no objection.

NORTH CAROLINA WILDERNESS ACT OF 1983

Mr. SEIBERLING. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3960) to designate certain public lands in North Carolina as additions to the National Wilderness Preservation System, as amended.

The Clerk read as follows:

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 "North Carolina Wilderness Act of 1983".

SEC. 2. (a) In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) certain lands in the Uwharrie National Forest, North Carolina, which comprise approximately four thousand seven hundred and ninety acres, as generally depicted on a map entitled "Birkhead Mountains Wilderness—Proposed", dated July 1983, and which shall be known as the Birkhead Mountains Wilderness;

(2) certain lands in the Croatan National Forest, North Carolina, which comprise approximately seven thousand six hundred acres, ad generally depicted on a map entitled "Catfish Lake South Wilderness—Proposed", dated July 1983, and which shall be known as the Catfish Lake South Wilderness;

(3) certain lands in the Nantahala National Forest, North Carolina, which comprise approximately three thousand six hundred and eighty acres, as generally depicted on a map entitled "Ellicott Rock Wilderness Addition—Proposed", dated July 1983, and which are hereby incorporated in, and shall be deemed to be part of, the Ellicott Rock Wilderness as designated by Public Law 93-622;

(4) certain lands in the Nantahala National Forest, North Carolina, which comprise approximately two thousand nine hundred and eighty acres, as generally depicted on a map entitled "Joyce Kilmer-Slickrock Wilderness Additions—Proposed", dated July 1983, and which are hereby incorporated in, and shall be deemed to be part of, the Joyce Kilmer Wilderness as designated by Public Law 93-622;

(5) certain lands in the Pisgah National Forest, North Carolina, which comprise approximately three thousand four hundred acres, as generally depicted on a map entitled "Linville Gorge Wilderness Additions—Proposed", dated July 1983, and which are hereby incorporated in, and shall be deemed to be part of, the Linville Gorge Wilderness as designated by Public Law 88-577;

(6) certain lands in the Pisgah National Forest, North Carolina, which comprise approximately seven thousand nine hundred acres, as generally depicted on a map entitled "Middle Prong Wilderness—Proposed", dated July 1983, and which shall be known as the Middle Prong Wilderness;

(7) certain lands in the Croatan National Forest, North Carolina, which comprise approximately eleven thousand acres, as generally depicted on a map entitled "Pocosin Wilderness—Proposed", dated July 1983, and which shall be known as the Pocosin Wilderness;

(8) certain lands in the Croatan National Forest North Carolina, which comprise approximately one thousand eight hundred and sixty acres, as generally depicted on a map entitled "Pond Pine Wilderness—Proposed", dated July 1983, and which shall be known as the Pond Pine Wilderness;

(9) certain lands in the Croatan National Forest North Carolina, which comprise approximately nine thousand five hundred and forty acres, as generally depicted on a map entitled "Sheep Ridge Wilderness—Proposed", dated October 1983, and which shall be known as the Sheep Ridge Wilderness;

(10) certain lands in the Pisgah National Forest, North Carolina, which comprise approximately five thousand one hundred acres, as generally depicted on a map entitled "Shining Rock Wilderness Addition—Proposed", dated July 1983, and which are hereby incorporated in, and shall be deemed to be part of, the Shining Rock Wilderness as designated by Public Law 88-577; and

(11) certain lands in the Nantahala National Forest, North Carolina, which comprise approximately ten thousand nine hundred acres, as generally depicted on a map entitled "Southern Nantahala Wilderness—Proposed", dated July 1983, and which shall be known as the Southern Nantahala Wilderness.

SEC. 3. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

SEC. 4. As soon as practicable after enactment of this Act, the Secretary of Agriculture shall file a map and a legal description of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and with the Committee on Agriculture, Nutrition, and Forestry and with the Committee on Energy and Natural Resources of the United States Senate. Each such map and description shall have the same force and effect as if included in this Act except that the Secretary of Agriculture may make correction of clerical and typographical errors in each such legal description and map. Each such legal description and map shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

SEC. 5. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second Roadless Area Review and Evaluation program (RARE II); and

(2) the Congress has made its own review and examination of national forest system roadless areas in the State of North Carolina and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to national forest system lands in States other than North Carolina, such statement shall not be subject to judicial review with respect to national forest system lands in the State of North Carolina;

(2) with respect to the national forest system lands in the State of North Carolina which were reviewed by the Department of Agriculture in the second Roadless Area Review and Evaluation (RARE II), except those lands designated as wilderness or for wilderness study by this Act or by previous Acts of Congress, that review and evaluation shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976 to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the initial plans and in no case prior to the date established by law for completion of the initial planning cycle;

(3) areas in the State of North Carolina reviewed in such final environmental statement and not designated as wilderness or for wilderness study by this Act or by previous Acts of Congress, need not be managed

for the purpose of protecting their suitability for wilderness designation pending revision of the initial plans; and

(4) unless expressly authorized by Congress the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of national forest system lands in the State of North Carolina for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

SEC. 6. (a) In furtherance of the purposes of the Wilderness Act, the following lands shall be reviewed by the Secretary of Agriculture as to their suitability for preservation as wilderness during preparation of the initial land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resource Planning Act of 1974 as amended—

(1) certain lands in the Pisgah National Forest which comprise approximately seven thousand one hundred and thirty-eight acres, as generally depicted on a map entitled "Harper Creek Wilderness Study Area", dated July 1983, and which shall be known as the Harper Creek Wilderness Study Area;

(2) certain lands in the Pisgah National Forest which comprise approximately five thousand seven hundred and eight acres, as generally depicted on a map entitled "Lost Cove Wilderness Study Area", dated July 1983, and which shall be known as the Lost Cover Wilderness Study Area;

(3) certain lands in the Nantahala National Forest which comprise approximately three thousand two hundred acres, as generally depicated on a map entitled "Overflow Wilderness Study Area", dated July 1983, and which shall be known as the Overflow Wilderness Study Area;

(4) certain lands in the Nantahala National Forest which comprise approximately eight thousand four hundred and ninety acres, as generally depicted on a map entitled "Snowbird Wilderness study Area", dated July 1983, and which shall be known as the Snowbird Wilderness Study Area; and

(5) certain lands in the Pisgah National Forest which comprise approximately one thousand two hundred and eighty acres, as generally depicted on a map entitled "Craggy Mountain Wilderness Study Area Extension", dated July 1983, and which are hereby incorporated in the Craggy Mountain Wilderness Study Area as designated by Public Law 93-622.

The entire Craggy Mountain Wilderness Study Area, including the study area designated by Public Law 93-622 shall be administered in accordance with subsection (b) until the Congress determines otherwise. The Secretary shall submit a report and findings to the President regarding the review under this section, and the President shall submit his recommendations regarding the areas specified in paragraphs (1) through (5) to the Congress of the United States no later than three years after the date of enactment of this Act.

(b) Subject to valid existing rights, the wilderness study areas designated by this section shall, until Congress determines otherwise, be administered by the Secretary of Agriculture so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Ohio (Mr. SEIBERLING) will be recognized for 20 minutes and the gentleman from Alaska (Mr. YOUNG) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

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

Mr. Speaker, I rise in support of H.R. 3960. As reported by the Interior Committee, the bill would designate approximately 68,750 acres of national forest land in North Carolina for addition to the National Wilderness Preservation System. In addition, approximately 25,816 acres would be slated for further wilderness study. With the exception of certain relatively minor modifications requested by the administration, the wilderness and wilderness study proposals of H.R. 3960 as amended are identical to the 1979 National Forest Service RARE II recommendations. The bill is cosponsored by the entire North Carolina delegation on the House side and I believe that indicates that H.R. 3960 is truly a consensus product.

Mr. Speaker, I am personally familiar with many of the wilderness and wilderness study proposals of H.R. 3960 by virtue of the subcommittee's 1979 field inspection trip to western North Carolina. I believe there are other areas in the State which could have been appropriately added to the proposal. However, I fully endorse this compromise package because it represents the type of consensus I have been encouraging the involved interest groups to negotiate, thanks largely to the tremendous efforts of our colleague, Congressman JAMIE CLARKE. I am particularly pleased to note that the representatives of the timber industry have agreed to the committee's standard soft release language. At the same time, conservationists backed down on various demands to increase the size of key areas. If the conflicting interest groups in more States could be brought together in this way, I believe we would be able to dispose of the RARE II issue with far greater dispatch than has been the case to date.

In summary, I heartily approve this compromise legislation and urge its passage by the House.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3960, the North Carolina wilderness bill.

The bill is supported by the entire North Carolina delegation and little, if any, opposition was expressed during our hearings on the bill.

As the chairman has explained, the bill proposes to designate six new wilderness areas and makes additions to four existing areas. Each of these 10 areas is similar or exactly what was recommended by RARE II. The committee made some minor adjustments to correct acreage figures and, in one case, we even added 3,400 acres at the request of the Forest Service.

The bill also designates five areas for wilderness study. The areas were left in further planning under RARE II so I believe it is appropriate that they be studied before we take final action on them. The bill was amended in committee to make it clear that the Forest Service can conduct these studies in conjunction with the forest plans. Without this language, it is possible there would have been some duplication and additional expense.

There is some controversy over the study areas and I am hopeful that everyone concerned will have an opportunity to participate in the study process.

North Carolina has been a difficult State to resolve. We failed to act on it in past Congresses awaiting some consensus by the delegation. It is encouraging to see a final resolution which the delegation is behind 100 percent.

RARE II has dragged on too long leaving far too many people and States in limbo. Again, I commend the chairman for acting on this legislation and hope that compromise and consensus will be the rule of the day when it comes to all wilderness bills.

Mr. Speaker, I urge all Members to support the legislation.

Mr. SEIBERLING. Mr. Speaker, I yield 5 minutes to the gentleman from North Carolina (Mr. CLARKE), the distinguished author of this legislation, and commend the gentleman for his efforts which resulted in the successful consummation of this compromise bill and getting all the interested parties together. The gentleman has been a valuable member of our committee.

Mr. CLARKE. Mr. Speaker, I want to say how happy I am that the North Carolina delegation could agree as a whole group on this bill. The lumber industry, the environmental groups, and the Forest Service and our local officials have all agreed on this compromise proposal, which embraces the recommendations of the RARE II study.

Nobody is completely happy, but everyone feels it is something we should get behind us. It is a good compromise and it is a step that our State should take at this time.

I want to thank the chairman of our subcommittee, the gentleman from Ohio (Mr. SEIBERLING), and I want to thank the gentleman from Alaska (Mr. YOUNG) who served as the ranking minority member.

● Mr. FOLEY. Mr. Speaker, as you are aware, under rule X, section 1(a)(13), the Committee on Agriculture has jurisdiction over this bill. Mr. Speaker, this bill has not been acted upon by this committee. The bill was

recently reported by the Committee on Interior and Insular Affairs.

Because the Congress will soon adjourn it first session, the Committee on Agriculture has been requested to allow this bill to proceed to the floor of the House and we have no objection to its consideration at this time.

Mr. Speaker, as the distinguished chairman of the committe, Mr. DE LA GARZA, indicated in his letter to you dated today, if any of the provisions of this bill which relate to matters within the jurisdiction of the Agriculture Committee should become an issue with the Senate, the Agriculture Committee will request representation in conference. Further, if the bill is not enacted in the 98th Congress, the Agriculture Committee will seek a referral for full consideration of the merits in any subsequent Congress.●

Mr. SEIBERLING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. SEIBERLING) that the House suspend the rules and pass the bill, H.R. 3960, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just considered.

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

There was no objection.

WISCONSIN WILDERNESS ACT OF 1983

Mr. SEIBERLING. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3578) to establish the wilderness areas in Wisconsin.

The Clerk read as follows:

H.R. 3578

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in furtherance of the purposes of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1131)—

(1) certain lands within the Chequamegon National Forest, Wisconsin which are generally depicted on the map entitled "Porcupine Lake" comprising four thousand two hundred and thirty five acres; and

(2) certain lands within the Nicolet National Forest, Wisconsin, generally known as the "Headwaters Wilderness," and which are depicted on the maps entitled—

(A) "Kimball Creek" comprising seven thousand five hundred and twenty-seven acres;

(B) "Headwaters of the Pine" comprising eight thousand eight hundred and seventy-two acres; and

(C) "Shelp Lake" comprising three thousand seven hundred and five acres,

are hereby designated as wilderness, and therefore as a component of the national wilderness system.

SEC. 2. Subject to valid existing rights, the wilderness areas designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

SEC. 3. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of national forest roadless areas in Wisconsin and the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to national forest lands in States other than Wisconsin, such statement shall not be subject to judicial review with respect to national forest system lands in the State of Wisconsin;

(2) with respect to the national forest lands in the State of Wisconsin which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II), that review and evaluation shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976 (Public Law 94-588) to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the initial plans and in no case prior to the date established by law for completion of the initial planning cycle;

(3) areas in the State of Wisconsin reviewed in such final environmental statement and not designated as wilderness by this Act shall be managed for multiple use pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976; and

(4) unless expressly authorized by Congress the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of national forest system lands in the State of Wisconsin for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

SEC. 4. As soon as practicable after enactment of this Act, maps and legal descriptions of the wilderness areas designated by this Act shall be filed with the Committees on Agriculture and Interior and Insular Affairs of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, and such maps and legal descriptions shall have the same force and effect as if included in this Act: *Provided, however,* That corrections of clerical and typographical errors in such legal descriptions and maps may be made.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Ohio (Mr. SEIBERLING) will be recognized for 20 minutes and the gentleman from Alaska (Mr. YOUNG) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

□ 1910

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

Mr. Speaker, I rise in support of H.R. 3578, the Wisconsin Wilderness Act of 1983. The bill is the product of a consensus agreement reached by conservationists, industry, snowmobilers, and other interested groups in Wisconsin. It is cosponsored by the entire Wisconsin delegation in the House and by both Senators. The wilderness proposals are also endorsed by the administration.

Briefly, H.R. 3578 would add four areas in Wisconsin to the National Wilderness Preservation System, bringing the percentage of national forest lands in the State designated as wilderness to a very modest 3 percent.

One of our goals in passing these State wilderness bills is to expand the National Wilderness Preservation System so that it will contain relatively large samples of the various ecosystems which exist in the Nation. This will insure that native flora and fauna will have adequate habitat to survive in a natural or near natural condition and will thereby afford a barometer by which to measure the impact of man's activities on more developed lands.

The four proposed wildernesses in Wisconsin contribute significantly to this goal. The areas are located in northern Wisconsin and are relatively remote from main population centers. Nevertheless, they are popular for primitive recreation and contain interesting flora and fauna representative of the area. The proposed 4,235-acre Porcupine Lakes Wilderness is characterized by rolling hills, relatively flat uplands, and swamps, which typify much of the country in northern Wisconsin south of Lake Superior, whereas the Kimball Creek/Headwaters of the Pine/Shelp Lake complex, totaling approximately 20,000 acres, is representative of the hardwood ridges, forest swamp, muskeg, and bog lowlands lying further to the east. All four areas provide excellent opportunities for primitive recreation, scientific research, and preservation of important wildlife habitat.

The Forest Service believes the four areas would make quality additions to the wilderness system, and there ap-

pears to be no disagreement with their assessment.

I, therefore, urge my colleagues to join me in supporting this consensus legislation.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3578, the Wisconsin Wilderness bill. The bill represents a consensus worked out amongst the affected interest groups and the Wisconsin delegation.

To date, we have passed six wilderness bills in this session of Congress—Oregen, California, Florida, Alabama, Missouri, and Montana. None of them have been as noncontroversial as this one. In fact, several of them have been extremely controversial usually because the Member in whose district the wilderness areas lie does not support the bill or supports a smaller overall acreage figure. In every case, where the acreage greatly exceeds the RARE II recommendations, we have difficulty with the bill.

The Wisconsin bill sailed through our committee and should pass the House unopposed because it closely parallels the RARE II recommendations and subsequent wilderness studies. But, most importantly, it was worked out in Wisconsin by those people most directly affected.

I commend the chairman for his willingness to move this legislation without amendment and I hope he will continue to follow this course with other bills we will be addressing in the future.

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

● Mr. FOLEY. Mr. Speaker, as you are aware, under rule X, section 1(a)(13), the Committee on Agriculture has jurisdiction over this bill. Mr. Speaker, this bill has not been acted upon by the committee. The bill was recently reported by the Committee on Interior and Insular Affairs.

Because the Congress will soon adjourn its first session, the Committee on Agriculture has been requested to allow this bill to proceed to the floor of the House and we have no objection to its consideration at this time.

Mr. Speaker, as the distinguished chairman of the committee, Mr. DE LA GARZA, indicated in his letter to you dated today, if any of the provisions of this bill which relate to matters within the jurisdiction of the Agriculture Committee should become an issue with the Senate, the Agriculture Committee will request representation in conference. Further, if the bill is not enacted in the 98th Congress, the Agriculture Committee will seek a referral for full consideration of the merits in any subsequent Congress.●

Mr. SEIBERLING. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. SEIBERLING) that the House suspend the rules and pass the bill, H.R. 3578.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. SEIBERLING. 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 just considered.

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

There was no objection.

PERMISSION FOR MEMBER TO REVISE AND EXTEND REMARKS ON HOUSE JOINT RESOLUTION 1

Mr. HARRISON. Mr. Speaker, I ask unanimous consent that I be allowed to revise and extend my remarks on the subject of House Joint Resolution 1, which was debated and decided here today, and that these remarks appear at that place in the RECORD immediately preceding the vote on the question.

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

Mr. WALKER. Mr. Speaker, reserving the right to object, can we be assured that this will appear as a bulleted statement as well?

The SPEAKER pro tempore. Is the gentleman asking the gentleman from Pennsylvania (Mr. HARRISON) or the Chair?

Mr. WALKER. I am asking the Chair that question under my reservation.

The SPEAKER pro tempore. It would be bulleted; that is correct.

Mr. WALKER. 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 Pennsylvania?

There was no objection.

AMENDING BOUNDARIES OF CUMBERLAND ISLAND NATIONAL SEASHORE

Mr. SEIBERLING. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 807) to amend the boundaries of the Cumberland Island National Seashore.

The Clerk read as follows:

S. 807

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 of the Act of October 23, 1972 (86 Stat. 1066), as amended by the Act of November 10, 1978 (92 Stat. 3489), is further amended by striking out "numbered CUIS 40,000D" and substituting "numbered CUIS 40,000E".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Ohio (Mr. SEIBERLING) will be recognized for 20 minutes and the gentleman from Alaska (Mr. YOUNG) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

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

Mr. Speaker, S. 807 would amend the boundary of the Cumberland Island National Seashore. The House passed this same boundary amendment during the 97th Congress on October 2, 1982, as a part of H.R. 6882. The Senate failed to act on H.R. 6882.

The boundary of the Cumberland Island National Seashore would be revised by S. 807 to exclude a 568-acre tract of privately owned land known as Point Peter on the Georgia mainland adjacent to the Cumberland Island National Seashore. This tract was included in a revision of the boundary map in 1978 so that the Park Service could acquire the land if necessary to accommodate a major expansion of public visitation on the island.

At the time of the inclusion of the land in the boundary map, it was contemplated that Cumberland Island might eventually be developed for a major program in intensive public use with a daily visitation on the island in excess of 1,400 persons. Planners envisioned that as many as 9,000 additional persons per day might visit the proposed visitor center at Point Peter. This program, however, has been revised in light of strong public concern about the environmental impact of large numbers of visitors on the sensitive resources of this pristine barrier island. This concern was reflected in overwhelming public comments submitted to the National Park Service as a part of the final environmental impact statement general management plan and wilderness recommendation. The National Park Service now plans for low-density use of the seashore. As a result, the Park Service has concluded that the acquisition of the the Point Peter area will not be necessary now or in the future.

Mr. Speaker, our colleague, LINDSAY THOMAS, introduced an identical bill (H.R. 3377) in the House on June 21, 1983, and has worked diligently with the Georgia Senators to convince the

other body to act on this needed legislation.

I wish to commend our colleague for his successful efforts in achieving that objective.

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

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the adoption of the bill now before the House (S. 807), which would change the boundary of the Cumberland Island National Seashore by the deletion of a 568-acre parcel on the mainland which was earlier intended to serve as an administrative site.

A bill passed by the House last Congress, H.R. 6882, contained the very same provision encompassed by this entire bill. The bill before us was recently passed by the Senate. I do not know of anyone who opposes this bill.

Mr. Speaker, since this seashore's original authorization in 1972, the National Park Service has progressively moved away from earlier plans of high density development and use of the island. Part of the reason for the deletion of this once-proposed administrative site is tied to these current plans for a much lower density use of the island. The seashore yet retains an authorized development ceiling which is greatly larger than will ever be used, in view of the significantly scaled down use density. Since the land acquisition plans for the island are not yet complete and an increased authorization ceiling will before long be needed for that purpose, I would recommend that an easy and responsible way to address that soon would be to shift some of the existing excess authorized development ceiling over to the land acquisition ceiling need.

Mr. Speaker, I would hope that the Park Service will immediately exert a high priority in the use of its authorized development funds for the stabilization, protection, and appropriate restoration of some of the historical and cultural resources of the island. Particular attention needs to be given to the Plum Orchard Mansion, and also to the provision of a docking facility and boat access to allow visitor use to this important and interesting historic feature.

Mr. Speaker, I have no further comments on this bill, and I urge its adoption by my colleagues.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. SEIBERLING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. SEIBERLING) that the House suspend the rules and pass the Senate bill, S. 807.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

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

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

There was no objection.

NEW HAMPSHIRE WILDERNESS ACT OF 1983

Mr. SEIBERLING. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3921) to establish additional wilderness areas in the White Mountain National Forest, as amended.

The Clerk read as follows:

H.R. 3921

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 "New Hampshire Wilderness Act of 1983".

SEC. 2. In furtherance of the purposes of the Wilderness Act (78 Stat. 890), the following are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System—

(1) certain lands in the White Mountain National Forest, New Hampshire, which comprise about forty-five thousand acres, are generally depicted on a map entitled "Pemigewasset Wilderness—Proposed", dated July 1983, and which shall be known as the Pemigewasset Wilderness Area;

(2) certain lands in the White Mountain National Forest, New Hampshire, which comprise about twenty-five thousand acres, are generally depicted on a map entitled "Sandwich Range Wilderness—Proposed", dated July 1983, and which shall be known as the Sandwich Range Wilderness; and

(3) certain lands in the White Mountain National Forest, New Hampshire, which comprise approximately seven thousand acres, are generally depicted on a map entitled "Presidential Range Dry River Wilderness Additions—Proposed", dated July 1983, and which hereby are incorporated in and shall be deemed to be a part of the Presidential Range Dry River Wilderness as designated by Public Law 93-622.

SEC. 3. (a) As soon as practicable after enactment of this Act the map and a legal description on each wilderness area shall be filed with the Committee on Agriculture of the Senate of the United States, and the Committee on Agriculture and the Committee on Interior and Insular Affairs of the House of Representatives.

(b) Each map and legal description shall have the same force and effect as if included in this Act: *Provided,* That correction of clerical and typographical errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

SEC. 4. Subject to valid existing rights, each wilderness are designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act (78 Stat. 890): Provided, That any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

SEC. 5. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of national forest system roadless areas in the State of New Hampshire and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II Final Environmental Statement (dated January 1979) with respect to national forest system lands in States other than New Hampshire, such statement shall not be subject to judicial review with respect to national forest system lands in the State of New Hampshire.

(2) with respect to the national forest system lands in the State of New Hampshire which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) that review and evaluation shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976 (Public Law 94-588), to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the initial plans and in no case prior to the date established by law for completion of the initial planning cycle;

(3) areas in the State of New Hampshire reviewed in such final environmental statement and not designated as wilderness by this Act need not be managed for the purpose of protecting their suitability for wilderness designation pending revision of the initial plans; and

(4) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless areas review and evaluation of national forest system lands in the State of New Hampshire for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) The provisions of this section shall not apply to the area in the White Mountain National Forest, New Hampshire, which is depicted on a map entitled "Kilkenny Unit Plan Area", dated October 1983. This area shall be considered for all uses, including wilderness, during preparation of a forest plan for the White Mountain National Forest pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended.

(d) The provisions of this section shall not apply to any lands in the White Mountain National Forest located within the State of Maine.

The SPEAKER pro tempore. Is a second demanded?

Mr. YOUNG of Alaska. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. SEIBERLING) will be recognized for 20 minutes, and the gentleman from Alaska (Mr. YOUNG) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

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

Mr. Speaker, I rise in support of H.R. 3921, the New Hampshire Wilderness Act of 1983. Like the wilderness bills before it, H.R. 3921 is a consensus product that resulted from a series of meetings by concerned groups and individuals within New Hampshire. The bill is supported by the entire New Hampshire congressional delegation and by many environmental and industry groups. The wilderness proposals are also endorsed by the administration.

The wilderness proposals of H.R. 3921 are located in the White Mountain National Forest and comprise some of the wildest lands remaining in the Eastern United States. Despite the fact that the White Mountain National Forest lies within a relatively easy drive of Boston, New York, and Montreal, Canada, the forest lands have been managed in such an exemplary manner by the Forest Service that nearly half of the forest would meet the statutory qualifications for wilderness designations. During RARE II, the bulk of this qualifying land was inventoried for wilderness designation, but only 33,000 acres were recommended for wilderness and another 146,000 acres, or roughly 20 percent of the forest, for further wilderness study.

With such a high percentage of the forest recommended for further study, a variety of groups in New Hampshire became interested in seeking a solution which would more rapidly allocate areas to either wilderness or nonwilderness, and thereby end the relative limbo status of wilderness study. Interest in such a resolution increased in 1983 when the Department of Agriculture unexpectedly announced the so-called RARE III program whereby all roadless areas in the White Mountain National Forest, and other forests nationwide, would undergo yet another wilderness inventory and study. Many Members of Congress, including myself, strongly disagreed with the RARE III decision, especially because it meant that the completion of national forest management plans would be delayed so as to incorporate the new inventory and study process.

Prompted by these delays in the forest planning process and continued wilderness debates, the informal Ad Hoc White Mountain National Forest Advisory Committee, comprised of individuals representing conservation organizations, industry, snowmobilers, and others met during the spring of 1983 and developed a consensus recommendation whereby most areas in the forest would be allocated either to wilderness or nonwilderness, thereby ending the wilderness study process and saving untold costs, time, uncertainty, and repetitious efforts by the Forest Service. That consensus recommendation, somewhat modified by an amendment concerning an area in Maine not inventoried and studied in RARE II, is embodied in H.R. 3921 as reported by the committee. Enactment of the recommendation will put 77,000 acres in wilderness and release all other New Hampshire areas except the lands not studied during RARE II. In releasing areas, H.R. 3921 will eliminate the possibility of lawsuits related to wilderness review requirements in the current generation of forest plans and thereby end uncertainties plaguing the National Forest Management Act (section 6) planning effort.

It is because H.R. 3921 will facilitate the planning effort and incorporate key lands in wilderness that I support the legislation. I personally would have preferred to see larger wilderness designations in certain areas. In particular, I believe the bill should have included more wilderness for the 100,000-acre Pemigewasset roadless area. This area is the second largest national forest roadless area east of the Mississippi River, and possesses superlative wilderness values. H.R. 3921 designates 45,000 acres as wilderness, but that, in my opinion, is not enough for this crown jewel of eastern areas. However, it is my understanding that the Ad Hoc White Mountain National Forest Advisory Committee examined the area carefully, and decided to go slow on wilderness designation at this time in order to evaluate the impacts of wilderness designation on future use patterns. I believe virtually all parties agree that the portions of the Pemigewasset not designated wilderness by H.R. 3921 should continue to be managed to preserve and protect their outstanding wild and natural values. The same is true of the Wild River, Kinsman, Carr Mountain, and other key roadless areas not designated wilderness by the bill. Indeed, as is indicated in our committee report on H.R. 3921, any sudden shift in management direction for these key areas which would result in substantial development proposals would likely be a cause for grave concern by the public, and could prompt Congress or the New Hampshire groups which negotiated H.R. 3921 to revisit the wilderness issue.

Having said that, I reiterate that I support H.R. 3921 as a consensus bill that will assist the Forest Service and New Hampshire citizens and interest groups in their cooperative efforts to insure that the national forest lands in New Hampshire are managed in the sensitive manner that they have been in the past. I, therefore, urge my colleague's support of H.R. 3921.

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

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3921, the New Hampshire wilderness bill, and I emphasize New Hampshire.

As my colleagues may know, the bill started out as a simple, noncontroversial New Hampshire bill. As introduced by the two gentlemen from New Hampshire (Mr. D'AMOURS and Mr. GREGG) the bill would have designated three new wilderness areas totaling 77,000 acres in the White Mountain National Forest in New Hampshire.

The bill also released the remainder of the forest, a portion of which falls over into Maine. There were no roadless areas inventoried in Maine during RARE II and release language for that State seemed like a simple, straightforward proposal.

At the 11th hour, however, certain wilderness advocates decided to try and add an area in Maine called the Caribou-Speckled as a defacto wilderness by calling it a study area but providing for protection of its wilderness character until Congress determined otherwise.

Not only was the New Hampshire delegation caught off guard but our committee as well when we were asked to consider an area never really addressed in hearings and not supported by the delegations involved.

The New Hampshire delegation were not anxious to turn a simple, noncontroversial bill into a fight; and the Maine delegation, particularly the gentlewoman from Maine (Mrs. SNOWE) simply had not been given time to study the area and find out how her constituents might feel about 11,000 acres of defacto wilderness.

Reason has prevailed and I compliment the chairman for his decision to return to the compromise we started out with and leave the Maine issue to another day.

The bill is truly a New Hampshire bill. The three wilderness areas remain in the bill. The release language will only apply to New Hampshire but at least that State can now have some time to work out their own position.

The committee did add one area in New Hampshire for additional study. The area is known as the "Kilkenny." However, the study will be done

during the current forest planning cycle.

Again, I am pleased to advise the Members that New Hampshire is still New Hampshire and Maine is still Maine.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Hampshire (Mr. GREGG).

Mr. GREGG. I thank the gentleman for yielding to me.

Mr. Speaker, I wish to express my appreciation to the committee for the extremely prompt manner in which they brought this legislation forward, and I especially appreciate the chairman's interest and the ranking minority member from Alaska for his interest in this.

It is a consensus piece of legislation involving 77,000 acres in New Hampshire and has the strong support of all of the various users of the White Mountain National Forest, including the forestry groups, the snowmobile groups, the hikers, the environmentalists.

It is supported by the entire delegation and will be a good addition to our national forest which is one of the most used national forests in the United States.

Therefore, this is a very positive step, and I appreciate the committee's prompt action.

● Mr. GEJDENSON. Mr. Speaker, I would like to express my support for two bills being considered under suspension of the rules today, H.R. 3921 and H.R. 4198, designating wilderness areas in New Hampshire and Vermont.

Both of these bills establish wilderness areas in response to a 1979 RARE II study. Both have been subject to controversy and extensive negotiation, and neither is perhaps perfect in the eyes of interested parties. H.R. 4198, the Vermont bill, is a compromise carefully worked out among conservationists, the lumber industry, and recreational users; it establishes 39,000 acres of the Green Mountain National Forest as wilderness and creates an additional 22,000 acre national recreation area. While some of us on the committee might have preferred a bill which gave greater consideration to one or another of these interests, H.R. 4198 remains an important vehicle for the preservation of Vermont's unique and beautiful pristine areas, and I am pleased to support it.

H.R. 3195 has been the subject of similar controversy and compromise. It is unfortunate that the bill before us today does not address the question of preservation and study of the Caribou-Speckled region of the White Mountain National Forest, which is located in Maine. Inclusion of this area was part of a compromise accepted by virtually all interests, including the New Hampshire delegation and Rep. SNOWE, in whose district the Caribou-Speckled region lies. I hope that this body will have an opportunity to vote on the fate of this area in the near future. In spite of this significant omission, however, I believe that the preservation of the 77,000 acres in New Hampshire still designated by H.R. 3195 is a significant effort in the protection of our New England wilderness areas.●

● Mr. FOLEY. Mr. Speaker, as you are aware, under rule X, section 1(a)(13), the Committee on Agriculture has jurisdiction over this bill, Mr. Speaker, this bill has not been acted upon by the Committee. The bill was recently reported by the Committee on Interior and Insular Affairs.

Because the Congress will soon adjourn its first session, the Committee on Agriculture has been requested to allow this bill to proceed to the floor of the House and we have no objection to its consideration at this time.

Mr. Speaker, as the distinguished chairman of the committee, Mr. DE LA GARZA, indicated in his letter to you dated today, if any of the provisions of this bill which relate to matters within the jurisdiction of the Agriculture Committee should become an issue with the Senate, the Agriculture Committee will request representation in conference. Further, if the bill is not enacted in the 98th Congress, the Agriculture Committee will seek a referral for full consideration of the merits in any subsequent Congress.●

Mr. YOUNG of Alaska. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SEIBERLING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. SEIBERLING) that the House suspend the rules and pass the bill, H.R. 3921, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to establish wilderness areas in New Hampshire."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. 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 just passed.

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

There was no objection.

□ 1920

REPAIR AND MAINTENANCE OF A CERTAIN HIGHWAY LOCATED WITHIN CAPE HATTERAS NATIONAL SEASHORE RECREATIONAL AREA

Mr. SEIBERLING. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2644) to require the Secretary of the Interior to enter into an agreement with the State of North Carolina with respect to the repair and maintenance of a certain highway of such State located within the Cape Hatteras National Seashore Recreational Area, as amended.

The Clerk read as follows:

H.R. 2644

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

SECTION 1. That the Act entitled "An Act to provide for the establishment of the Cape Hatteras National Seashore in the State of North Carolina, and for other purposes", approved August 17, 1937 (50 Stat. 669, as amended, 16 U.S.C. 459-459a-3), is amended further by adding at the end thereof the following new section:

"SEC. 6. (a) The Secretary of the Interior shall enter into an agreement with the State of North Carolina, upon terms and conditions acceptable to the Secretary of the Interior and such State, under which the Secretary of the Interior shall provide up to 50 per centum of the costs of repairing and maintaining the portion of North Carolina highway numbered 12 located within the boundaries of the aforesaid national seashore recreational area, without regard as to whether title to the right-of-way of such highway is in the United States. Such agreement shall provide that the Secretary shall retain control over the standards of roadway reconstruction and maintenance to the extent of assuring the maximum environmental compatibility of such roadway with the landscape of the seashore. Any new spending authority described in subsection (c)(2) (A) or (B) of section 401 of the Congressional Budget Act of 1974 which is provided under this subsection shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

"(b) Any amount appropriated to the Secretary of the Interior for purposes of carrying out an agreement entered into under subsection (a) shall be in addition to, and not in lieu of, any other Federal assistance to which the State of North Carolina is entitled.".

SEC. 2. Any provision of this Act, which directly or indirectly authorizes the enactment of new budget authority, shall be effective only for fiscal years beginning after September 30, 1984.

The SPEAKER pro tempore. Is a second demanded?

Mr. YOUNG of Alaska. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. SEIBERLING) will be recognized for 20 minutes and

the gentleman from Alaska (Mr. YOUNG) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

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

Mr. Speaker, H.R. 2644 is a simple bill which was introduced by our colleague from North Carolina and the distinguished chairman of the Merchant Marine and Fisheries Committee, WALTER JONES. The intent of this bill is to provide for some long needed Federal assistance to the State of North Carolina for the maintenance and repair of State Highway No. 12 located within the boundary of the Cape Hatteras National Seashore.

Cape Hatteras National Seashore is composed of 70 miles of relatively unspoiled barrier islands off the coast of North Carolina. The seashore was created by the act to provide for the establishment of the Cape Hatteras National Seashore, approved August 17, 1937. The authorizing legislation provided that lands were to be secured by the United States only by public or private donation. North Carolina transferred land comprising nearly all of the present-day seashore by deed dated August 7, 1958. The deed, however, specifically reserved to the State a right-of-way for North Carolina Highway 12.

North Carolina Highway 12, is the only road that runs through the Cape Hatteras National Seashore and in recent years, the number of visitors to the seashore has increased greatly and the condition of the road has deteriorated creating safety hazards and impairing the enjoyment of the seashore by the visitors. About 1.8 million persons visit the seashore each year. Eighty-five percent of the traffic on the road is estimated to be recreational traffic.

H.R. 2644 requires the Secretary of the Interior to enter into a contract with the State of North Carolina to provide for the repair and maintenance of North Carolina Highway Number 12 within the Cape Hatteras National Seashore and provides for the payment of up to 50 percent of the cost of such repairs. The Committee on Interior and Insular Affairs specifically amended the bill to require the Secretary of the Interior to share the costs of repair and maintenance of the portion of the highway within the boundary of the seashore but not to pay all of such costs. The committee has also added language to require that the cooperative agreement stipulate that the Secretary shall be responsible for maintaining control over the standards of roadway reconstruction and maintenance. This provision is intended to insure that all work on the road be performed in a manner which is sensitive to the national seashore landscape, and befitting of the area's administration as a unit of the national park system.

There was included in the bill as reported from the Committee on Interior and Insular Affairs a provision regarding the definition of Highway 12 as a park road for the purpose of obtaining funding from the Surface Transportation Assistance Act. Except for the technicality that the right-of-way for Highway 12, within the boundary of the seashore is owned by the State of North Carolina, the road would undoubtedly have qualified as a park road. This provision was objected to by the Public Works and Transportation Committee and has been removed from the bill, with the consent of all parties.

Mr. Speaker, I believe our colleague WALTER JONES has done an outstanding job of working out the needed compromises to assure an equity of expenditure for the maintenance of this road between the Federal Government and the State of North Carolina and I strongly urge my colleagues to support the passage of H.R. 2644.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this measure (H.R. 2644) provides for the Secretary of the Interior to financially assist in the maintenance and reconstruction of a State-owned highway which runs the length of the Cape Hatteras National Seashore Recreational Area, a unit of the national park system in North Carolina. The State will continue to hold title to the road right-of-way, but the Federal Government will assist in the upkeep of the road through the terms of a cooperative agreement to be consummated as a result of this legislation. The cooperative agreement must provide that the National Park Service will maintain control over all standards to which the roadway is to be redesigned, reconstructed and/or maintained. The intention of this provision is to assure that the roadway's continued existence will always be maintained in a manner which is environmentally sensitive to the natural landscape of the seashore, and in accordance with national park system roadway standards.

Mr. Speaker, I have no further comments on this bill, and I urge its adoption by the House.

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

I want to thank my distinguished colleague, the ranking minority member on the Subcommittee on Public Lands and National Parks, the gentleman from Alaska (Mr. DON YOUNG), for the support he has given to our efforts to dispose of this legislation in a bipartisan and cooperative manner.

I also wish to thank the House for its indulgence for going 6 minutes beyond the agreed upon time in order that we might dispose of these bills.

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. I accept the gentleman's thanks and want to thank the chairman of the subcommittee because these bills have been worked out with the cooperation of the delegation and the chairman and the members of the committee, and it shows that we can work together to set aside those acreages of land in the East and West so that people can enjoy them.

Mr. SEIBERLING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. SEIBERLING) that the House suspend the rules and pass the bill, H.R. 2644, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. 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 just passed.

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

There was no objection.

VACATING MOTION REGARDING HOUSE JOINT RESOLUTION 1

Mr. WALKER. Mr. Speaker, I ask unanimous consent that the motion regarding House Joint Resolution 1 made by the gentleman from California (Mr. PANETTA) be vacated.

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

There was no objection.

REQUEST TO MAKE IN ORDER RULE FOR CONSIDERATON OF HOUSE JOINT RESOLUTION 1 ON WEDNESDAY OR ANY DAY THEREAFTER

Mr. WALKER. Mr. Speaker, I ask unanimous consent that the resolution introduced by the gentleman from New York (Mr. FISH) specifying a rule for consideration of House Joint Resolution 1 be made in order for consideration by the House on Wednesday or any day thereafter.

The SPEAKER pro tempore. The Chair cannot entertain that motion without consultation with the leadership. The Chair will not recognize the gentleman for that purpose.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. WALKER. Mr. Speaker, my parliamentary inquiry is that this is a unanimous-consent request and it is entirely in order.

The SPEAKER pro tempore. The Chair has the same right to object as any Member, and I do so object.

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GENERAL LEAVE

Mr. WYDEN. Mr. Speaker, I ask unanimous consent that all Members may be permitted to extend their remarks and to include extraneous material on the subject of the special order speech today by the gentleman from New York (Mr. SCHUMER).

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

There was no objection.

BANKRUPTCY: THE CRISIS THAT WON'T GO AWAY—I

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. FISH) is recognized for 30 minutes.

● Mr. FISH. Mr. Speaker, we are confronting a crisis in Bankruptcy, and it won't go away. Unless Congress acts, our system of bankruptcy adjudication will come to a halt on March 31, 1984, less than 5 months from today.

Under section 404(b) of the Bankruptcy Act of 1978 the presently sitting bankruptcy judges are authorized to serve only in the transition bankruptcy courts established in section 404(a), which go out of existence next March 31. Under section 405(a), the sitting judges are authorized to exercise only the jurisdiction and powers conferred on those transition courts. On April 1, 1984, therefore, no qualified bankruptcy judges will be available to preside.

The consequences will be awesome. Half a million consumer bankruptcies, involving billions of dollars in creditors' claims, will be thrust into judicial limbo, as will pending corporate bankruptcies affecting tens of thousands of employees and additional billions in assets and liabilities.

As a prerequisite for congressional action, a sense of urgency on the bankruptcy courts issue must move swiftly outwards from the relatively few members who have heard testimony or who have recently had other direct contact with bankruptcy judges, practitioners, or concerned business interests. There is no time to spare. It is for this reason that I am delivering a series of four speeches to the House this week on consecutive days to familiarize more Members with the origin of the present crisis, the need for a response of clear constitutionality, the legislative roadblocks that have developed, and the possibilities for compromise.

I recognize that bankruptcy is probably second only to copyright law as an issue emanating from the House Judiciary Committee that sends members back to their offices for more exciting and rewarding constituent matters. But the crisis will not go away.

After filing for bankruptcy, an individual or business debtor is either: First, financially rehabilitated, or second, assets are assembled and liquidated for distribution to the creditors. A prime objective of the Bankruptcy Code is to rehabilitate the debtor and preserve assets to the extent possible. Proceedings range from corporate reorganizations involving thousands of creditors, hundreds of millions of dollars in assets and claims, and an endless variety of Federal and State substantive law issues all the way to the simplest consumer bankruptcies. A 1983 GAO study found that the typical consumer debtor who files for straight bankruptcy under chapter 7 of the Bankruptcy Code is a clerical or blue-collar worker with a before-tax income of $13,497 and an average debt level of $31,674. He is a nonhomeowner and has few assets. The major factors influencing consumer bankruptcy, according to the GAO, are increases in the cost of living, too many debts, easy credit availability, unemployment, unusual medical bills and threats of creditor actions. This is consistent with other recent studies which have been made.

Prior to the 1978 Reform Act, bankruptcy courts exercised jurisdiction only over property in the actual or constructive possession of the court, except to the extent that the parties consented to its exercise of jurisdiction over a particular controversy. Without such consent, the claims of debtors against third parties would languish for years on the dockets of State courts or Federal district courts, even when their prompt resolution was absolutely critical to the successful reorganization of a distressed enterprise.

The essential weakness of the pre-1978 bankruptcy system was this bifurcation, or the division of bankruptcy cases between matters that could be heard by bankruptcy courts and matters that must be heard by courts of general jurisdiction—either Federal district courts or State courts. This archaic structure imposed an enormous burden in excessive, duplicative, costly, and wasteful litigation which undermined both the rehabilitative and preservation-of-assets objectives of the bankruptcy law.

By 1978, about 250,000 bankruptcy cases were pending throughout the country, a figure which has since more than doubled. The case for extensive reform of the bankruptcy court system and the substantive law had been clearly demonstrated by a national study commission and 4 years of exhaustive congressional hearings. The result was congressional enactment of the Bankruptcy Act of 1978, the first comprehensive reform of bankruptcy law and adjudication since 1898. At the heart of the new code was the determination that bankruptcy courts must have jurisdiction not only over bankruptcy cases but over all matters arising in or related to such cases, including claims arising under State as well as Federal law. The era of bifurcated cases thus came to an end. There is no one who seriously questions that this reform has led to a remarkable improvement in the efficiency, effectiveness, and economy of our bankruptcy system and has immeasurably benefited the public interest. These gains will be lost if, as some may propose, we turn the clock back to limit the new unified jurisdiction of the bankruptcy courts.

Congress concluded in 1978 that the bankruptcy system would be unworkable if the primary judicial responsibility for bankruptcy proceedings were to be vested in the already overburdened Federal district courts. Furthermore, the expedited handling of criminal matters required by the Speedy Trial Act would inevitably disrupt the prompt disposition of bankruptcy matters which is frequently essential to the conservation of assets, the payment of creditors and the survival of debtors. Bankruptcy had also become too specialized and required too much particular expertise to be handled by a generalist court. In short, it was clear that bankruptcy cases would have to be dealt with by a specialist court independent of the Federal district courts, and this was the structure which Congress adopted.

The Bankruptcy Reform Act established a transition period ending on March 31, 1984, during which the carryover bankruptcy judges appointed by the district courts would serve on courts of bankruptcy constituted as separate departments of the district court. The act further provides that the new U.S. Bankruptcy Court come into existence on April 1, 1984, and shall have its judges appointed for 14 year terms by the President. Tomor-

row, I shall discuss how this provision led directly to the present crisis in bankruptcy.●

PASS THE ERA WITH CLARIFYING AMENDMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. SMITH) is recognized for 30 minutes.

Mr. SMITH of New Jersey. Mr. Speaker, I rise this evening against the unfair, undemocratic procedure under which we today considered the proposed equal rights amendment.

That procedure precluded any Member from offering any amendment whatsoever to the ERA and restricted debate on this vital issue to a mere 40 minutes.

I point out to my colleagues that even the chairman of the House Judiciary's Subcommittee on Civil and Constitutional Rights—a Member who by the way opposes all amendments—has stated that he wants an open rule on the ERA.

In a letter dated June 27, 1983, Chairman EDWARDS wrote: "we will bring it [ERA] to the House floor under an open rule. I agree with you that any bill as important as a proposed constitutional amendment should have an open rule."

The distinguished chairman of the full Judiciary Committee, Mr. RODINO of my home State, has spoken eloquently to the question of open debate for constitutional amendments. When the House was considering limiting debate to 1 hour on a busing constitutional amendment in 1979 Mr. RODINO declared:

> Such a spectacle, I must suggest, would demean our democratic system, this legislative body, and each of us. (Congressional Record, July 27, 1979 H6431.)

The ERA had 40 minutes today, Mr. Speaker, 40 minutes.

I rise as a Member who would very much like to support the ERA. But I consider it my duty, in conscience, to insist that it be properly amended with clarifying language in some fundamental areas of law to prevent sweeping reversals of important public policy by the courts.

I strongly support clarifying amendments that certainly would have been offered here today had the House Democratic leadership not imposed an absolute closed rule precluding such amendments.

I would point out to my colleagues that even Lane Kirkland, president of the AFL-CIO has recognized the need for clarifying amendments. In his testimony before a House subcommittee he said:

> Finally, while we recognize that a few substantial issues have been raised—such as the effect, if any, of the ERA on the right to an abortion and the status under the ERA of restrictions on the role women may play in the military services—we believe Congress may, and should, provide authoritative guidance to the courts in these areas.

In order to provide the House with a full and open debate on the ERA, and to allow amendments to ERA, I have cosponsored the open rule resolution introduced earlier today by ERA suporter Representative HAMILTON FISH of New York.

That resolution would allow 4 hours of debate—not 40 minutes—and amendments to ERA would be made in order. Mr. FISH's resolution is a fairness rule and I sincerely hope it helps facilitate prompt consideration of the ERA in this House.

Mr. Speaker, the first amendment this body could and should have considered today would have effectively taken abortion out of the ERA. It reads:

> Nothing in the Article [ERA] shall be construed to grant or secure any right relating to abortion or the funding thereof.

The abortion neutral amendment would eliminate the distinct possibility that the ERA, if unamended, would strike the Hyde amendment as unconstitutional.

According to prominent ERA advocates the main legal effect of ERA would be to turn sex-based classifications into "suspect classifications" under the Constitution—just as race-based classifications are now. Thus under the ERA, sex-based classification would receive the same so-called "strict judicial scrutiny"—a rigid constitutionality test employed by the Court—which race-based classifications now receive.

Representative HENRY HYDE, author of the Hyde amendment stated before a Senate subcommittee on May 26, 1983:

> Since 1970, the ERA advocates have emphasized that the Amendment's principal legal effect would be to make sex a "suspect classification" under the Constitution. The most important "suspect classification" at present is race. If sex discrimination were treated like race discrimination, government refusal to fund abortions would be treated like a refusal to fund medical procedures that affect members of minority races. Suppose the Federal Government provided funding for procedures designed to treat most diseases, but enacted a special exclusion for sickle-cell anemia (which affects only black people). The courts would certainly declare that exclusion unconstitutional.

On October 20, 1983, the Congressional Research Service—a branch of the Library of Congress—issued a legal analysis of the ERA-abortion connection. The CRS report included this conclusion:

> • • • if strict scrutiny, the most active form of judicial review, is the standard applied [under ERA], then the answer to the question whether pregnancy classifications are sex-based classifications would seem to be affirmative. It would then follow that the ERA would reach abortion and abortion funding situations. It is very difficult for the government to meet the burden of showing that the classifications in question serves a compelling state interest, thus, classifications subjected to active review are almost always invalidated as being violative of the Constitution.

Mr. Speaker, put another way, the Hyde amendment and other pro-life initiatives would be decimated by the Court. Mr. Speaker another important amendment—that I support—would have prevented the Supreme Court from striking as unconstitutional current law barring women from assignment to combat duty roles. This amendment is supported by numerous organizations including the Veterans of Foreign Wars (VFW). The amendment reads: "This article [ERA] shall not be construed to require the assignment of women to military combat."

In a scholarly Yale Law Journal article entitled "The Equal Rights Amendment: A Constitutional Basis for Equal Rights for Women," four constitutional experts—Brown, Emerson, Falk, and Freedman—wrote "women will serve in all kinds of military units and they will be eligible for combat duty."

Senator ORRIN HATCH, chairman of the Senate Judiciary Committee states in his book, "The Equal Rights Amendment, Myths and Realities":

> Not only would men and women likely be drafted on equal terms, but they would likely be assigned to all military duties on equal terms, including combat duty. This would alter current law in which women are excluded from most combat positions, including infantry and armor specialist, field artillery, and air defense.
>
> ERA proponents frequently minimize the difficulties involved in equal combat roles by emphasizing that only "qualified" men and women would be assigned to combat. This is a deceptive argument. It is deceptive in that recent civil rights history repeatedly shows that where eligibility standards and tests fail to result in "representative" proportions of minority individuals in employment positions, or in colleges and universities, the customary response of civil rights proponents has been to call into question the eligibility standards and tests themselves—in other words, blame the messenger for the message.
>
> If military requirements establish minimum levels of upper body strength or physical endurance, for example, and almost all males satisfy that standard and almost no women do, the validity of the standards themselves will be challenged in court rather than feminist organizations conceding that the neutral application of these requirements simply results in fewer female than male troops. This is not pipe-dreaming or speculation; it is already taking place. It is taking place, for example, at the military academies where women are no longer subject to the same standards as men in the arts of boxing or wrestling or in developing upper body physical strength. It is taking place in the military itself where women are exempt from some of the most rigorous physical tasks. And it is taking place in a similar manner outside the military where requirements for police and firefighters and prison guards are being altered where they lead to "under-representation" for women. If women are unable to satisfy a firefighting

test of being able to drag a 300 pound body 100 yards, then demands are made for tests of 200 pounds and 75 yards.

. . . The realities of life, as Brigadier General Elizabeth Hoisington has described them, are that,

"Women cannot match men in aggressiveness, physical stamina, endurance, and muscular strength in long-term situations. In a protracted engagement against an enemy, soldiers with these deficiencies would be weak links in our armor. We cannot build a winning army if the soldiers in it have no confidence in the long-term mental and physical stamina of their comrades."

The Equal Rights Amendment would effect a revolution in the way that the military does service for this country. It is far from clear that this revolution is one desired by the American people; that it is consistent with their values; or that it would not undermine the primary responsibility of a free government—the preservation of the national security.

Mr. Speaker, another important amendment that I believe should be added to the ERA would protect veterans preference from being invalidated as unconstitutional. The amendment reads: "This article shall not be construed to affect any benefit or preference given by the United States or any State to our veterans."

Indeed the threat to veteran's preference is real but little discussed. The Women's Defense Fund, for example, has argued that "veterans preference programs, by which veterans are given strict hiring preference in civil service positions, are in violation of the Constitution because more men than women are veterans."

Again, as in the abortion funding issue and women in combat, the application of a strict judicial scrutiny court test—the acknowledged aim of the ERA lobby—would result in veterans preference being invalidated by the courts.

Mr. Speaker, just as clarifying language is necessary to protect women from being forced into combat roles, this amendment enjoys the support of key veterans organizations including the Veterans of Foreign War (VFW).

As a matter of fact, VFW National Commander Clifford G. Olson has stated that it is "imperative" that the ERA contain these two important amendments. In a letter to Members of Congress dated November 10, 1983 he wrote:

If these amendments are not made to the legislation, it will be wholly unacceptable to the more than 2.6 million members of the Veterans of Foreign Wars of the United States and our Ladies Auxiliary and I would urge you in the strongest terms to vote against the passage of H.J. Res. 1 (ERA).

Mr. Speaker, I would like to speak to another amendment that was to be offered here on the floor today but you would not allow an amendment which was narrowly defeated in the full Judiciary Committee last week. The amendment would have protected single sex schools—seminaries, all-boy or all-girl high schools, colleges and the like—from being attacked as discriminatory. The amendment reads: "Nothing in this Article (ERA) shall be construed to relate to private or parochial educational institutions." Prof. Jeremy Rabkin, the director of the program on public policy and the courts at Cornell University, testified before the Senate Subcommittee on the Constitution that:

It seems inescapable that all single-sex institutions must be denied tax exemptions. Thus, ERA would not only make all-women colleges ineligible for tax exemptions, but also Catholic seminaries, for example, unless they admit women for training to the priesthood.

He further stated:

It seems inescapable that an institution like Yeshiva University of New York, which does have coeducational programs, must still forfeit its tax exemption if it maintains separate seating for men and women in religious services.

Professor Mongan of Columbia Law School stated in testimony before the House Subcommittee on Civil and Constitutional Rights said:

I think you could also revoke the tax exemption of even a theological school or seminary that was discriminating.

I think it should be clear that the ERA proposal is in need of some meaningful amendment to strengthen it. But that vital deliberative process, again let me say, has been frustrated by the Speaker of the House.

Mr. Speaker, a constitutional amendment is indeed a sober undertaking. The consideration of the ERA by the House of Representatives has been trivialized by its treatment here today. It is my earnest desire, Mr. Speaker, to see the ERA passed in this Congress and ratified by the States in a meaningful, responsible form, absent its present liabilities.

The Speaker of the House has denied us that opportunity today.

Mr. Speaker, lest anyone be tempted to simple-minded conclusions, let no one misconstrue my vote here today.

Today, I vote against an unfair procedure—a procedure that forbids clarifying amendments. I vote for the right of Members to offer amendments to clearly define the ERA. After all, Mr. Chairman, I support all the major initiatives, past and present, to insure equality under law for women.

To illustrate and underscore this point, I point out to my colleagues that I strongly support the following:

First. Equal Pay Act—prohibits discrimination on the basis of sex in the payment of wages for equal work performed.

Second. Title VII—prohibits discrimination on the basis of sex with regard to hiring, job classification, promotion, compensation, fringe benefits, and discharge.

Third. Title IX—prohibits discrimination on the basis of sex in education programs that receive Federal support.

Fourth. Revenue Acts—provides for the deduction of child care expenses, allows IRA's for nonworking spouses, and eliminates estate tax for widows.

Fifth. Manpower Act—prohibits discrimination on the basis of sex in regard to Federal jobs programs.

Sixth. Housing and Community Development Act—prohibits discrimination on the basis of sex in housing and mortgage lending.

Seventh. Title VIII—prohibits discrimination on the basis of sex in rentals and home selling.

Eighth. Equal Credit Opportunity Act—forbids discrimination on the basis of sex in any aspect of credit transactions.

Ninth. Pregnancy Disability Act—requires employers to include coverage of maternal benefits within the scope of health insurance programs.

Tenth. Executive Order 11246 (as amended)—prohibits discrimination in employment on the basis of sex on the part of governmental contractors.

Mr. Chairman—pending legislation that I have cosponsored and support which would aid women includes:

First. H.R. 2090; Economic Equity Act—an omnibus bill aimed at eliminating sex discrimination in such areas as tax and retirement matters, dependent care. Insurance and child support and enforcement. I am proud to be a cosponsor of this legislation.

Second. House Resolution 109—a resolution expressing the sense of the House on the need to maintain guidelines which ensure equal rights with regard to educational opportunity. I am a cosponsor.

Third. H.R. 1527; Federal Equity Act—a bill to amend the laws of the United States to eliminate gender-based distinctions throughout the United States Code. I have cosponsored this legislation.

Fourth, H.R. 4280, revision of H.R. 2100, women's pension equity—a measure that seeks to remove inequitable restrictions on women currently sanctioned by Employee Retirement Income Security Act (ERISA). Would improve credit for maternity leave; expand IRA contribution; insure survivors pensions if spouse dies before annuity starts. I have cosigned letters to six committee leaders urging favorable and expeditious consideration of this legislation.

Fifth, H.R. 4325, Child Support Enforcement Amendments of 1983. A bill that insures that children will be able to receive financial support from delinquent parents. Encourages interstate enforcement, and requirement of spousal support as well. I have cosponsored another bill, H.R. 3354 which would go even further than the new bill, to protect the rights of spouses and their children. However, H.R. 4325

was reported from committee and is presumably the bill that we will consider on the floor. This legislation also has my support.

Mr. Chairman, the ERA must be amended. I urge my colleagues to defeat the motion to suspend the rules and support an open rule—the fairness rule—so that this House will be able, at some not too distant future date, to properly address and debate the ERA and consider several rational, substantive amendments to it.

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

Mr. SMITH of New Jersey. I yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker, I would like to commend the gentleman for his statement and note to him that I was one of those individuals and I think there are many of us in the House who support ERA and would have voted for it had it come up in a fair manner and had it come up in a disposition in which it would be possible to put in some of the key amendments that the gentleman talked about.

I commend him for his understanding of the issue and I think that ultimately we will have a chance to shape the ERA in a manner in which it can be passed and become the law of the land.

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

Mr. SMITH of New Jersey. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I did want to point out to the gentleman that just a few minutes ago I tried, through unanimous-consent requests, to make it in order for the House to consider that rule filed by the gentleman from New York (Mr. FISH) tomorrow or any day thereafter so that those of us who do favor the equal rights amendment would have an opportunity to have it considered very soon under a rule that would allow the offering of amendments.

And I am disappointed to say that a very unusual procedure was used in which the Chair objected to that unanimous-consent request. That is the first time I have ever seen it in the time that I have been in the House of Representatives.

So that I think, we see that we even have the Chair now blocking efforts to address some of the amendments, amendments which the Speaker of the House in his remarks on the floor today admitted that probably two of those amendments would pass and that that is the reason why we were not given an opportunity for democracy to work.

It is a very, very unusual procedure.

I thank the gentleman for his contribution in allowing the people of the country to understand just exactly what is going on here in the House.

Mr. SMITH of New Jersey. I thank the gentleman from Pennsylvania.

And I would like to remind my colleagues that there were several attempts made by the gentleman from California (Mr. LUNGREN) and I believe the gentleman from Pennsylvania through unanimous-consent requests to allow for an open rule, to allow amendments to be considered on the floor regarding ERA, and each and every time those requests were objected to.

And I know that the gentleman from Pennsylvania and my friend from California are supporters, as am I, of the equal rights amendments. We were precluded that opportunity to amend it in a way that will insure, in my opinion, its passage and ratification when it gets out to the several States.

So again I thank the gentleman for his contribution.

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

THE PLIGHT OF THE BAHA'IS IN IRAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. PORTER) is recognized for 60 minutes.

Mr. PORTER. Mr Speaker, In calling for this special order today I am joined by several of my colleagues. I would like to express my appreciation to Mr. YATRON, chairman of the Foreign Affairs Subcommittee on Human Rights and International Organizations, Mr. LEACH, ranking minority member of that subcommittee, and Mr. LANTOS, my cochairman of the Congressional Human Rights Caucus for their hard work in calling attention to the plight of the Baha'is in Iran.

The Baha'i faith was founded in Persia—now Iran—over 100 years ago. Its followers practice a faith driven to bring about the unity of mankind, world peace, and world order. The Baha'i faith teaches the essential beliefs of all organized religions which include social equality, pacifism, and tolerance.

It is a crime against all humanity that the Baha'is, a people who practice their belief of nonviolence and unity among mankind, are victims of the wrath of the Ayatollah Khomeini and his murderous regime. During the past 3 years over 150 leaders of the Baha'i faith have been executed. Countless others have been subject to other kinds of persecution including arrest for imaginary crimes, confiscation of their personal property, and expropriation of Baha'i-owned corporations' property. Baha'is have been fired from their jobs and their holy shrine has been destroyed by an angry mob organized by the ayatollahs.

The leaders of the Iranian Government deny that their treatment of the Bahai's is based on religious differences. However, it is clear to impartial observers that this persecution is based on the fact that the Baha'i faith is seen as a challenge to the Shiite belief that Islam is the final religion and that Muhammed was the last prophet to appear on Earth.

In an attempt to remove the Baha'i from Iran, the Prosecutor General of Iran recently decreed a comprehensive ban on all Baha'i teaching and organized religious activities—including election of local and national leaders, and "giving information to others"—which threatens the very survival of the Irananian Baha'i community.

Like the Nuremberg laws, the new edict announced by the Prosecutor General on August 29 establishes the so-called legal grounds for mass arrests and genocide. It is the single most serious development in the continuous persecution of the Baha'i.

In response to the new decree, the elected leaders of the Baha'i National Spiritual Assembly of Iran, citing the Baha'i tenet of obedience to the civil law of the land, have dissolved all Baha'i institutions in Iran.

This edict, combined with the past history of persecution, are absolutely appalling. The persecution of the Baha'i in Iran is presently the only case in the world in which people are being persecuted and killed solely on account of their religious beliefs and not because of their political opposition to the regime in power.

The United States and the Congress have consistently played a leading role in fighting for fundamental freedoms of oppressed people around the world. We must continue to call attention to the situation of the Baha'i in Iran and do all that we can to halt the persecution.

In an attempt to call attention to this horrible situation, I am introducing a resolution, with 59 cosponsors, which states that the Congress holds the Government of Iran responsible for upholding the rights of all its citizens, condemns the August 29 edict, and calls upon the President of the United States to work with other governments to form an appeal to the Government of Iran, to cooperate with the United Nations in its efforts on behalf of the Baha'is and to lead these efforts when appropriate, and also to provide humanitarian assistance for Baha'is who are able to flee Iran.

At this point, I would like to insert in the record an open letter written by the leaders of the National Spiritual Assembly in Iran to government officials in Iran. This letter was written and distributed at great personal risk, since 17 of the predecessor leaders have either been hanged or disappeared. In this letter they discuss some of the charges leveled against Baha'is by the Khomeini regime, their commitment to following the law of

the land by disbanding all official structures, and finally call upon the Prosecutor General to demonstrate that the Iranian Government does not persecute Baha'is for their religious beliefs. The Baha'is outline 13 specific measures in their letter that they ask the Iranian Government to adopt to protect their religious beliefs and practices.

I urge my colleagues to read this meaningful letter and ask them to raise their voices in opposition to the program instituted by the Khomeini regime evidently aimed at destroying the Baha'i religion in Iran. We can only hope that these misguided religious fanatics will finally hear the protests of outrage unleashed by the world community and cease their unforgivable persecution of the Baha'is.

THE BANNING OF BAHA'I RELIGIOUS INSTITUTIONS; AN OPEN LETTER

(Translated from Persian—September 3, 1983)

Recently the esteemed Prosecutor General of the Islamic Revolution of the Country, in an interview that was published in the newspapers, declared that the continued functioning of the Baha'i religious and spiritual administration is banned and that membership in it is considered to be a crime. This declaration has been made after certain unjustified accusations have been levelled against the Baha'i community of Iran and after a number of its members—ostensibly for imaginary and fabricated crimes but in reality merely for the sake of their beliefs—have been either executed, or arrested and imprisoned. The majority of those who have been imprisoned have not yet been brought to trial.

The Baha'i community finds the conduct of the authorities and the judges bewildering and lamentable—as indeed would any fair-minded observer who is unblinded by malice. The authorities are the refuge of the people; the judges in pursuit of their work of examining and ascertaining the truth and facts in legal cases devote years of their lives to studying the law and, when uncertain of a legal point, spend hours poring over copious tomes in order to cross a "t" and dot an "i". Yet these very people consider themselves to be justified in brazenly bringing false accusations against a band of innocent people, without fear of the Day of Judgment, without even believing the calumnies they utter against their victims, and having exerted not the slightest effort to investigate to any degree the validity of the charges they are making. "Methinks they are not believers in the Day of Judgment." [Hafiz, a 14th century Persian poet]

The honorable Prosecutor has again introduced the baseless and fictitious story that Baha'is engage in espionage, but without producing so much as one document in support of the accusation, without presenting proof in any form, and without any explanation as to what is the mission in this country of this extraordinary number of "spies": what sort of information they obtain and from what sources? Whither do they relay it, and for what purpose? What kind of "spy" is an eighty-five year old man from Yazd who has never set foot outside his village? Why do these alleged "spies" not hide themselves, conceal their religious beliefs and exert every effort to penetrate, by every stratagem, the Government's information centers and offices? Why has no Baha'i "spy" been arrested anywhere else in the world? How could students, housewives, innocent young girls, and old men and women, such as those blameless Baha'is who have recently been delivered to the gallows in Iran, or who have become targets for the darts of prejudice and enmity, be "spies"? How could the Baha'i farmers of the villages of Afus, Chigan, the Fort of Malak (near Isfahan), and those of the village of Nuk in Birjand, be "spies"? What secret intelligence documents have been found in their possession? What espionage equipment has come to hand? What "spying" activities were engaged in by the primary school children who have been expelled from their schools?

And how strange! The honorable Prosecutor perhaps does not know, or does not care to know, that spying is an element of politics, while noninterference in politics is an established principle of the Baha'i Faith. On the contrary, Baha'is love their country and never permit themselves to be traitors. 'Abdu'l-Baha, the successor of the Founder of the Baha'i Cause, says: "Any abasement is bearable except betraying one's own country, and any sin is forgivable other than dishonoring the government and inflicting harm upon the nation."

All the other accusations made against the Baha'is by the honorable Prosecutor of the Revolution are similarly groundless. He brands the Baha'i community with accusations of subversion and corruptions. For example, on the basis of a manifestly forged interview, the falsity of which has been dealt with in a detailed statement, he accuses the Baha'i community of hoarding, an act which its members would consider highly reprehensible. The Prosecutor alleges that the Baha'i administration sanctioned the insensible act of hoarding, yet he subtly overlooks the fact that with the proceeds that might be realized from the sale of unusable automobile spare parts whose total value is some 70 million tumans—the value of the stock of any medium-size store for spare parts—it would be impossible to overthrow a powerful government whose daily expenditures amount to hundreds of millions of tumans. If the Prosecutor chooses to label the Baha'i administration as a network of espionage, let him at least consider it intelligent enough not to plan the overthrow of such a strong regime by hoarding a few spare parts! Yes, such allegations of corruption and subversion are similar to those hurled against us at the time of the Episcopalian case in Isfahan when this oppressed community was accused of collaboration with foreign agents, as a result of which seven innocent Baha'is of Yazd were executed. Following this the falsity of the charges was made known and the Prosecutor announced the episode to be the outcome of a forgery.

Baha'is are accused of collecting contributions and transferring sums of money to foreign countries. How strange! If Muslims, in accordance with their sacred and respected spiritual beliefs, send millions of tumans to Karbala, Najaf and Jerusalem, or to other Muslim holy places outside Iran, to be spent on the maintenance and upkeep of the Islamic sacred shrines, it is considered very praiseworthy; but if a Baha'i—even during the time in which the transfer of foreign currency was allowed—sends a negligible amount for his international community to be used for the repair and maintenance of the holy places of his faith, it is considered that he has committed an unforgivable sin and it is counted as proof that he has done so in order to strengthen other countries.

Accusations of this nature are many but all are easy to investigate. If just and impartial people and God-fearing judges will only do so, the falsity of these spurious accusations will be revealed in case after case. The Baha'i community emphatically requests that such accusations be investigated openly in the presence of juries composed of judges and international observers so that, once and for all, the accusations may be discredited and their repetition prevented.

The basic principles and beliefs of the Baha'is have been repeatedly proclaimed and set forth in writing during the past five years. Apparently these communications, either by deliberate design or by mischance, have not received any attention, otherwise accusations such as those described above would not have been repeated by one of the highest and most responsible authorities. This in itself is a proof that the numerous communications referred to were not accorded the attention of the leaders; therefore, we mention them again.

The Baha'i Faith confesses the unity of God and the justice of the divine Essence. It recognizes that Almighty God is an exalted, unknowable and concealed entity, sanctified from ascent and descent, from egress and regress, and from assuming a physical body. The Baha'i Faith which professes the existence of the invisible God, the One, the Single, the Eternal, the Peerless, bows before the loftiness of His Threshold, believes in all divine Manifestations, considers all the Prophets from Adam to the Seal of the Prophets as true divine Messengers Who are the Manifestations of Truth in the world of creation, accepts Their Books as having come from God, believes in the continuation of the divine outpourings, emphatically believes in reward and punishment and, uniquely among existing revealed religions outside Islam, accepts the Prophet Muhammad as a true Prophet and the Qur'an as the Word of God.

The Baha'i Faith embodies independent principles and laws. It has its own Holy Book. It prescribes pilgrimage and worship. A Baha'i performs obligatory prayers and observes a fast. He gives, according to his beliefs, tithes and contributions. He is required to be of upright conduct, to manifest a praiseworthy character, to love all mankind, to be of service to the world of humanity and to sacrifice his own interests for the good and well-being of his kind. He is forbidden to commit unbecoming deeds. 'Abdu'l-Baha says: "A Baha'i is known by the attributes manifested by him, not by his name: he is recognized by his character, not by his person."

Shoghi Rabbani, the Guardian of the Baha'i Cause, says: ". . . a person who is not adorned with the ornaments of virtue, sanctity, and morality, is not a true Baha'i, even though he may call himself one and be known as such."

He also says: "The friends of God . . . are required to be virtuous, well-wishers, forbearing, sanctified, detached from all except God and free from worldly concerns. They are called upon to manifest divine attributes and characteristics."

The teachings and laws of the Baha'i religion testify to this truth. Fortunately, the books and writings which have been plundered in abundance from the homes of Baha'is and are available to the authorities, bear witness to the truth of these assertions. Baha'is, in keeping with their spiritu-

al beliefs, stay clear of politics; they do not support or reject any party, group or nation; they do not champion or attack any ideology or any specific political philosophy; they shrink from and abhor political agitation. The Guardian of the Baha'i Cause says, "The followers of Baha'u'llah under whatever state or government they may reside should conduct themselves with truthfulness, fidelity, trustworthiness and absolute virtue. . . . They neither thirst for fame nor clamor for leadership. They neither indulge in flattery, nor practice hypocrisy, nor are they impelled by selfish ambition or the desire to accumulate wealth. They are not anxious to attain high ranks and positions, nor are they the bond-slaves of titles and honors. They abhor every form of ostentation and are far removed from the use of such methods as would entail violence or coercion. They have detached themselves from all else save God and have fixed their hearts upon the unfailing promises of their Lord. . . . They have become forgetful of their own selves and have dedicated themselves to that which will serve the interests of humanity. . . . They unhesitating refuse such functions and posts as are political in nature, but wholeheartedly accept those that are purely administrative in character. For the cardinal aim of the people of Baha is to promote the interests of the whole nation. . . .

"Such is the way of the followers of Baha, such is the attitude of the spiritually-minded, and whatsoever else is but manifest error."

Also, Baha'is, in accordance with their exalted teachings, are duty bound to be obedient to their government. Elucidating this subject, Shoghi Rabbani says: "The people of Baha are required to obey their respective governments, and to demonstrate their truthfulness and good will towards the authorities. . . . Baha'is, in every land and without any exception should . . . be obedient and bow to the clear instructions and the declared decrees issued by the authorities. They must faithfully carry out such directives."

Baha'i organizations have no aim except the good of all nations and do not take any steps that are against the public good. Contrary to the conception it may create in the mind because of the similarity in name, it does not resemble the current organizations of political parties; it does not interfere in political affairs; and it is the safeguard against the involvement of Baha'is in subversive political activities. Its high ideals are "to improve the characters of men; to extend the scope of knowledge; to abolish ignorance and prejudice; to strengthen the foundations of true religion in all hearts; to encourage self-reliance, and discourage false imitation; . . . to uphold truthfulness, audacity, frankness, and courage; to promote craftsmanship and agriculture; . . . to educate, on a compulsory basis, children of both sexes; to insist on integrity in business transactions; to lay stress on the observance of honesty and piety; . . . to acquire mastery and skill in the modern sciences and arts; to promote the interests of the public; . . . to obey outwardly and inwardly and with true loyalty the regulations enacted by state and government; . . . to honor, to extol and to follow the example of those who have distinguished themselves in science and learning. . . ." And again, ". . . to help the needy from every creed or sect, and to collaborate with the people of the country in all welfare services.

In brief, whatever the clergy in other religions undertake individually and by virtue of their appointment to their positions, the Baha'i administration performs collectively and through an elective process.

The statements made by the esteemed Prosecutor of the Revolution do not seem to have legal basis, because in order to circumscribe individuals and deprive them of the rights which have not been denied them by the Constitution, it is necessary to enact special legislation, provided that legislation is not contradictory to the Constitution. It was hoped that the past recent years would have witnessed, on the one hand, the administration of divine justice—a principle promoted by the true religion of Islam and prescribed by all monotheistic religions—and, on the other, and coupled with an impartial investigation of the truths of the Baha'i Faith, the abolition or at least mitigation of discrimination, restrictions and pressures suffered by Baha'is over the past 135 years. Alas, on the contrary, because of long-standing misunderstandings and prejudices, the difficulties increased immensely and the portals of calamity were thrown wide open in the faces of the long-suffering and sorely oppressed Baha'is of Iran who were, to an even greater degree, deprived of their birthrights through the systematic machinations of Government officials who are supposed to be the refuge of the public, and of some impostors in the garb of divines, who engaged in official or unofficial spreading of mischievous and harmful accusations and calumnies, and issued, in the name of religious and judicial authorities, unlawful decrees and verdicts.

Many are the pure and innocent lives that have been snuffed out; many the distinguished heads that have adorned the hangman's noose; and many the precious breasts that became the targets of firing squads. Vast amounts of money and great quantities of personal property have been plundered or confiscated. Many technical experts and learned people have been tortured and condemned to long-term imprisonment and are still languishing in dark dungeons deprived of the opportunity of placing their expertise at the service of the Government and the nation. Numerous are the self-sacrificing employees of the Government who spent their lives in faithful service but who were dismissed from work and afflicted with poverty and need because of hatred and prejudice. Even the owners of private firms and institutions were prevented from engaging Baha'is. Many privately-owned Baha'i establishments have been confiscated. Many tradesmen have been denied the right to continue working by cancellation of their business licenses. Baha'i youth have been denied access to education in many schools and in all universities and institutions of higher education. Baha'i university students abroad are deprived of receiving money for their education, and others who wish to pursue their studies outside Iran have been denied exit permits. Baha'is, including the very sick whose only hope for cure was to receive medical treatment in specialized medical centers in foreign lands, have been prevented from leaving the country. Baha'i cemeteries have been confiscated and bodies rudely disinterred. Numerous have been the days when a body has remained unburied while the bereaved family pleaded to have a permit issued and a burial place assigned so that the body might be decently buried. As of today, thousands of Baha'is have been divested of their homes and forced to live as exiles. Many have been driven from their villages and dwelling places and are living as wanderers and stranded refugees in other parts of Iran with no other haven and refuge but the Court of the All-Merciful God and the loving-kindness of their friends and relatives.

It is a pity that the mass media, newspapers and magazines, either do not want or are not allowed to publish any news about the Baha'i community of Iran or to elaborate upon what is happening. If they were free to do so and were unbiased in reporting the daily news, volumes would have been compiled describing the inhumane cruelty to and oppression of the innocent. For example, if they were allowed to do so, they would have written that in Shiraz seven courageous men and ten valiant women—seven of whom were girls in the prime of their lives—audaciously rejected the suggestion of the religious judge that they recant their faith, at least, dissemble their belief, and preferred death to the concealment of their faith. The women, after hours of waiting with dried lips, shrouded themselves in their chadurs, kissed the noose of their gallows, and with intense love offered up their souls for the One Who proferreth life. The observers of this cruel scene might well ask forgiveness for the murderers at Karbala, since they, despite their countless atrocities, did not put women to the sword nor harass the sick and infirm. Alas, tongues are prevented from making utterance and pens are broken and the hidden cause of these brutalities is not made manifest to teach the world a lesson. The Prosecutor alleges that they were spies. Gracious God! Where in history can one point to a spy who readily surrendered his life in order to prove the truth of his belief?

Unfortunately it is beyond the scope of this letter to recount the atrocities inflicted upon the guiltless Bahai's of Iran or to answer, one by one, the accusations levelled against them. But let us ask all just and fair-minded people only one question: If, according to the much-publicized statements of the Prosecutor, Baha' is are not arrested and executed because of their belief, and are not even imprisoned on that account, how is it that, when a group of them is arrested and each is charged with the same "crime" of "spying", if one of them recants his belief, he is immediately freed, a photograph of him and a description of his defection are victoriously featured in the newspapers, and respect and glory are heaped upon him? What kind of spying, subversion, illegal accumulation of goods, aggression or conspiracy or other "crime" can it be that is capable of being blotted out upon the recantation of one's beliefs? Is this not a clear proof of the absurdity of the accusations?

In spite of all this, the Baha'i community of Iran, whose principles have been described earlier in this statement, announces the suspension of the Baha'i organizations throughout Iran, in order to establish its good intentions and in conformity with its basic tenets concerning complete obedience to the instructions of the Government. Henceforth, until the time when, God willing, the misunderstandings are eliminated and the realities are at last made manifest to the authorities the National Assembly and all local spiritual assemblies and their committees are disbanded, and no one may any longer be designated a member of the Baha'i Administration.

The Baha'i community of Iran hopes that this step will be considered a sign of its complete obedience to the Government in power. It further hopes that the authorities—including the esteemed Prosecutor of the Islamic Revolution who says that there

is no opposition to and no enmity towards individual Baha'is, who has acknowledged the existence of a large Baha'i community and has, in his interview, guaranteed its members the right to live and be free in their acts of worship—will reciprocate by proving their good intentions and the truth of their assurances by issuing orders that pledge, henceforth:

1. To bring to an end the persecutions, arrests, torture and imprisonment of Baha'is for imaginary crimes and on baseless pretexts, because God knows—and so do the authorities—that the only "crime" of which these innocent ones are guilty is that of their beliefs, and not the unsubstantiated accusations brought against them;

2. To guarantee the safety of their lives, their personal property and belongings, and their honor;

3. To accord them freedom to choose their residence and occupation and the right of association based on the provisions of the Constitution of the Islamic Republic;

4. To restore all the rights which have been taken away from them in accordance with the groundless assertions of the Prosecutor of the Country;

5. To restore to Baha'i employees the rights denied them by returning them to their jobs and by paying them their due wages;

6. To release from prison all innocent prisoners;

7. To lift the restrictions imposed on the properties of those Baha'is who, in their own country, have been deprived of their belongings;

8. To permit Baha'i students who wish to continue their studies abroad to benefit from the same facilities that are provided to others;

9. To permit those Baha'i youth who have been prevented from continuing their studies in the country to resume their education;

10. To permit those Baha'i students stranded abroad who have been deprived of foreign exchange facilities to receive their allowances as other Iranian students do;

11. To restore Baha'i cemeteries and to permit Baha'is to bury their dead in accordance with Baha'i burial ceremonies;

12. To guarantee the freedom of Baha'is to perform their religious rites; to conduct funerals and burials including the recitation of the Prayer for the Dead; to solemnize Baha'i marriages and divorces, and to carry out all acts of worship and laws and ordinances affecting personal status; because although Baha'is are entirely obedient and subordinate to the Government in the administration of the affairs which are in the jurisdiction of Baha'i organizations, in matters of conscience and belief, and in accordance with their spiritual principles, they prefer martyrdom to recantation or the abandoning of the divine ordinances prescribed by their faith;

13. To desist henceforth from arresting and imprisoning anyone because of his previous membership in Baha'i organizations.

Finally, although the order issued by the Prosecutor of the Islamic Revolution was unjust and unfair, we have accepted it. We beseech God to remove the dross of prejudice from the hearts of the authorities so that aided and enlightened by His confirmations they will be inspired to recognize the true nature of the affairs of the Baha'i community and come to the unalterable conviction that the infliction of atrocities and cruelties upon a pious band of wronged ones, and the shedding of their pure blood, will stain the good name and injure the prestige of any nation or government, for what will, in truth, endure are the records of good deeds, and of acts of justice and fairness, and the names of the doers of good. These will history preserve in its bosom for posterity.

Respectfully,

NATIONAL SPIRITUAL ASSEMBLY
OF THE BAHA'IS OF IRAN.

● Mrs. JOHNSON. Mr. Speaker, it is with great concern that I rise to speak today about the Iranian Government's continued persecution of the Baha'i community. Although the Baha'is have encountered persecution from the inception of their faith, the current wave of violence aimed at annihilation, overladens the attempts of the past in the scale and severity of the attacks on the Baha'i community. A 1982 report from the Minority Rights Council in London, written by Roger Cooper, states:

There is clear evidence that the authorities are condoning and in some cases initiating the terror and repression against Baha'is, involving physical violence, imprisonment, economic sanction and other pressures, that have already caused widespread suffering. . . . . The government, far from denying the allegations, instead defends its actions and inactions, in a variety of other ways. . . . the similar circumstances of different cases and particularly the annihilation of the community's leadership, make what is happening look increasing like a coordinated plan. Even if it is not, . . . the result is the same: a green light for fanatics to practice pogroms and harassment, which are placing immense pressure on Baha'is to recant their faith and covert . . . to Islam.

The attempts by the Iranian Government to justify these horrible acts by claiming the Baha'is are enemies of the people, tools of whatever superpower is in disfavor at the moment, would be laughable for their transparency were it not for the tragedy they obscure.

Mr. Speaker, I hope that the dedicated attempts of individual citizens, human rights groups, and other organizations both public and private, to bring this issue to the forefront will encourage our Government to take an active role in making an appeal to the Iranian Government to cease in its efforts to destroy this religious minority, who wish nothing more than to practice their own faith. As an elected representative for a country founded on the belief, that all people should be free to practice the religion of their choice. I feel an obligation to speak out against such outrageous persecution, for in the end, it is the silence of the knowledgeable that is the most condemning.●

● Mr. FISH. Mr. Speaker, last September this Congress passed a concurrent resolution condemning the persecution of the Baha'i community in Iran. The situation has not improved. Therefore, I come before this Chamber to once again express my alarm and dismay over this continuing repression.

The Baha'is pose no threat to Ayatollah Khomeini, Government officials, or the Iranian Government. In fact, inherent to their religion is the tenet that they should in no way subvert the laws of the country in which they are living. They are a peaceful people who wish only to be left to themselves and be allowed to work toward the fundamentals of their faith: The unity of mankind, equality of race and sex, world peace, and world order. Yet, the current Islamic regime has recently begun a new wave of anti-Baha'i terror. Many innocent people have been executed, including 10 women, 3 of whom were teenage girls. In addition to torture and daily harassment, thousands have lost their jobs and their pensions, and many have left Iran, becoming homeless refugees.

Mr. Speaker, such atrocities will continue against the Baha'is in the weeks and months to come. However, their suffering can be alleviated if public opinion and this Congress expresses its indignation in the strongest terms possible. I urge my colleagues to join me in condemning the Ayatollah Khomeini and the Iranian leadership. A ruthless reign of terror must not, and cannot, be ignored.●

● Mr. GEJDENSON. Mr. Speaker, it is with regret that I find it necessary today to join with my colleagues in cosponsoring legislation which firmly denounces the Iranian Government's adoption of laws that threaten the Baha'i religious community. It is unfortunate that Congress must once again address this problem, but I am pleased by our fervor in pursuing the matter.

The Baha'is make up the largest religious minority in Iran and are the only religion that is not recognized by the constitution of the Islamic revolution. Baha'is are therefore precluded from any protection under the law, including civil rights and basic human liberties. Baha'is in Iran now cannot work in government, own property, vote or travel freely. Their weddings go unrecognized, and if they live together, they can be accused of indulging in prostitution, a capital offense in Iran. Baha'i children are considered illegitimate and are barred from attending school.

On August 29, Iran's attorney general banned as criminal acts all Baha'i teaching and organized religious activities including election of local and national leaders, meeting in assemblies, and "giving information to others."

Like the Nuremberg laws, the new edict establishes "legal" grounds for mass arrests and genocide. Unfortunately, that is exactly what we have seen. In the last 3 years over 150 Baha'is, virtually all of them belonging to the leadership, have been exe-

cuted on various trumped up charges. The latest executions occurred on June 16 and 18 in Shiraz, where 6 men and 10 women, including 2 teenage girls, were hanged.

The time has come for the Iranian Government to end this senseless persecution. We, as Members of Congress, must do our part to try to persuade the Khomeini regime to alter its ways. As bad as the situation in Iran is today, we have reason to believe that constant world attention is the only thing that has prevented even greater atrocities. Therefore, I once again ask your support for this timely and important resolution.●

● Mr. LEACH of Iowa. Mr. Speaker, I am pleased to join with my distinguished colleagues, Mr. PORTER, Mr. YATRON, and Mr. LANTOS, in introducing a resolution which once again calls national and international attention to the continued brutal persecution of the Baha'i religious community in Iran.

During the past year since Congress first adopted a resolution, Senate Congressional Resolution 73 condemning the Iranian persecution of the Baha'is, the executions, arrests, and imprisonments of innocent men and women have continued unabated. The hanging of several teenage Baha'i women this past summer for their courageous refusal to recant their faith added a new dimension to the horrors which have been heaped upon this peaceful religious community. Appeals for mercy from President Reagan and others in the international community have fallen on deaf ears. The death toll, which now exceeds 150, has continued to rise while others—perhaps some 200—languish in Iranian prisons. The property of other Baha'is has been confiscated, some have lost their jobs, cemeteries have been desecrated, and thousands have been forced to live as exiles, after losing their homes or being driven from their villages.

And, as if this ongoing tragedy were not already too much to bear, this campaign of persecution took a new and particularly ominous turn on August 29 when the Prosecutor General of Iran issued an edict which brands Baha'i membership as a crime and bans Baha'i religious and spiritural administration, thus effectively prohibiting such activities as religious teaching, and assemblies.

Iranian authorities, it seems safe to say, are hell-bent on destroying the Baha'i community and must be put on notice that such actions are in defiance of international law and human decency and are crimes for which they will bear full responsibility. Not only does internationally law explicitly protect the right to life, but provisions in the International Covenant on Civil and Political Rights, to which Iran is a party, specifically protect the right to freedom of religion as well as the right for religious minorities to profess and practice their religion in community with other members of their group. The actions of the Iranian Government demonstrate no respect for these or other provisions of international law.

In "An Open Letter," recently sent by the Baha'i community in Iran to some 2,000 Iranian Government officials and prominent personages, a moving account of the atrocities which these people have suffered is laid out and false accusations against the Baha'is for "spying" are effectively refuted. That letter closes with a bold challenge to the Iranian Government in which the Baha'i community announced the "suspension of the Baha'i organizations throughout Iran, in order to establish its good intentions and in conformity with its basic tenets concerning complete obedience to the instructions of the Government." With their announcement, they issue a challenge to the government to reciprocate by bringing the executions, torture, and imprisonment to an end and permitting them to once again practice their religion. The letter closes with this poignant passage:

> . . . Although the order issued by the Prosecutor of the Islamic Revolution was unjust and unfair, we have accepted it. We beseech God to remove the dross of prejudice from the hearts of the authorities so that aided and enlightened by His confirmations they will be inspired to recognize the true nature of the affairs of the Baha'i community and come to the unalterable conviction that the infliction of atrocities and cruelties upon a pious band of wronged ones, and the shedding of their pure blood, will strain the good name and injure the prestige of any nation or government, for what will, in truth, endure are the records of good deeds, and of acts of justice and fairness, and the names of the doers of good.

Mr. Speaker, one stands in awe at the courage of these innocent people who dare to so confront their persecutors. Such faith, in the ultimate triumph of good and truth, is an inspiration to all who stand outside as witnesses to their suffering. In the civilized world of the 20th century, such shameless barbarism as that in which the Iranian Government is engaged defies comprehension. The United States and other law abiding nations of the international community must demand, in stronger terms than ever, that the shedding of innocent blood in Iran cease.●

● Mr. WAXMAN. Mr. Speaker, I urge every Member of the House to cosponsor the resolution introduced today which condemns the Iranian Government's continuing persecution of the Baha'is.

Immediately after the 1979 Islamic revolution in Iran, the new government began a systematic campaign of persecution against the members of the Baha'i faith. At least 150 Baha'is, including most of the religious leaders, have been murdered and hundreds more have been imprisoned. Free societies throughout the world have denounced Iran's barbarous treatment of the Baha'is, but we fear that the magnitude of the crimes against them will continue to intensify.

Unlike the other minority religious in Iran, the Baha'is have no constitutional protections. Therefore, they can be and have been subject to rules that do not affect other Iranian citizens. Baha'i adults are not allowed to work and their children have been prohibited from attending school. Retired Baha'is are no longer entitled to the pensions they have earned. The government has seized the property and money of the Baha'is and has desecrated and destroyed their religious institutions and holy places. It is impossible to exaggerate the significance of these acts.

Yet, while the Khomeini regime has left the Baha'is destitute, it will not permit them to leave the country.

The leaders of Iran insist that this is a political battle, that the Baha'is belong to a heretic religious sect dedicated to the overthrow of Islam. We know that they are persecuted solely because of their religious beliefs. Baha'is are forbidden by their faith from participating in partisan politics or from holding political posts. They believe that the basic principles of their faith are in harmony with the teachings of Islam.

We cannot stop the persecution and the killings in Iran. But we can join the rest of the world in continued protest of Iran's brutal crimes against humanity. We also must continue to give asylum to the Baha'is who manage to escape from Iran.●

● Mr. LANTOS. Mr. Speaker, today, my distinguished colleagues, Mr. PORTER, Mr. YATRON, Mr. LEACH, and I introduced a resolution in the House which condemns the Iranian Government's actions against the Baha'i and urges the President to take appropriate action to discourage persecution and provide humanitarian assistance to this persecuted group. Mr. HEINZ, of Pennsylvania, with several of his colleagues, is introducing a similar bill in the other body.

Mr. Speaker, we are introducing yet another resolution decrying the barbarous actions of the Iranian Government against the Baha'i for yet new outrages against humanity. This is not the first piece of legislation to be introduced in the Congress on this tragic problem, and unfortunately, I fear that it will not be the last.

We have been successful in some of our efforts to draw attention to the plight of the Baha'i, but atrocities continue, and more attention is obviously required. Our only weapon now is publicity.

It is particularly significant that the injustices that we are addressing today are being waged against a group like the Baha'is. They are pacifist; they publicly maintain their nonpolitical nature. It is also significant that the Baha'is are not making demands for political representation or other forms of power sharing which could be considered unpalatable to a sovereign nation.

In response to the Iranian Government's decree of last August outlawing the Baha'is as a group, the National Spiritual Assembly of the Baha'is of Iran drafted an open letter. One of the important points made in the letter demonstrates what the Baha'is stand for: "We request the freedom to conduct religious activities—funerals, marriages, laws affecting the personal affairs only of the Baha'i." The letter further states: "Baha'is are entirely obedient and subordinate to the government."

At the same time, however, the Baha'is unequivocally state that "they prefer martyrdom to recantation or the abandoning of the divine ordinances prescribed by their faith."

There are now 150 martyrs in this tragic struggle—individuals who have been executed in Iran during the last 3 years. We must take every possible action to see that there are no more.

Keep in mind that the battle we are now fighting is a battle for publicity. The House has already passed legislation on the Baha'i and the President has spoken out on this issue. We have seen the intransigence of the Government of Iran toward efforts made by this country. With this in mind, however, let us continue to fight now for widespread attention to the desperate cause of these persecuted people.●

● Mr. FRANK. Mr. Speaker, we are by now familiar with the repressiveness and intolerance of the Khomeini regime in Iran. One of the most appalling instances of this has been the treatment of the Baha'i community. I have spoken out against it in the past, as have other Members of this body. The administration has also been highly critical of these human rights abuses, and I commend the administration for its outspokenness. I would like to take the opportunity on the occasion of this special order to congratulate the administration for a recent action that it has taken on behalf of the Baha'is.

The U.S. Government recently proposed three men for the job of interpreter at the Iran-United States Claims Tribunal in the Hague. One of these men, Mohebatullah Ahdiyyih, was a member of the Baha'i faith. The Iranians objected to Mr. Ahdiyyih "on constitutional grounds," undoubtedly a reference to the fact that the Iranian constitution provides no legal guarantee for the Baha'is, as it does for the Jews and Christians. The Shi'ite clergy regularly denounce Baha'ism as heresy, and the Iranian Government has proclaimed that the Baha'is do not constitute a religion but are only a political conspiracy against the Iranian regime.

The president of the Tribunal, in accordance with the Iranian complaint, declined to hire Mr. Ahdiyyih. The U.S. representative has correctly criticized that decision, for it, in essence, is an acquiescence in the religious discrimination which has unfortunately become so routine in Iran.

Mr. Speaker, the fact that human rights abuses have become commonplace in Iran and so many other places is no reason why any international body should countenance such abuses. To do so might seem to give them some measure of legitimacy. I support the stand of the administration. It should encourage the Members of this body who, like myself, have argued that this Nation can afford to take the moral high ground and should act vigorously in support of human rights wherever they are ignored.

And we must remember, Mr. Speaker, that the complaint against Mr. Ahdiyyih itself pales in significance compared to the large-scale campaign being conducted against his fellow Baha'is in Iran. Hundreds of Baha'is have been executed and thousands have been otherwise persecuted on trumped-up charges of "Zionism," espionage, and so forth. Now that the Iranian Government has proclaimed all Baha'i practices to be illegal, it will no doubt be even easier for the regime to harass the Baha'i community. The Baha'is are fully justified in regarding the recent proclamation as a prelude to genocide. Mr. Speaker, we cannot be silent in the face of such an outrage, and I am very pleased that the administration has not been.●

● Mr. YATRON. Mr. Speaker, an outraged America watches the Khomeini regime level its hatred and repression against yet another victim. This time the Iranian Government is not parading U.S. hostages before our eyes; it has instead turned its wrath on its own citizens. The victims are innocent people who ascribe to a religion which advocates principles such as the unity of mankind, the equality of all races and of men and women, and universal peace. They are Baha'is. To the ayatollah, they are infidels.

The faith of the Baha'is is their crime—a crime dictated by a government that harasses and kills them. But now, Iran has dared to take even harsher measures against this religious community. The Prosecutor General of the Islamic Revolution declared that the continued functioning of the Baha'i religious and spiritual administration is banned. Members will be executed, arrested, or imprisoned. The persecution of the Baha'is will not only continue in Iran, it will be escalated.

President Reagan issued a personal appeal to the Iranian Government for the lives of 6 men and 10 women—including 3 teenaged girls—on May 17, 1983. These individuals were subsequently executed. Congress passed a concurrent resolution last September condemning Iran's actions, but our protests were ignored. Today we express, once again, our contempt for the genocide occurring in Iran and demand that this terror against the Baha'is end. The United States must continue its leadership role in denouncing these murders, and urge the worldwide community to speak out against these outrages being perpetrated against the Baha'is.

The Baha'i community of Iran asks only for the right to live and be free in their acts of worship. They want the persecutions, arrests, torture, and imprisonment for imaginary crimes to end. The safety of their lives, their residences, their jobs, and their honor is at stake. By supporting this resolution, we can help to provide the hope they desperately need to withstand this tyranny.

I commend the gentleman from Illinois, the original sponsor of this legislation in the House, for his dedication and perseverance. The international human rights community also thanks him for his noble efforts.●

● Mr. STARK. Mr. Speaker, almost 2 years ago, I stood here in this Chamber and expressed my horror and disbelief at the actions of the Iranian Government toward the Baha'is of Iran. Those actions continue, 2 years later.

Since 1978, the Baha'is of Iran have suffered an increase in repression and oppression from the Iranian Government. Although the Baha'is of Iran have always been the subject of persecution, these last 5 years have been particularly horrible. In response to this, I have introduced two pieces of legislation in this Congress designed to aid the Baha'is in overcoming this persecution. I hope that we can look forward to action on these initiatives.

But, Mr. Speaker, the most important thing we can do for the Iranian Baha'is is to show the Iranian Government that we are watching them. We are watching, and we are keeping track of their actions in this area. We may have already saved some lives by our concern in that area; we must continue our vigil in the hope that we may save more lives.

It is only through the conscience of the rest of the world that we will succeed in altering the genocide taking place in Iran. We must show the Iranian Government that by all human standards their deeds are unacceptable. We must show them that we have no intention of allowing them to

continue their abominable actions. We must show them that we will not forget.●

GENERAL LEAVE

Mr. PORTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject of my special order.

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

There was no objection.

□ 1950

CONSULTATIONS ON REFUGEE ADMISSIONS PROGRAM, FISCAL YEAR 1984

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 5 minutes.

● Mr. RODINO. Mr. Speaker, the Refugee Act of 1980 (Public Law 96-212) requires the President to consult with Congress prior to the beginning of each fiscal year on his proposals for refugee admissions for the coming year.

In the following letter dated September 16, 1983, the U.S. Coordinator for Refugees forwarded the President's recommended refugee ceilings and allocations for fiscal year 1984 as a basis for consultations with the Congress:

U.S. COORDINATOR,
FOR REFUGEE AFFAIRS,
Washington, D.C. September 16, 1983.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives.

DEAR MR. CHAIRMAN: In accordance with the Refugee Act of 1980 and in preparation for the Congressional consultations on FY 84 refugee admissions to the United States, I have the pleasure to forward the President's letter of September 16, 1983, authorizing his representatives to consult on an FY 84 admissions ceiling of seventy-two thousand (72,000) refugees worldwide.

Sincerely,

H. EUGENE DOUGLAS,
Ambassador-at-Large.

THE WHITE HOUSE,
Washington, D.C., September 16, 1983.

Memorandum for the Honorable H. Eugene Douglas, U.S. Coordinator for Refugee Affairs.

Subject: Fiscal Year 1984 Refugee Consultations.

I have reviewed the Senior Interagency Group recommendations on proposed consultation levels for FY '84 refugee admissions and have approved the following ceilings for the consultations with Congress: up to 50,000 East Asian refugees and up to 22,000 refugees from other regions. The latter level shall include 12,000 for Eastern Europe/Soviet Union; 6,000 for the Near East/South Asia; 3,000 for Africa; and 1,000 for Latin America/Caribbean. I have also approved a level of up to 5,000 for aliens granted asylum in the United States to adjust to permanent resident alien.

Consultations with the Congress should be completed as promptly as possible to allow for a final determination, taking into account Congressional views.

RONALD REAGAN.

Adhering to the two-tier consultation format used in prior years, as chairman of the Committee on the Judiciary, I scheduled on September 20, 1983 a closed meeting between designated consultative congressional members and administration officials and a public hearing before the full committee.

As background information for members of the committee, the following tables were distributed reflecting refugee admissions ceilings and actual arrivals for fiscal year 1981, fiscal year 1982, and fiscal year 1983; the "Estimated Costs of Refugee Movement to and Resettlement in the United States for fiscal year 1983 and fiscal year 1984;" and the "U.S. Contributions to International Refugee Situations, fiscal year 1983 and fiscal year 1984."

REFUGEE ADMISSIONS CEILINGS AND ACTUAL ARRIVALS

Geographic area	Fiscal year 1981		Fiscal year 1982		Fiscal year 1983	
	Authorized ceiling	Actual admissions	Authorized ceiling	Actual admissions	Authorized ceiling	Estimated actual admissions
Africa	3,000	2,119	3,500	3,356	3,000	2,800
East Asia	165,600	131,139	96,000	73,522	64,000	37,500
Eastern Europe	6,900	6,704	11,000	10,780	[1] 15,000	[1] 14,500
Soviet Union	33,000	13,444	20,000	2,756		
Laitin America	4,000	2,017	3,000	579	3,000	700
Near East/South Asia	4,500	3,829	6,500	6,304	6,000	5,000
Totals	217,000	159,252	140,000	97,297	90,000	60,500

[1] Beginning in fiscal year 1983, there is a combined ceiling for Eastern European and Soviet Union refugees.

ESTIMATED COSTS OF REFUGEE MOVEMENT TO AND RESETTLEMENT IN THE UNITED STATES—FISCAL YEAR 1983 AND FISCAL YEAR 1984

[Dollars in millions]

Agency	1983 program total cost	1984		1984 total
		Arrivals		
		1984	Prior	
DEPARTMENT OF STATE				
Bureau for refugee programs:				
Volags' services overseas	$16.2	$20.5		$20.5
Language/orientation programs overseas	11.1	10.4		10.4
Transportation loans	33.0	46.6		46.6
Reception and placement agreements	32.0	39.5		39.5
Subtotal	92.3	117.0		117.0
DEPARTMENT OF HEALTH AND HUMAN SERVICES				
Office of Refugee Resettlement: [1]				
State administered programs	512.1	121.8	338.6	460.4
Voluntary agency programs	4.0	4.0		4.0
Preventive health	6.1	8.4		8.4
Federal administration	6.4	6.6		6.6
Subtotal	528.6	140.8	338.6	479.4
Other HHS: [2]				
Aid to families with dependent children	109.7	12.7	78.3	91.0
Medicaid	64.4	7.3	45.2	52.5
Supplemental security income	15.1	1.6	11.4	13.0
Subtotal	189.2	21.6	134.9	156.5

ESTIMATED COSTS OF REFUGEE MOVEMENT TO AND RESETTLEMENT IN THE UNITED STATES—FISCAL YEAR 1983 AND FISCAL YEAR 1984—Continued

[Dollars in millions]

Agency	1983 program total cost	1984 Arrivals 1984	1984 Arrivals Prior	1984 total
Department of Agriculture: [2] Food stamps	208.4	24.9	128.7	153.6
Grand total	1,018.5	304.3	602.2	906.5

[1] Includes funds for refugee assistance only. Cuban/Haitain entrant funds that are appropriated for use by ORR are not included.
[2] Includes cost estimates only for refugees' first 36 months in the United States.

U.S. CONTRIBUTIONS TO INTERNATIONAL REFUGEE SITUATIONS, FISCAL YEAR 1983 AND FISCAL YEAR 1984

	Fiscal year— 1983 estimate as of August 25	1984 appropriation request
United Nations High Commissioner for Refugees (UNHCR):		
Africa	$47,300,000	$40,000,000
East Asia: Indochinese	20,500,000	11,700,000
East Asia: Orderly departure program	400,000	[1]
Latin America	11,000,000	11,000,000
Near East and South Asia: Pakistan	23,000,000	28,000,000
Other	1,000,000	1,000,000
UNHCR subtotal	103,200,000	91,700,000
United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA)	69,750,000	72,000,000
Refugees resettling in Israel	12,500,000	12,500,000
International Committee of the Red Cross (ICRC):		
Ordinary budget	2,000,000	2,000,000
Africa	9,900,000	6,300,000
East Asia: Khmer relief	2,000,000	2,000,000
Latin America: El Salvador	3,000,000	2,000,000
Near East and South Asia: Pakistan	1,000,000	1,000,000
Political detainees	1,750,000	1,750,000
Other	1,730,000	
ICRC subtotal	21,380,000	15,050,000
Other:		
Africa: Special projects	10,000,000	6,500,000
East Asia: Khmer relief (UNBRO)	9,300,000	7,000,000
Other	620,000	1,000,000
Near East and South Asia: Pakistan	2,000,000	2,000,000
Intergovernmental Committee for Migration (ICM)	5,320,000	5,150,000
Resettlement projects	7,200,000	7,000,000
Other subtotal	34,440,000	28,650,000
Administration [2]	7,562,000	7,600,000
Subtotal: Refugee program	[3] 248,832,000	227,500,000
Other assistance:		
Food for Peace (Public Law 480, title II)	65,700,000	75,000,000
Grand total	314,532,000	302,500,000

[1] To be funded within the UNHCR/East Asia line item.
[2] Portions of these funds are associated with the costs of refugee admissions and resettlement.
[3] The fiscal year 1983 supplemental appropriations legislation transfers $15,000,000 to the International Disaster Assistance Account in AID for projects in Africa, and $5,000,000 to the Economic Support Fund (AID) for the antipiracy program in the Gulf of Thailand from refugee program appropriations.

Administration officials who appeared before the full committee in public session on September 20, 1983 in support of the President's recommendations were: H. Eugene Douglas, Ambassador-at-Large, U.S. Coordinator for Refugee Affairs; Alan C. Nelson, Commissioner, Immigration and Naturalization Service, Department of Justice; James N. Purcell, Director, Bureau of Refugee Programs, Department of State; and Phillip Hawkes, Director, Office of Refugee Resettlement, Department of Health and Human Services.

After considering the testimony of administration witnesses at both the closed and open meetings, the consultative members expressed their views in the following two letters:

COMMITTEE ON THE JUDICIARY,
Washington, D.C., September 23, 1983.

The PRESIDENT,
The White House
Washington, D.C.

DEAR MR. PRESIDENT: We have completed the consultative process mandated by P.L. 96-212, the Refugee Act of 1980, with regard to refugee admissions and allocations for FY 1984 as recommended by you and transmitted to us by the U.S. Coordinator for Refugee Affairs, Ambassador H. Eugene Douglas.

Your proposal calls for a ceiling of 72,000 refugees to be allocated as follows: up to 50,000 from East Asia, 12,000 from Eastern Europe/Soviet Union, 6,000 from the Near East/South Asia, 3,000 from Africa and 1,000 from Latin America/Caribbean.

We are pleased to advise you that we interpose no objections to the numbers and allocations as recommended. We, however, wish to reiterate, as in the past, that these numbers should be considered as celings rather than goals. Furthermore, should there be any need to reallocate refugee numbers between regions during the fiscal year, we would respectfully request that we be consulted on any such reallocation.

It would be appreciated if the U.S. Coordinator for Refugees would keep us advised on a monthly basis on the progress of the FY 1984 refugee admissions program.

Sincerely,

PETER W. RODINO, JR.,
Chairman, Committee on the Judiciary.

DANIEL E. LUNGREN,
Ranking Minority Member, Subcommittee on Immigration, Refugees, and International Law.

ROMANO L. MAZZOLI,
Chairman, Subcommittee on Immigration, Refugees, and International Law.

COMMITTEE ON THE JUDICIARY,
Washington, D.C., September 28, 1983.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: After reviewing the Administration's proposal for FY 1984 refugee admissions, I recommend a world-wide ceiling of 83,000 (compared with the proposed 72,000 figure) to allow adjustments in the Administration's suggested allocations for East Asia and Eastern Europe/Soviet Union. An 83,000 figure represents a 7,000 reduction compared with the FY 1983 ceiling of 90,000.

I applaud your policy of attempting over the next two fiscal years, in concert with other receiving nations, to substantially reduce the Indochinese refugee camp population of approximately 192,000. The FY 1984 allocation for East Asia will have to accommodate approximately 15,000 Indochinese refugees who already have been approved (in FY 1983) for admission to the United States but are undergoing recently lengthened English language and cultural orientation training programs abroad. The remaining 35,000 will have to accommodate persons coming under the Orderly Departure Program. The large numbers of refugees in transit, the administrative difficulties in screening refugees earlier in this fiscal year, and the continuing flows of refugees (estimated at 30,000 for next year) justify an allocation of 58,000 for East Asia (compared with the proposed figure of 50,000). A 58,000 allocation represents a 6,000 reduction compared with the FY 1983 allocation of 64,000.

The allocation for Eastern Europe and the Soviet Union, in my judgment, should remain at 15,000 (the FY 1983 allocation) because actual admissions this year have approximated this figure. A lower allocation of 12,000, in my judgment, would reduce the flexibility of our refugee program in that part of the world.

Sincerely,

HAMILTON FISH, JR.,
Ranking Minority Member.

Mr. Speaker, on October 12, 1983, the U.S. Coordinator for Refugee Affairs informed me of the President's determination in the matter. This document sets forth the refugee admissions and allocations program for fiscal year 1984.

U.S. COORDINATOR
FOR REFUGEE AFFAIRS,
Washington, D.C., October 12, 1983.

Hon. PETER W. RODINO, JR.,
House of Representatives.

DEAR MR. CHAIRMAN: I have the honor to inform you that the President has formally approved the admission to the United States of up to seventy-two thousand refugees in fiscal year 1984.

A copy of Presidential Determination 83-11 is attached to this letter.

I wish to express the Administration's gratitude for the advice and cooperation extended to us during the consultation process.

Sincerely,

H. EUGENE DOUGLAS,
Ambassador-at-Large.

[Presidential Determination No. 83-11]

THE WHITE HOUSE,
Washington, D.C., October 7, 1983.

Memorandum for the Honorable H. Eugene Douglas, U.S. Coordinator for Refugee Affairs.

Subject: Fiscal Year Refugee Ceilings.

In accordance with the relevant statutes and after appropriate consultations with the Congress, I have determined that:

The admission of up to 72,000 refugees to the United States during FY 1984 is justified by humanitarian concerns or is otherwise in the national interest;

The 72,000 worldwide refugee admission ceiling shall be allocated among the regions of the world as follows: 50,000 for East Asia; 12,000 for the Soviet Union/Eastern Europe; 6,000 for the Near East/South Asia; 3,000 for Africa; and 1,000 for Latin America/Caribbean; and

An additional 5,000 refugee admissions numbers shall be made available for the adjustment to permanent residence status of aliens who have been granted asylum in the United States, as this is justified by humanitarian concerns or is otherwise in the national interest.

In accordance with provisions of the Immigration and Nationality Act and after appropriate consultations with the Congress, I specify that special circumstances exist such that, for the purposes of admission under the limits established above, the following persons, if they otherwise qualify for admission, may be considered refugees of special humanitarian concern to the United States even though they are still within their countries of nationality or habitual residence:

Persons in Vietnam with past or present ties to the United States; and

Present and former political prisoners, and persons in imminent danger or loss of life, and their family members, in countries of Latin America and the Caribbean.

You will inform the appropriate Committees of the Congress of these determinations.

This memorandum shall be published in the Federal Register.

RONALD REAGAN.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ANTHONY) is recognized for 5 minutes.

● Mr. ANTHONY. Mr. Speaker, I was necessarily absent on yesterday, Monday, November 14. Had I been present I would have voted as indicated:

Rollcall No. 491, ordering a second; "yes".

Rollcall No. 492, motion to adjourn; "no".

Rollcall No. 493, motion to adjourn; "no".

Rollcall No. 494, H.R. 3635 under suspension; "yes".

Rollcall No. 495, H.R. 3729 under suspension; "yes".

Rollcall No. 496, S. 376 under suspension; "yes".

Rollcall No. 497, H.R. 1095 under suspension; "yes".

Rollcall No. 498, H.R. 29 under suspension; "yes".

Rollcall No. 499, H.R. 3249 under suspension; "yes".

Rollcall No. 500, House Concurrent Resolution 190 under suspension; "yes".

Rollcall No. 501, House Concurrent Resolution 168 under suspension; "yes".●

VOTE ON THE EQUAL RIGHTS AMENDMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. GLICKMAN) is recognized for 5 minutes.

● Mr. GLICKMAN. Mr. Speaker, I will vote for the equal rights amendment when we vote later today. I have been a cosponsor of this amendment in each Congress to which I have been elected. The language of the amendment is very straightforward, and it embodies a principle in which I strongly believe. It is fully consistent with the concepts on which this Nation of ours is based. As I have told any number of people who have raised questions about the amendment, my father, my son, and I are clearly included in the Constitution; I think it is important that my wife, my mother, and my daughter be clearly included as well.

Still, Mr. Speaker, I have concerns about the procedure being used here today. Amending the Constitution of this country was intentionally designed to be a cumbersome and slow-moving process; that was to assure that all points of view are fully considered and that any language that is added to that basic law of our land is carefully crafted and understood. While I support the amendment as written and voted against the various amendments offered in the Judiciary Committee last week, I have reservations about the decision to bring this resolution to the floor under suspension of the rules. On the other hand, I do know that this amendment is not a new idea. It has been in the works for decades and has been sent by the Congress to the States for ratification before. Also, several earlier constitutional amendments have been approached using the suspension procedure in the past. Therefore, I will vote for the ERA today, as I have in the past, but the procedure we are using is not in the best tradition of this House.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California, (Mr. TORRES) is recognized for 5 minutes.

● Mr. TORRES. Mr. Speaker, I was not present for House proceedings on Monday, November 14, 1983. I was meeting with constituents and groups

in my district. Had I been present on the House floor, I would have cast my votes in the following manner:

Rollcall No. 491, on agreeing to order a second (280-0); "yes."

Rollcall No. 492, on a motion to adjourn (121-258); "no."

Rollcall No. 493, on a motion to adjourn (100-261); "no."

Rollcall No. 494, passage of H.R. 3635, Child Protection Act (400-1); "yes."

Rollcall No. 495, passage of H.R. 3729, Refugee Assistance Act (300-99); "yes."

Rollcall No. 496, passage of S. 376, Debt Collection Act (397-3); "yes."

Rollcall No. 497, passage of H.R. 1095, 369th Veterans Association (406-0); "yes."

Rollcall No. 498, passage of H.R. 29, Polish Legion of Vets (404-0); "yes."

Rollcall No. 499, passage of H.R. 3249, National Academy of Public Administration, Charter (401-2); "yes."

Rollcall No. 500, passage of House Concurrent Resolution 190, Satellite-Directed Navigation (402-0); "yes."

Rollcall No. 501, passage of House Concurrent Resolution 168, Weather Satellite Systems (377-28); "yes."

Rollcall No. 502, on adjournment (240-156); "yes."●

THE EQUAL RIGHTS AMENDMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. SCHUMER) is recognized for 5 minutes.

● Mr. SCHUMER. Mr. Speaker, as a member of the Judiciary Committee and the Subcommittee on Civil and Constitutional Rights, I have participated in the many hearings that have been held on the ERA. In considering it, several questions have come up concerning its impact on private religious schools and military service exemptions. I have listened carefully to all the testimony. Also, I have discussed these issues at length with Hon. PETER W. RODINO, the chairman of the committee and Hon. DON EDWARDS, the chairman of the subcommittee and, as their statements below indicate, they agree that the following statements are correct.

It is my understanding that under the doctrine of State action or any othe doctrine the ERA would not apply to private instances of discrimination in private religious schools. None of the following would cause ERA to be invoked in the instance of a private parochial school: regulation, licensing, or record-keeping requirements; tax-exempt status; receipt of Federal or State funds; student financial aid programs; or provision of nonreligious textbooks, school transportation, or meal subsidies. Thus, a private parochial school such as a Catholic school or a Yeshiva that receives Federal or State aid in the ways that I have described would not be required to conform to the ERA. This is also the understanding of Mr. RODINO and Mr. EDWARDS.

It is also my understanding that the ERA would not require the coeducation of a private religious educational or charitable institution in order to maintain a tax exemption and Mr. RODINO and Mr. EDWARDS agree that this is the case.

Finally, the ERA would not alter the military service exemption granted to individuals based on genuinely held religious belief. For example, an Orthodox Jewish woman would be granted an exemption where an Orthodox Jewish man would not because this is in accord with the Orthodox Jewish religion. This is also the understanding of Mr. RODINO and Mr. EDWARDS.

I was going to make these remarks part of the record of debate but because the ERA was scheduled on the suspension calendar there was no time. I therefore would like this to be made part of the record.

Mr. Speaker, I urge support of the ERA.●

● Mr. RODINO. Mr. Speaker, my colleague from New York has described some of the major questions that arose during the committee debate on House Joint Resolution 1 last week. I have reviewed the remarks of the gentleman and, based on my reading of the committee record and the hearings held by the Subcommittee on Civil and Constitutional Rights, I believe that the gentleman's analysis of the issues he raises is correct.●

● Mr. EDWARDS of California. Mr. Speaker, I would like to associate myself with the remarks of the gentleman from New York and the gentleman from New Jersey, the chairman of the House Judiciary Committee.●

A TRIBUTE TO DR. WILLIAM L. MEDALIE

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

Mr. OBERSTAR. Mr. Speaker, today Dr. William Medalie celebrates his 90th birthday. What is unusual about that event is that Bill Medalie showed up today at his dental office for regular practice. He was probably feted by his associates with a birthday cake, did his hand calisthenics, put in a good day's work and returned home to his wife, Mona, this afternoon.

Bill Medalie has been in dental practice for 64 years. He was my hometown dentist in Chisholm, Minn., where he began his practice and where he lived most of his years. He is a dear and gentle soul, a kind man, an understanding person, who practiced from the earliest days of dentistry to the most modern of today's technology. He spanned generations. He brought together nationalities, diverse people, many of them unlettered in their earlier years, saw them, their children and their children's children grow up, raise families, go on to other pursutis in life.

He persists because of his warm and gentle humanity in the hearts of all those in Chisholm, even though he has moved to another part of our State.

Today he was paid tribute in the Minneapolis Star and Tribune by a beautiful and warm article on his life's pursuit.

Mr. Speaker, I close my remarks by wishing a very happy birthday to Bill Medalie, many more to him and to his wife, Mona, and son, Ricky.

The Minneapolis Star and Tribune article is as follows:

[From the Minneapolis Star and Tribune, Nov. 15, 1983]

DR. WILLIAM L. MEDALIE—A TRIBUTE

(By Jim Klobuchar)

His first patients were immigrant miners who sometimes came to his office wearing red-smudged work clothes of the iron ore pits and barely disguised expressions of terror.

They were diggers and hard-living men. Nobody gave them an orientation course on what to expect when they walked into a dentist's office.

Whatever they expected, they found William Medalie, in a place and role that might have flabbergasted the relatives he left behind in the Jewish settlements of Latvia on the fringe of then-czarist Russia.

In 1919 he was a precise little man of 26 in his first year out of dental college, confidently—he insists today—handling his instruments and trying to calm the wary miners in five or six languages, all of which he knew better than English.

Polish or Russian, German or Yiddish or Hebrew he could handle. If they were Italian or Yugoslavian, he shrugged and worked fast.

Some of them had tempers and practically all of them had tender gums.

Somebody will light a candle on his birthday cake in a dental office at 2120 Nicollet Ave. this morning, invite him to put down his gadgets for a while and remember the first 90 years of the life of William Medalle, family dentist.

How many years?

The figure is correct; 90, and still practicing.

Can we see your hands, William Medalie?

"Sure, why not," the little old man says. "They don't move a muscle. Not even a twitch. My patients have never complained."

You could put a carpenter's level on William Medalie's hands, and the bubble would freeze.

He's a smiling gnome, a little slouched to be sure, still with an accent, never able or willing to forget the old country, his mind still bright as a ruby. But the grace of his gentle old age, the fragile but enduring vitality in his face, somehow gives a silent narration of the whole 20th century in the life of America.

In it you can read immigrant zeals and conflicts; struggling to make it; later the or-

thodoxy of success; the comfort and maturity it brought.

Does it also tell about a 90-year-old dentist who still calls his stockbroker three times a day, or one who is beguiled by the prospect of real estate as a good second career when he hits 100?

Not everything is orthodox about William Medalie.

Five days a week he drives to work in his Malibu, after kissing his wife goodbye and performing an exercise.

Hand calisthenics. He learned about calisthenics nearly 70 years ago when they put him in a U.S. Army uniform for a couple of months and stationed him at Camp Dodge, Iowa, on the theory that America's corn crop needed William Medalie's protection. On second thought, they released him back to dental school, but he never forgot the exercises.

"I have been doing it a little bit each morning every day since then," he said. "I can still make dentures very well and fill teeth, but extracting maybe that's for younger men."

He didn't say how young. But there are two dentists a third his age to handle the gripping stuff in his office.

His regular patients, particularly the middle-aged women, adore the gentleman, plain and simple.

"He's easy and fun," explained Noel Korengold, the office's business manager. "He never stops wanting to please people and make them comfortable. A lot of younger people who come in prefer younger dentists, but he still has his clientele. Monday morning he'll come in here second-guessing the football game.

He left Latvia with a brother when he was 16 in 1909. They went to Chisholm on the Iron Range because he had uncles running clothes shops there and their letters said: "It's true. This is the land of opportunity."

It wasn't immediately recognizable as such to William Medalie because the town burned down a year before he got there. They put him in third grade for a few weeks because he couldn't speak English. He learned frantically, but well. The families moved to Gilbert a little later. One of the relatives opened a candy store, and another said, "come in with me and learn the business."

"But school was everything for me," the old man remembers.

Schooling included American football for a kid a few years removed from the czar's eastern Europe. "I don't know how to play," the kid told the coach. "When you see somebody carrying the ball," the coach said, "tackle him."

The game should have such blunt clarity Sundays on the TV screen.

He was a clarinet player, acted in school plays, edited the yearbook and—you can't really be surprised—graduated as the high school valedictorian in 1913. He came out of Minnesota dental school six years later and for 30 years practiced in Buhl and Chisholm.

In 1922 he married Mona. She was a young dentist in Odessa, Russia, and left during the revolution but didn't have the license to work in the United States. So he hired her as an assistant ("she was so meticulous, she would have been a marvelous dentist") and married her a year later. He practiced so long ago they still used a treadle to power the drill.

In the Depression he kept his patients on the books for years after they were treated. But finally they got work, and almost always they paid. When his son, now a lawyer, came to the Twin Cities to study, William and Mona moved to St. Louis Park. He maintained an office there until he was 70, and then moved into the city. Two years ago he attended a seminar, still learning dentistry at 88.

"They said retire. I bought some lots in Florida years ago, but why should I retire? Am I going to play golf eight hours a day? Watch the leaves? You stay young, and maybe you can stay good, working with people. Outside of my family and being a dentist, I have gone the places where my heart was, places in the Jewish community. I never smoked so I never got nervous, and I kept doing those little calisthenics."

He will open a bottle of wine on his 90th birthday.

"A moderate drink," he said.

"Mogen David."

What else?

STUDY OF 1982 EFFECTIVE TAX RATES OF SELECTED LARGE U.S. CORPORATIONS

(Mr. PEASE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEASE. Mr. Speaker, the 1982 study of effective tax rates for U.S. corporations has just been completed by the Joint Committee on Taxation with assistance from the Government Accounting Office at the request of myself and Congressman DORGAN.

This is our second annual study and this year the study's conclusions are drawn from 3-years of statistics. I believe the work on this project is superior and the results are provocative. I intend to use this information as the Ways and Means Committee addresses tax policy questions during the rest of the 98th Congress.

This study demonstrates again the need for immediate action to stem the erosion of our tax base and to make our tax code more equitable. With these goals in mind, I am planning to offer an amendment to H.R. 4170, the Tax Reform Act of 1983, which will raise revenue to meet the fiscal 1984 budget resolution target, when this bill is brought to this House floor. It includes a provision proposing an alternative minimum tax for corporations.

Copies of the study in its entirety can be obtained from my office at 1127 Longworth.

The study follows:

STUDY OF THE 1982 EFFECTIVE TAX RATES OF SELECTED LARGE U.S. CORPORATIONS

INTRODUCTION

This study presents 1982 effective corporate income tax rates, by industry. It is based on the annual reports of selected large corporations within each industry. It includes a comparison of 1982 effective tax rates with prior years' rates. Effective tax rates, the ratio of income tax expense to income before tax, are computed for each company studied; the industry rate is then computed from the weighted average of the tax rates for the companies within the industry.

In annual financial statements corporations disclose net income before tax, income tax expense and net income after tax. The income tax expense (or provision for taxes) is separated into two parts—current and deferred. Current income tax expense represents taxes currently payable on book income; deferred income tax expense is treated as a current year's expense for financial reporting purposes, but it represents a liability for taxes which will be payable in some future year, or years. Deferred taxes generally result from differences in the timing of income recognition or deductions allowed under the rules for computing book income and those for computing taxable income. (The total amounts ultimately allowed are equal under the two sets of rules.) Cost recovery deductions for equipment are an example of such an item.

In this study, tax rates are computed by comparing reported current tax expense with net income before tax. This approach differs from other studies which compute effective tax rates by matching the taxes paid with the income on which the tax is imposed. The difference between these approaches arises because income is not necessarily reported on financial statements in the same period as the taxes imposed on that income. Because this study compares current tax expense with net income before tax as reported to shareholders, it does not address the complex problems that arise when taxes paid are matched with the income on which the tax is imposed.

Taxes paid are measured by current tax expense rather than by the total provision for taxes because deferred taxes often roll over from one year to the next, and in a period of growth or inflation are paid, if ever, in the distant future. The actual burden of each dollar of deferred tax liability, therefore, is less than actual burden of each dollar of current tax liability and will depend upon the period of deferral and prevailing interest rates. In effect, by assuming that deferred taxes represent zero tax liability, the true tax burden is understated to the extent that the present value of the deferred tax liability is positive (i.e., to the extent that some tax will be paid in the future). Primarily because of this treatment of deferred taxes, the tax rates in this study differ from those in corporate financial statements or from studies of effective tax rates computed from published data which exclude no, or only a portion, of deferred taxes from the measure of taxes used to compute the tax rate.

Where data to separate foreign and domestic earnings are available, a foreign tax rate on foreign income and a U.S. rate on U.S. income is computed in addition to the worldwide rate on worldwide income.

In some instances an effective tax rate is not shown for an industry because, for a number of reasons, the rate may be misleading. Generally rates are not shown when there is an aggregate book loss or when rates are clearly abnormal.

This report covers 213 companies selected from the Fortune 500 Industrial and the Fortune Service 500. Industrials are grouped, generally, by the Standard Industrial Classification Code numbers (SIC Codes). Each company is included in the industry or service group which represents the greatest volume of sales for that company; the companies are, in most cases, the largest companies in the industry. A few exceptions to this method of selection and classification of companies were made this year to provide additional groupings that we

consider useful (e.g., mining and construction).

This study was prepared at the request of Congressmen Donald J. Pease (Ohio) and Byron L. Dorgan (North Dakota) by the staff of the Joint Committee on Taxation, with the assistance of staff from the General Accounting Office.

COMPARISON OF EFFECTIVE TAX RATES

1982 effective tax rates by industry

The corporations included in this study have an average worldwide tax rate of 29.6 percent in 1982, a U.S. tax rate of 16.1 percent, and a foreign tax rate of 55.0 percent (Table 1).

The worldwide tax rates on worldwide income vary widely among industries from negative 2.5 percent for insurance companies to 59.6 percent for rubber companies. Four industries have effective tax rates of less than 10 percent (aerospace, insurance, telecommunications, and railroads).

The telecommunications industry, which has more than 10 percent of total worldwide income and a very low worldwide rate (2.3 percent), has a particularly significant impact on the aggregate rate. This group is dominated by AT&T, which by itself has more than 10 percent of aggregate worldwide income and which has a low effective rate.[1] If just this one company, AT&T, is excluded from the sample, the average worldwide rate for all remaining companies would increase from 29.6 percent to 32.8 percent and the U.S. rate would increase from 16.1 percent to 18.9 percent. There are, of course, other large companies, particularly in the petroleum industry, that have a significant impact on the weighted average rate. But since none of these have an abnormally low rate, they do not, individually, affect the aggregate as much as AT&T.

The unusually high rate of 59.6 percent for rubber companies can be explained partially by the method of aggregation used this year. Companies with a positive tax expense are included in the totals even if they incur a book loss. This method increases the effective tax rate for the group and may result in apparently abnormal rates in any one year; but despite the potential for distortion over a short period, this method provides a better measure of the tax burden for the industry over longer periods of time. If loss companies were excluded from the group, the rubber industry rate would be less unusual, 46.2 percent, rather than 59.6 percent. (The U.S. rate would be 26.9 percent rather than 39.0 percent.) Another reason for the high rates in this group are book losses with no related tax benefit. For example, the effective tax rate for Firestone, as shown in the annual report, is increased by 10.4 percentage points by such losses.

Insurance companies were included in diversified financials in the staff's study of effective tax rates for 1981 but are separated into a new group in 1982. This group of companies does not necessarily represent the whole insurance industry, however, for two principal reasons. First, many of the largest insurance companies are mutual, rather than stock, companies which do not publish comparable data. Second, like other industries in this study, the insurance industry is represented by a small sample of companies: five companies that represent less than 15 percent of total companies in the insurance industry based upon asset size.

Not only is the rate computation difficult because of the differences between stock and mutual companies, it is complicated further by differences in types of insurance. Life insurance products are different from property and casualty insurance products, and quite different tax rules apply. For tax purposes, life insurance reserve deductions are based on the discounted value of future claims, whereas property and casualty reserve deductions are taken at the undiscounted cost of future payments. In addition, life companies must treat certain amounts credited to policyholders as being funded proportionately out of taxable and tax-exempt income, whereas property and casualty companies get the full benefit of tax-exempt income. As a result, property and casualty companies tend to generate tax losses which are used to offset the life insurance companies' taxable income in consolidated returns. Furthermore, because many of the largest life insurance companies are mutuals and are therefore excluded from this study, the effective tax rates are more heavily weighted by the property and casualty component of the insurance industry.

The negative current tax provision (a refund due) for the insurance group is due in part to Aetna's and Transamerica's negative provisions for tax. Reasons for the negative provision, as disclosed in Aetna's annual reports, include carrybacks of investment tax credits and capital losses to prior years, and a book adjustment for the taxes of unconsolidated subsidiaries. Consolidation of life insurance taxable income with property and casualty losses contribute to Transamerica's large negative current provision. Thus, even though all life insurance companies paid approximately $2 billion in taxes in 1982, it is not inconsistent that this study reflects a low (or negative) rate due to the effects of consolidation with property and casualty companies, carryovers and the exclusion of mutual companies.

The U.S. income tax rates on U.S. income vary between negative 17.7 percent for chemicals to 39.0 percent for rubber. Seven industries had effective tax rates of less than 10 percent (aerospace, broadcasting, chemicals, financial institutions, insurance, telecommunications, and railroads).

Industries which show a book loss (worldwide and U.S.), for the companies included in the sample, include metal manufacturing, mining, motor vehicles, and airlines. While motor vehicles incurred a book loss, the group had a positive worldwide tax expense, primarily due to substantial foreign tax expense.

The U.S. rates are almost all lower than the worldwide rates—some significantly lower. For example, chemicals have a 47.3 percent worldwide rate but a negative 17.7 percent U.S. rate. Financial institutions have a 24.3 worldwide rate but a negative 3.8 percent U.S. rate. The reasons for the large differences in rates between the worldwide rate and the U.S. rate have not been analyzed for particular industries. However, extensive foreign operations, with the utilization of foreign tax credits, appear to result in a low U.S. rate relative to the worldwide rate. Both the chemical industry and financial institutions derived more than 75 percent of their worldwide income from foreign sources.

Industry groups include companies whose greatest volume of sales lie within that group. Often a company included in one industry group has substantial activities in one or more other groups. Hence the tax rates for an industry in the data often reflect the effects of tax rules relating to other, often quite different, industries. For example, Sears is included in the retail industry because more of its sales income is from retailing than from insurance or financial services.[2] But because of the special tax provisions that apply to insurance, Sears' effective tax rate is lower than it would be if Sears were a retailer only. In addition, because Sears is so large, the weighted average for the whole retail group is substantially lower than it would be without Sears' insurance operations. It is not possible, generally, to calculate a separate effective tax rate for separate activities within one company; therefore, we cannot calculate Sears' rate for retailing alone to eliminate the effect of insurance tax provisions on the "retail" rate. But the effective worldwide rate for retailers computed by excluding Sears is 27.1 percent—5.5 percentage points higher than the rate shown (21.6 percent including Sears). The U.S. rate for retailers is 26.1 percent without Sears compared to 20.4 percent with Sears in the group. It seems reasonable to assume that most of the difference in rates is due to Sears' insurance and other activities.

Another, somewhat similar, problem with classifying companies into broad categories is that even within a particular cateorgy (SIC code), some companies' business operations may be quite different from others in the same group. Using the retail industry as an example again, large retailers include department stores and food supermarkets who have quite different business operations (e.g., food supermarkets generally have a low gross profit on large turnover while department stores have a much higher gross profit on lower turnover). The effective worldwide rate for the food supermarkets alone is 28.0 percent compared with 21.6 percent for the whole group (or 27.1 percent without Sears).

Typically, corporations file a consolidated income tax return with any wholly owned finance subsidiary, even when, under the accounting rules, the finance subsidiary is not included in consolidated financial statements. If a finance subsidiary generates significant tax benefits (e.g., from leasing), the tax expense as reflected in the parents' financial statements may be misleading; the tax expense on the consolidated tax return would be much lower. In this study, equity in the net earnings of wholly owned subsidiaries is eliminated from the parents' income, i.e., neither the income nor tax expense of the subsidiary is included in the tax rate computation. Because this treatment may be misleading in cases where the tax rate for the subsidiary is the significant-

[1] The California Public Utilities Commission ordered certain utilities, including a subsidiary of AT&T, to pay refunds to consumers, thereby rendering the utilities ineligible for accelerated depreciation and investment tax credits. In December 1982, Congress enacted legislation to clarify the eligibility for these tax benefits and to require tax payments based on amounts refunded to consumers. The net effect of recognizing the reestablished eligibility and the required tax payment was to reduce current tax expense by $885.2 million in 1982. Because of the size and unusual nature of this adjustment, the current tax expense used to compute the effective tax rate excluded this adjustment (i.e., current tax expense as reported was increased by $885.2 million). GTE was also affected by this legislation, but the tax expense was not adjusted because the amount applicable to the current rather than the total provision was not available.

[2] If companies were classified by net income, rather than gross sales, Sears would be classified as an insurance company.

ly different from the rate for the parent, a combined rate is computed for the parent and subsidiary. The pre-tax income of the subsidiary is added to the income of the parent, and the current tax expense of the subsidiary is added to the tax expense of the parent. The financial statements of the subsidiary are needed, however, to compute this combined rate. A combined rate was computed only when, from other information, it was clear that the subsidiary generated significant tax benefits, and when the financial statements were available. Thus, a combined rate may not have been computed in all cases where it was appropriate. A combined rate was computed for General Electric (GE) because of the significant tax benefits generated by GE's wholly owned subsidiary, General Electric Credit Corporation (GECC). As a result, GE's worldwide and U.S. rate in 1982 was reduced by over 20 percentage points by including GECC.

U.S. and worldwide tax rates, 1980–1982

There is no clear pattern of change in the tax rates over the period 1980 through 1982 for all industries. Some industry rates remain fairly constant, such as the financial institutions' worldwide rate (22.5 percent, 24.5 percent, and 24.3 percent for 1980, 1981, and 1982, respectively). The rates for other industries change substantially from year to year. For example, the U.S. rate for chemicals went from 13.7 percent in 1980 to 5.0 percent in 1981, to negative 17.7 percent in 1982.

By aggregating the income and taxes for the 3-year period, the effect of factors which tend to distort the rates in any one year are reduced (e.g., an unusual loss in a large company may distort the aggregate rate in one year, while it may not have a significant effect on the 3-year rate). Three-year rates are not available for all of the industries studied in 1982 because some new industries were added to the study in 1982 and other companies were grouped differently from the prior years. The meaning of such aggregate data, however, is obscured by the fact that the tax law was changed, in significant respects, during the 3-year period. Also, different companies were included in the industry group in differet years, which could cause the data to present a misleading indication of the true trend.

Of the industries for which data are available, railroads have the lowest worldwide rate of 2 percent for the period 1980–82, and trucking has the highest worldwide rate of 40.9 percent. Paper and wood products have the lowest, and only negative, U.S. rate (3.5 percent) for the 3-year period, while the highest U.S. rate is 40.3 percent for trucking. Five out of the 17 industries for which prior years' data are available had U.S. rates of less than 10 percent (aerospace, chemicals, financial institutions, paper and wood products, and railroads).

Average effective tax rates, 1980–1982

The U.S. rate on U.S. income declined from 21.8 percent in 1980 to 17.2 percent in 1981 and 16.1 percent in 1982. The worldwide rate declined from 34.3 percent in 1980 to 29.6 percent in 1981, but remained at the same level (29.6 percent) in 1982. These data should be interpreted cautiously as indicators of a true trend, since different companies were included in the data for different years.

Tax return vs. annual report tax rates, 1980

The effective tax rates in this study are computed for only a small number of the largest companies in selected industries. Do these rates fairly represent the Federal income tax burden of each industry given the problems in computing effective tax rates from financial statements? In order to shed some light on this question, an effort was made to compare the rates computed in this study with tax return data.

Solely for purposes of determining whether the effective tax rates in this study approximate the actual rate paid by an industry, an effective tax rate was computed for a few industries from the "Corporation Statistics of Income" data for 1980 (the most recent year available). The rate was computed by comparing U.S. tax liability plus foreign taxes paid (a measure of worldwide tax expense) with net income per books plus the provision for Federal income taxes (worldwide income). These rates differ from effective tax rates computed from annual reports in several important respects. Probably the biggest difference is that the tax return measure of "taxes paid" does not reflect any refunds. Another important difference is that net income per books is often not reported on the return, and even if reported is often incorrect.[3] Also, the consolidation rules for tax purposes are different from the accounting rules, so the taxable entity may not be the same as the financial statement entity. The final difference is that rates from income tax returns are computed only for firms with positive after-tax income and positive tax liability.

This study includes a comparison of the effective tax rates based on annual reports with the effective tax rates based on tax return data. Some of the rates computed by the two different methods are remarkably similar. For example, rates which differ by less than 1 percentage point include petroleum and coal products, which have a rate of 43.9 percent on tax returns compared with a 44.7 percent worldwide rate computed from 1980 annual reports.[4] Electric, gas, and sanitary services have a rate of 10.7 percent on tax returns compared with 10.9 percent for gas and electric utilities on financial statements.[5] Instruments and related products have a rate of 41.5 percent on tax returns compared with 40.7 percent in this study.

Several other rates differ by 5 percentage points or less. For example, general merchandise stores have a rate of 31.5 percent on tax returns compared with 30.3 percent for retailers on financial statements; food products' rate is 32.9 percent on tax returns compared with a rate of 37.6 percent for food processors on financial statements; the electric and electronic equipment industry rate is 32.5 percent on tax returns compared with electronics, appliances' rate of 27.5 percent on financial statements.

Some rates differ by larger margins. The rate for banking on tax returns is 15.4 percent compared with a 22.5 percent rate for financial institutions (this group includes only commercial banks) on financial statements. The rate for tobacco manufacturers is 45.2 percent on tax returns rather than 29.9 percent on financial statements for the tobacco group in this study.

Any comparison of rates computed for different samples using different methods must be used with caution. Flaws become more apparent when the rates for an industry are quite different under the two methods. For example, paper and allied products have a rate of 29.6 percent computed from the tax return data, but only a 7.0 percent rate computed from annual reports. While this may be due to refunds reflected in the annual report rate but not in the tax return rate, the difference needs explaining—and this is not possible without much more analysis.

Even though this comparison of rates computed from tax return data with rates computed from annual reports is inexact, one industry's tax rate relative to other industries' rates is generally the same under both methods. For example, utilities and banks pay lower rates of tax than the retailers or instrument companies. Thus, the rate computed from tax return data does provide support for the relative industry rates computed from annual reports in this study.

Trends in U.S. corporate taxes as percentage of Government receipts

Effective tax rates in this study are computed for only a small number of large companies, and aggregate rates are only available for 1980, 1981, and 1982. U.S. tax rates for these companies declined over this period. Does this decline in rates represent fairly an overall decline in the corporate Federal income tax burden? In an effort to answer this question, at least partially, the trend in rates based on this study is compared with the trend in corporate taxes as a percentage of Federal Government receipts.

Federal Government receipts for the period 1950 through 1982 by category—individual, corporate, indirect, and social security. Corporate taxes have declined steadily over the period from 28.3 percent of total receipts in 1950 to only 8.1 percent in 1982. Meanwhile, individual taxes have increased from 39.2 percent in 1950 to 49.0 percent in 1982, and contributions for social insurance have increased more rapidly from 13.1 percent in 1950 to 34.7 percent in 1982. If contributions for social insurance are excluded, receipts from personal taxes are 75 percent, corporate taxes 12.4 percent, and indirect taxes 12.6 percent of the total.

It appears that the decline in the effective rate of the federal corporate income tax has contributed to the reduced contribution of this tax to total federal receipts.

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[3] Firms that reported zero after-tax book income are excluded.

[4] 1980 rates computed from annual reports are as shown in Table 3. (Complete study available from the office of Congressman Pease.)

[5] The Edision Electric Institute prepares a "combined" income statement for over 100 investor-owned electric utilities. Effective tax rates computed from the current tax expense and book income shown on the combined statements are 8.9 percent in 1980, 10.2 percent in 1981, and 13.7 percent in 1982—rates that are all within 2 percent of the rates in this study and the income tax return rate in 1980.

TABLE I—FEDERAL INCOME TAX RATES BY INDUSTRY, 1982

[Dollar amounts in thousands]

	Income before tax			Current tax expense			Percent—		
	United States	Foreign	Worldwide	United States	Foreign	Worldwide	U.S. tax rate on U.S. income	Foreign tax rate on foreign income	Worldwide tax rate on worldwide income
Aerospace	$2,295,141	$416,243	$2,711,384	$(13,956)	$207,505	$193,549	(0.6)	49.9	7.1
Beverages	1,590,612	674,107	2,264,719	325,463	327,565	653,028	20.5	48.6	28.8
Broadcasting	784,065	123,101	907,166	69,760	54,472	124,232	8.9	44.2	13.7
Chemicals	1,191,400	3,832,800	5,024,200	(210,800)	2,584,900	2,374,100	(17.7)	67.4	47.3
Computers and office equipment	5,790,319	4,199,219	9,989,538	1,525,913	2,179,158	3,705,071	26.4	51.9	37.1
Construction	335,747	219,682	555,429	53,422	72,093	125,515	15.9	32.8	22.6
Electronics, appliances	4,329,753	1,820,752	6,150,505	617,199	698,067	1,315,266	14.3	38.3	21.4
Financial institutions	1,413,187	4,150,181	5,563,368	(54,137)	1,405,018	1,350,881	(3.8)	33.9	24.3
Food processors	2,412,720	966,581	3,379,301	761,940	469,818	1,231,758	31.6	48.6	36.5
Glass and concrete	(6,490)	201,897	195,407	(35,036)	69,986	34,950	(1)	34.7	17.9
Instruments	2,723,646	960,978	3,684,624	597,515	394,711	992,226	21.9	41.1	26.9
Insurance	1,339,534	32,000	1,371,534	(83,851)	49,161	(34,690)	(6.3)	(1)	(2.5)
Investment companies	1,155,762	531,800	1,687,562	246,512	146,886	393,398	21.3	27.6	23.3
Metal manufacturing	(1,882,979)	70,200	(1,812,779)	(200,793)	70,200	(130,593)	(1)	(1)	(1)
Metal products	458,132	230,096	688,228	138,400	156,270	294,670	30.2	67.9	42.8
Mining	(345,543)	29,007	(316,536)	(43,714)	33,450	(10,264)	(1)	(1)	(1)
Motor vehicles	(1,488,894)	543,967	(944,927)	(289,621)	525,187	235,566	(1)	(1)	(1)
Paper and wood	301,318	27,887	329,205	108,857	30,900	139,757	36.1	(1)	42.5
Petroleum refining	21,433,352	17,854,717	39,288,069	3,907,484	11,091,783	14,999,267	18.2	62.1	38.2
Pharmaceuticals	1,854,573	1,420,600	3,275,173	606,446	646,997	1,253,443	32.7	45.5	38.3
Retailing	3,418,987	206,761	3,625,748	699,044	85,874	784,918	20.4	41.5	21.6
Rubber	260,645	195,144	455,789	101,569	169,970	271,539	39.0	(1)	59.6
Soaps and cosmetics	1,929,911	578,135	2,508,046	641,835	310,106	951,941	33.3	53.6	38.0
Telecommunications	13,328,971	184,399	13,513,370	211,292	105,723	317,015	1.6	57.3	2.3
Tobacco	2,674,142	687,453	3,361,595	970,884	128,139	1,099,023	36.3	18.6	32.7
Transportation:									
Airlines	(619,492)	(123,160)	(742,652)	(48,428)	23,034	(25,394)	(1)	(1)	(1)
Railroads	1,689,859	.....	1,689,859	68,523	.....	68,523	4.1	.....	4.1
Trucking	837,646	4,495	842,141	309,310	4,308	313,618	36.9	(1)	37.2
Utilities (electric and gas)	5,502,269	.....	5,502,269	859,214	.....	859,214	15.6	.....	15.6
Wholesalers	911,570	96,354	1,007,924	329,319	14,019	343,338	36.1	14.5	34.1
Average, all companies	75,619,863	40,135,396	115,755,259	12,169,565	22,055,300	34,224,865	16.1	55.0	29.6

[1] Rate not computed. See "Methodology-Computation of Tax Rates."

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. LEWIS of California (at the request of Mr. MICHEL) on account of death in family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. RIDGE) to revise and extend their remarks and include extraneous material:)

Mr. FISH, for 10 minutes, today.

Mr. FISH, for 5 minutes, on November 16.

Mr. FISH, for 5 minutes, on November 17.

Mr. FISH, for 5 minutes, on November 18.

Mr. SMITH of New Jersey, for 30 minutes, today.

Mr. FRENZEL, for 30 minutes, today.

Mr. BEREUTER, for 5 minutes, today.

Mr. CARNEY, for 60 minutes, on November 17.

Mr. CARNEY, for 60 minutes, on November 18.

Mr. PORTER, for 60 minutes, today.

(The following Members (at the request of Mr. WYDEN) to revise and extend their remarks and include extraneous material:)

Mr. LAFALCE, for 10 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mrs. LLOYD, for 5 minutes, today.

Mr. GONZALEZ, for 30 minutes, today.

Mr. RODINO, for 5 minutes, today.

Mr. BONER of Tennessee, for 10 minutes, today.

Mr. ANTHONY, for 5 minutes, today.

Mr. GLICKMAN, for 5 minutes, today.

Mr. TORRES, for 5 minutes, today.

Mr. KASTENMEIER, for 5 minutes, today.

Mr. GAYDOS, for 60 minutes, on November 15.

Mr. GAYDOS, for 60 minutes, on November 16.

Mr. GAYDOS, for 60 minutes, on November 17.

Mr. GAYDOS, for 60 minutes, on November 18.

Mr. HALL of Ohio, for 20 minutes, today.

Mr. SHELBY, for 30 minutes, on November 16.

Mr. SCHUMER, for 5 minutes, today.

Mr. PEPPER, for 45 minutes, on November 16.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. HAMMERSCHMIDT, to revise and extend on House Joint Resolution 1.

Mr. LEVITAS, immediately before the vote on House Joint Resolution 1, in the House today.

Mr. COURTER, and to include remarks just prior to the vote on House Joint Resolution 1 in the House today.

Mr. CONTE just prior to the vote on House Joint Resolution 1 in the House today.

Mr. FRENZEL, just prior to the vote on House Joint Resolution 1 in the House today.

Mr. BILIRAKIS, just prior to the vote on House Joint Resolution in the House today.

Mr. SMITH of New Jersey, just prior to the vote on House Joint Resolution 1 in the House today.

Mr. NIELSON of Utah, to revise and extend his remarks on House Joint Resolution 1 just prior to the vote in the House today.

Mr. ROEMER, immediately preceding vote on House Joint Resolution 1.

Mr. VOLKMER, on House Joint Resolution 1, immediately prior to the vote.

Mrs. SMITH of Nebraska, on House Joint Resolution 1, immediately prior to the vote.

Mr. PEASE, and to include therein extraneous material, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,086.75.

Mr. YOUNG of Alaska, on H.R. 3486, immediately prior to the question being asked.

Mr. JEFFORDS, on H.R. 4198, immediately prior to vote.

(The following Members (at the request of Mr. RIDGE) and to include extraneous matter:)

Mr. BLILEY.

Mr. SAWYER.

Mr. GOODLING.

Mr. LEWIS of California in two instances.
Mrs. HOLT.
Mr. GUNDERSON in four instances.
Mr. CONTE.
Mr. DUNCAN.
Ms. FIEDLER.
Mr. LEACH of Iowa.
Mr. PRITCHARD.
Mr. MARRIOTT in three instances.
Mr. BILIRAKIS.
Mr. DANIEL B. CRANE.
Mr. BURTON of Indiana.
Mr. BROOMFIELD in three instances.
Mrs. VUCANOVICH.
Mr. WEBER.
Mr. KEMP in three instances.
Mr. BOEHLERT.
Mr. COURTER.
Mr. HILLIS.
Mr. MOORE.
Mr. FORSYTHE.
Mr. DAUB.
Mr. DANNEMEYER in two instances.
Mr. CLINGER.
Mr. CORCORAN.
Mr. DAVIS in two instances.
Mr. LAGOMARSINO.
Mr. SILJANDER.
Mr. MICHEL in two instances.
Mr. DREIER of California.
Mr. REGULA.
Mr. BEREUTER.
Mrs. SMITH of Nebraska.
Mr. MORRISON of Washington in two instances.
Mr. LOWERY of California.
Mr. FISH.
Mr. GILMAN in four instances.
Mr. PHILIP M. CRANE.
Mr. WOLF.
Mr. RINALDO.

(The following Members (at the request of Mr. WYDEN) and to include extraneous matter:)

Mr. ANDERSON in 10 instances.
Mr. GONZALEZ in 10 instances.
Mr. BROWN of California in 10 instances.
Mr. ANNUNZIO in six instances.
Mr. JONES of Tennessee in 10 instances.
Mr. BONER of Tennessee in five instances.
Mr. PEASE in two instances.
Mr. JACOBS in two instances.
Mr. DE LUGO in two instances.
Mr. FUQUA.
Mr. YATRON.
Mr. MILLER of California in two instances.
Mr. APPLEGATE.
Mr. DOWNEY of New York in three instances.
Mr. KOLTER in two instances.
Mr. BERMAN.
Ms. OAKAR.
Mr. SHELBY.
Mr. MINETA in two instances.
Mr. STOKES.
Mr. SKELTON.
Mr. ROE.
Mr. FLORIO.
Mr. UDALL.
Mr. GUARINI in three instances.
Mr. ROYBAL.
Mr. LEATH of Texas.
Mr. ECKART.
Mr. VOLKMER in two instances.
Mrs. BURTON of California in two instances.
Mr. BOUCHER.
Mr. FOWLER.
Mr. EVANS of Illinois in two instances.
Mr. LANTOS.
Mr. DELLUMS.
Mr. PATTERSON in two instances.
Mrs. SCHROEDER.
Mr. LONG of Louisiana.
Mr. SAM B. HALL, JR.
Mr. LUNDINE.
Mr. FAUNTROY.
Mr. BARNES.
Mr. DIXON.
Mr. WON PAT.
Mr. TORRES.
Mr. MATSUI.
Mr. SWIFT.
Mr. WHEAT.
Mr. NICHOLS in two instances.
Mr. AUCOIN.
Mrs. HALL of Indiana.
Ms. MIKULSKI.
Mr. BEDELL.
Mr. SCHEUER.
Mr. OBERSTAR in two instances.
Mr. OWENS.
Mr. MURTHA.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 452. An act to establish public buildings policies for the Federal Government, to establish the Public Buildings Service in the General Services Administration, and for other purposes; to the Committee on Public Works and Transportation.

BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. HAWKINS, from the Committee on House Administration, reported that that committee did on November 14, 1983, present to the President, for his approval, bills and joint resolutions of the House of the following title:

H.J. Res. 283. Joint resolution designating the week beginning November 6, 1983, as "National Disabled Veterans Week";

H.J. Res. 383. Joint resolution to designate the week beginning November 6, 1983, as "Florence Crittenton Mission Week";

H.J. Res. 408. Joint resolution designating November 12, 1983, as "Anti-Defamation League Day" in honor of the league's 70th anniversary;

H.R. 2910. An act to amend the act of November 2, 1966, regarding leases and contracts affecting land within the Salt River Pima-Maricopa Indian Reservation;

H.R. 3348. An act to honor Congressman Leo J. Ryan and to award a special congressional gold medal to the family of the late Honorable Leo J. Ryan; and

H.R. 3885. An act to provide for the restoration of Federal recognition to the Confederated Tribes of the Grand Ronde Community of Oregon, and for other purposes.

ADJOURNMENT

Mr. OBERSTAR. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 54 minutes p.m.), the House adjourned until tomorrow, Wednesday, November 16, 1983, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2137. A communication from the President of the United States, transmitting a request for supplemental appropriations for the fiscal year 1984 for the Department of Defense—military, pursuant to 31 U.S.C. 1107 (H. Doc. No. 98-133); to the Committee on Appropriations and ordered to be printed.

2138. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 5-76, "Prohibition of the Investment of Public Funds in Financial Institutions and Companies Making Loans to or Doing Business with the Republic of South Africa or Namibia Act of 1983," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

2139. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 5-77, "Alcoholic Beverage Control Act Amendments Act of 1983," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

2140. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 5-78, "Notaries Public Fee Act of 1983," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

2141. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

2142. A letter from the President, National Safety Council, transmitting a report on the audit of the Council's financial transactions for the fiscal year ended June 30, 1983; to the Committee on the Judiciary.

2143. A letter from the Adjutant General, United Spanish War Veterans, transmitting the proceedings of the stated convention of the 84th National Encampment, United Spanish War Veterans, Inc., held in Louisville, Ky., August 28 to September 2, 1982, pursuant to Public Law 77-249 (H. Doc. No. 98-132); to the Committee on Veterans' Affairs and ordered to be printed.

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. BROOKS: Commmittee on Government Operations. Report on improvements needed in the administration of the Javits-Wagner-O'Day Act (Rept. No. 98-546). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on the interrelationship of funding for the arts at the Federal, State, and local levels (Rept. No. 98-547). Referred to the Committee of the Whole House on the State of the Union.

Mr. STOKES: Committee on Standards of Official Conduct. Report on the matter of James C. Howarth (Rept. No. 98-548). Referred to the House Calendar.

Mr. ASPIN: Committee on Armed Services. S. 974. A bill to amend chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), to improve the quality and efficiency of the military justice system, to revise the laws concerning review of courts-martial, and for other purposes; with an amendment (Rept. No. 98-549). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee of conference. Conference report on H.R. 2780 (Rept. No. 98-550). Ordered to be printed.

Mr. WHITTEN: Committee of conference. Conference report on H.R. 3959 (Rept. No. 98-551). Ordered to be printed.

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. WIRTH (for himself, Mr. BROWN of Colorado, Mr. CHENEY, Mr. HANSEN of Utah, Mr. KOGOVSEK, Mr. KRAMER, Mr. LUJAN, Mr. MARRIOTT, Mr. NIELSON of Utah, Mr. REID, Mr. RICHARDSON, Mrs. SCHROEDER, Mr. SCHAEFER, Mr. SKEEN, and Mrs. VUCANOVICH):

H.R. 4388. A bill to grant the consent of the Congress to the Rocky Mountain low-level radioactive waste compact; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

By Mr. CARPER:

H.R. 4389. A bill to amend title II of the Social Security Act and the Internal Revenue Code of 1954 to repeal certain recently enacted provisions which create disincentives to judicial service by retired justices and judges; to the Committee on Ways and Means.

By Mr. EDWARDS of Oklahoma:

H.R. 4390. A bill to amend the Education Consolidation and Improvement Act of 1981 to require certain minimum standards of academic achievement and school administration, and for other purposes; to the Committee on Education and Labor.

By Mr. HARKIN (for himself and Mr. JEFFORDS):

H.R. 4391. A bill to apply a payment limitation on payments under the milk diversion program; to the Committee on Agriculture.

By Mr. MAVROULES (for himself and Mr. WILLIAMS of Montana):

H.R. 4392. A bill to provide for an accelerated program of research, development, and demonstration with respect to the production of electricity from magnetohydrodynamics, leading to the construction and operation of at least one major proof of concept demonstration project in connection with an existing electric powerplant, and for other purposes; to the Committee on Science and Technology.

By Mr. MRAZEK:

H.R. 4393. A bill to amend the Federal Water Pollution Control Act relating to permits for dredged or fill material; to the Committee on Public Works and Transportation.

By Mr. ROYBAL:

H.R. 4394. A bill to direct the Attorney General to study the problems of indigent, elderly immigrants who wish to return to their home countries but cannot afford to pay the transportation costs to do so; to the Committee on the Judiciary.

By Mr. SCHEUER (for himself, Mr. WAXMAN, and Mr. YOUNG of Florida):

H.R. 4395. A bill to regulate smoking on board passenger-carrying aircraft; to the Committee on Public Works and Transportation.

By Mr. SKELTON (for himself and Mr. VOLKMER):

H.R. 4396. A bill to authorize community relocation and business and employee protection in cases of toxic substance contamination; jointly, to the Committees on Energy and Commerce and Public Works and Transportation.

By Mr. VENTO:

H.R. 4397. A bill to provide that non-Federal interests shall pay an equitable share of the costs of water project feasibility studies conducted by the Corps of Engineers, the Bureau of Reclamation, and the Soil Conservation Service in order to encourage practical solutions to water resource problems and insure an orderly development of the Nation's water resources; jointly, to the Committees on Public Works and Transportation, Interior and Insular Affairs, and Agriculture.

By Mr. WOLF:

H.R. 4398. A bill to authorize the Secretary of Transportation to conduct a demonstration project involving restrictions on use of a portion of Interstate Highway 66 in the Commonwealth of Virginia; to the Committee on Public Works and Transportation.

By Mr. WOLF (for himself, Mr. BLILEY, and Mr. SISISKY):

H.R. 4399. A bill to amend title 23, United States Code with respect to the Richmond-Petersburg Turnpike, and U.S. Interstate 66; to the Committee on Public Works and Transportation.

By Mr. YATRON:

H.R. 4400. A bill in support of the Government of the Republic of Cyprus as the sole legitimate Government on Cyprus; to the Committee on Foreign Affairs.

By Mr. PHILIP M. CRANE:

H. Con. Res. 216. Concurrent resolution disapproving the Prohibition of the Investment of Public Funds in Financial Institutions and Companies Making Loans to or Doing Business with the Republic of South Africa or Namibia Act of 1983 passed by the City Council of the District of Columbia; to the Committee on the District of Columbia.

By Mr. FOWLER (for himself and Mr. AKAKA):

H. Con. Res. 217. Concurrent resolution endorsing the recommendations of the Solar System Exploration Committee for the continued exploration of the solar system by the United States; to the Committee on Science and Technology.

H. Con. Res. 218. Concurrent resolution endorsing the recommendations of the Astronomy Survey Committee for astronomical and astrophysical exploration and understanding during the 1980's; to the Committee on Science and Technology.

By Mr. MARLENEE (for himself, Mr. DAVIS, Mr. MCNULTY, Mr. STUMP, Mr. RAHALL, Mr. STENHOLM, Mr. HANSEN of Idaho, Mr. BOSCO, Mr. FIELDS, Mr. EVANS of Iowa, Mr. WILLIAMS of Montana, and Mr. ROBERTS):

H. Con. Res. 219. Concurrent resolution expressing the sense of the Congress that the Interstate Commerce Commission has not been exercising its statutory authority in a manner which adequately balances the interests of rail shippers and the public against the interests of rail carriers; to the Committee on Energy and Commerce.

By Mr. YATRON (for himself, Mr. ZABLOCKI, Mr. BROOMFIELD, and Mr. FASCELL):

H. Con. Res. 220. Concurrent resolution condemning the action of the so-called Turkish Federated State of Cyprus in declaring itself to be an independent state on Cyprus on November 15, 1983; to the Committee on Foreign Affairs.

By Mr. BROOMFIELD:

H. Res. 371. Resolution calling for determined U.S. opposition to illegal actions by the so-called Turkish Federation of Cyprus; to the Committee on Foreign Affairs.

By Mr. PHILIP M. CRANE:

H. Res.. 372. Resolution disapproving the action of the District of Columbia Council in approving the Prohibition of the Investment of Public Funds in Financial Institutions and Companies Making Loans to or Doing Business with the Republic of South Africa or Namibia Act of 1983; to the Committee on the District of Columbia.

By Mr. FISH (for himself, Mr. MICHEL, Mr. LOTT, Mr. CHENEY, Mr. FORSYTHE, Mr. STANGELAND, Mr. MORRISON of Washington, Mr. VANDER JAGT, Mr. BETHUNE, Mr. SHAW, Mr. KEMP, Mr. SENSENBRENNER, Mr. GEKAS, Mr. MCCOLLUM, Mr. SNYDER, Mr. SMITH of New Jersey, Mr. WALKER, Mr. HYDE, Mr. PARRIS, Mr. LUNGREN, Mr. LOWERY of California, Mr. GRAMM, Mr. DEWINE, Mr. LEVITAS, Mr. DANNEMEYER, Mr. KINDNESS, Mr. GINGRICH, Mr. RIDGE, Mr. TAUKE, Mr. RITTER, Mr. CHANDLER, Mr. DAVIS, Mr. LAGOMARSINO, Mr. TAUZIN, Mr. BEREUTER, and Mr. MOORE):

H. Res. 373. Resolution providing for the consideration of the joint resolution (H.J. Res. 1) proposing an amendment to the Constitution of the United States relative to equal rights for men and women; to the Committee on Rules.

By Mr. LELAND:

H. Res. 374. Resolution calling upon the U.S. Postal Service to designate the Houston Main Post Office Building in Houston, Tex., as the "Barbara C. Jordan Post Office Building"; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. DELLUMS introduced a bill (H.R. 4401) for the relief of Shu-Ah-Tsai Wei, her husband, Yen Wei, and their sons, Teh-fu Wei and Teh-huei Wei; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 54: Mr. GOODLING and Mr. BEDELL.
H.R. 433: Mr. FASCELL.
H.R. 470: Mr. MCCOLLUM.
H.R. 1354: Mr. GEJDENSON, Mr. MOLLOHAN, Mr. WEAVER, Mr. ROE, Mr. FAZIO, Mr. EVANS of Iowa, and Mr. GOODLING.
H.R. 1415: Mr. CLARKE, Mr. WISE, and Mr. HUCKABY.
H.R. 1576: Mr. ST GERMAIN.
H.R. 1657: Mr. KEMP.
H.R. 1955: Mr. MACK, Mr. ROBINSON, Ms. SNOWE, Mr. ANDREWS of Texas, Mr. HEFNER, and Mr. MARLENEE.
H.R. 1991: Mrs. HALL of Indiana and Mr. MCGRATH.
H.R. 2053: Mr. SKELTON.
H.R. 2817: Mr. WON PAT, Mr. MAVROULES, Mrs. LLOYD, and Mr. HUGHES.
H.R. 2959: Mr. FORSYTHE, Mr. RATCHFORD, Mr. BEILENSON, Mr. BOLAND, Mr. LEHMAN of Florida, and Mrs. HALL of Indiana.
H.R. 2977: Mr. STENHOLM and Mr. BILIRAKIS.
H.R. 3264: Mr. WAXMAN.
H.R. 3498: Mr. LANTOS and Mr. TORRES.
H.R. 3588: Mr. YATES, Mr. KINDNESS, Mr. HARRISON, Mr. OBERSTAR, Mr. CROCKETT, Mr. TALLON, Mr. LEHMAN of Florida, Mr. ROE, Ms. KAPTUR, Mr. KOGOVSEK, Mr. FRANK, Mr. DONNELLY, Ms. MIKULSKI, Mr. CORRADA, Mr. SOLARZ, Mr. DWYER of New Jersey, Mr. CONYERS, Mr. FAZIO, Mr. SMITH of New Jersey, Mr. GEKAS, Mr. DAUB, Mr. BROWN of California, Mr. OTTINGER, Mr. OWENS, Mr. SABO, Mr. SEIBERLING, Mr. SIMON, Mr. LELAND, Mr. HOWARD, Mr. MCGRATH, Mr. WHITEHURST, Mr. CONTE, Mr. TOWNS, Mr. LANTOS, Mr. WEAVER, Mr. BIAGGI, Mr. BERMAN, Mr. WILLIAMS of Montana, Mr. EARLY, Mr. VENTO, Mrs. KENNELLY, Mr. FORSYTHE, Mr. SUNIA, Mr. DELLUMS, Mr. WILSON, Mr. STUDDS, Mr. D'AMOURS, Mr. TORRICELLI, Mr. ASPIN, Mr. RODINO, Mr. MCHUGH, Mr. DYSON, Mr. HORTON, Mr. GOODLING, Mr. DANIEL, Mrs. JOHNSON, Mr. BORSKI, Mr. EVANS of Illinois, Mr. TAUKE, Mr. PENNY, Ms. FERRARO, Mrs. HALL of Indiana, and Mr. CLINGER.
H.R. 3791: Mr. SMITH of New Jersey and Mrs. BOXER.
H.R. 3792: Mr. SMITH of New Jersey and Mrs. BOXER.
H.R. 4070: Mr. DICKS, Mr. FISH, Mr. MORRISON of Washington, Mr. PATMAN, Mr. SIMON, and Mr. MCGRATH.
H.R. 4092: Mr. STENHOLM, Mr. MCCOLLUM, and Mrs. SCHNEIDER.
H.R. 4162: Mr. FRANKLIN, Mr. BADHAM, and Mr. BROWN of Colorado.
H.R. 4164: Mr. HANCE, Mr. CARR, Mr. ANDREWS of North Carolina, Mr. TRAXLER, Mr. YOUNG of Missouri, Mr. BOEHLERT, Mrs. BURTON of California, Mr. PATTERSON, Mr. DWYER of New Jersey, and Mr. SAVAGE.
H.R. 4187: Mr. WORTLEY, Mr. BRYANT, Mr. BATES, Mr. WEISS, Mr. LUNDINE, and Mr. PANETTA.
H.R. 4206: Ms. OAKAR and Mr. OTTINGER.
H.R. 4207: Mr. STOKES, Mr. PATMAN, Mr. RANGEL, Mrs. HALL of Indiana, Mr. WON PAT, Mrs. COLLINS, Mr. HAWKINS, and Mr. ECKART.
H.R. 4214: Mr. UDALL, Mr. MARLENEE, and Mr. SKEEN.
H.R. 4229: Mr. KRAMER and Mr. BOSCO.
H.R. 4317: Mr. NEAL.
H.R. 4324: Mr. ALBOSTA, Mr. AUCOIN, Mr. BATES, Mr. ECKART, Mr. HARRISON, Mr. HUGHES, Mr. MCGRATH, Mr. MCNULTY, Mr. PATMAN, Mr. WOLPE, and Mr. WYDEN.
H.R. 4340: Mr. COELHO.
H.J. Res. 103: Mr. OWENS.
H.J. Res. 205: Mr. BEVILL and Mr. YOUNG of Missouri.
H.J. Res. 322: Ms. MIKULSKI, Mr. MARTINEZ, Mr. MURPHY, Mr. KASTENMEIER, Mr. SABO, Mr. BLILEY, and Mr. GONZALEZ.
H.J. Res. 324: Mrs. JOHNSON, Mr. DANIEL, Mr. HEFNER, Mr. PICKLE, Mr. LUJAN, Mr. SABO, Mr. FEIGHAN, Mr. SYNAR, Mr. FIELDS, Mr. ZSCHAU, Mr. RUDD, Mr. MRAZEK, Mr. ACKERMAN, Mr. SILJANDER, Mr. COOPER, Mr. LEACH of Iowa, Mr. MCDADE, Mr. KILDEE, Mr. HANSEN of Utah, Mr. MARKEY, Mrs. COLLINS, Mr. MAVROULES, Mr. SKELTON, Mr. MOAKLEY, Mr. MURPHY, Mr. MARRIOTT, Mr. RODINO, Mr. PACKARD, Mr. ROEMER, Mr. SAVAGE, Mrs. SCHNEIDER, Mr. MARTIN of North Carolina, Mr. LIVINGSTON, Mr. RINALDO, Mr. JACOBS, Mr. GRADISON, Mr. ROBINSON, Mr. BATEMAN, Mr. MARTINEZ, Mrs. HALL of Indiana, Mr. PEPPER, Mr. CORCORAN, Mr. CROCKETT, Mr. CHAPPIE, Mr. DOWDY of Mississippi, Mr. DONNELLY, Mr. DURBIN, Mr. DYMALLY, Mr. GILMAN, Mr. CONTE, Mr. DASCHLE, Mr. ANNUNZIO, Mr. BEILENSON, Mr. FORD of Tennessee, Mr. GUNDERSON, Mr. SKEEN, Mr. CLAY, Mr. EDWARDS of Oklahoma, Mr. KAZEN, Mr. RAY, Mr. DANNEMEYER, Mr. DREIER of California, Mr. LOTT, Mr. LEWIS of Florida, Mr. REGULA, Mr. HARTNETT, Mr. NICHOLS, Mr. HYDE, Mr. ECKART, Mr. BILIRAKIS, Mr. SUNDQUIST, Mr. RIDGE, Mr. DANIEL B. CRANE, Mr. MARTIN of New York, Mr. DAUB, Mr. HARRISON, Mr. GRAY, Mr. HANCE, Mr. HAMMERSCHMIDT, Mr. BARTLETT, Mr. LOWERY of California, and Mr. ENGLISH.
H.J. Res. 382: Mr. ASPIN, Mr. BARNES, Mr. BEVILL, Mr. ECKART, Mr. ENGLISH, Mr. HUGHES, Mr. LEHMAN of California, Mr. OLIN, Mr. REID, Mr. RIDGE, Mr. SHELBY, and Mr. WOLPE.
H.J. Res. 384: Mr. RICHARDSON, Mr. WYDEN, Mr. RANGEL, Mr. BERMAN, Mr. EDGAR, and Mr. DELLUMS.
H.J. Res. 394: Mr. ALEXANDER, Mr. BARNARD, Mr. BENNETT, Mr. BEVILL, Mr. BOLAND, Mrs. BOGGS, Mr. CORRADA, Mr. DARDEN, Mr. EARLY, Mr. ERDREICH, Mr. FRANK, Mr. FUQUA, Mr. GEPHARDT, Mr. HAMILTON, Mr. HATCHER, Mrs. HOLT, Mr. HOYER, Mr. HUBBARD, Mr. HUCKABY, Mr. HUGHES, Mr. LEVIN of Michigan, Mr. LEVITAS, Mrs. LLOYD, Mr. LONG of Maryland, Mr. LUJAN, Mr. MICA, Mr. MOAKLEY, Mr. MOLLOHAN, Mr. NATCHER, Mr. PANETTA, Mr. PEPPER, Mr. PERKINS, Mr. ROBERTS, Mr. ROEMER, Mr. ROSE, Mr. ROYBAL, Mr. SKELTON, Mr. SUNIA, Mr. VOLKMER, Mr. WATKINS, Mr. WEISS, Mr. WHITTEN, Mr. YOUNG of Missouri, Mr. ZABLOCKI, Mr. AUCOIN, Mr. BONKER, Mrs. BOXER, Mr. DIXON, Ms. FERRARO, Mr. FOLEY, Mrs. HALL of Indiana, Mr. HAWKINS, Mr. JONES of North Carolina, Mr. LEVINE of California, Mr. LUKEN, Mr. MAZZOLI, Ms. MIKULSKI, Mr. MILLER of California, Mr. MORRISON of Connecticut, Mr. OBEY, Mrs. SCHROEDER, Mr. SEIBERLING, Mr. STOKES, Mr. TORRES, Mr. UDALL, Mr. WYDEN, Mr. DINGELL, and Ms. KAPTUR.
H.J. Res. 404: Mr. MCCOLLUM.
H. Con. Res. 146: Mr. CORCORAN.
H. Con. Res. 181: Mr. EDGAR and Mr. MCEWEN.
H. Con. Res. 196: Mr. YATRON.
H. Con. Res. 215: Mr. SMITH of Florida, Mr. RICHARDSON, Mr. PATMAN, Mr. HATCHER, Mr. RUDD, Mr. CHAPPELL, Mr. MCGRATH, Mr. MCCANDLESS, and Mr. JEFFORDS.
H. Res. 15: Mr. HAYES and Mr. QUILLEN.
H. Res. 278: Mr. KINDNESS and Mr. MCGRATH.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4170

By Mr. FROST:

—Beginning on page 586, line 1, through page 612, line 25, strike all of subtitle B and insert the following:

Subtitle B—Private Activity Bonds

SEC. 721. TAX EXEMPTION DENIED WHERE OBLIGATION DIRECTLY OR INDIRECTLY GUARANTEED BY FEDERAL GOVERNMENT.

Subsection (h) of section 103 (relating to certain obligations must not be guaranteed or subsidized under an energy program) is amended to read as follows:

"(h) OBLIGATION MUST NOT BE GUARANTEED, ETC.—

"(1) IN GENERAL.—An obligation shall not be treated as an obligation described in subsection (a) if such obligation is federally guaranteed.

"(2) FEDERALLY GUARANTEED DEFINED.—For purposes of paragraph (1), an obligation is federally guaranteed if—

"(A) the payment of principal or interest with respect to such obligation is guaranteed (in whole or in part) by the United States (or any agency or instrumentality thereof),

"(B) such obligation is issued as part of an issue and a significant portion of the proceeds of such issue are to be used in making loans the payment of principal or interest with respect to which are to be guaranteed (in whole or in part) by the United States (or any agency or instrumentality thereof),

"(C) such obligation is issued as part of an issue with respect to which a significant portion of the principal or interest required to be paid on the issue is to be insured (directly or indirectly) by a Federal depository insurance agency as a result of the investment of the proceeds of the issue in deposits or accounts in a federally insured financial institution, or

"(D) the payment of principal or interest on such obligation is otherwise indirectly guaranteed (in whole or in part) by the United States or an agency or instrumentality thereof.

"(3) EXCEPTIONS.—

"(A) CERTAIN INSURANCE PROGRAMS.—An obligation shall not be treated as federally guaranteed by reason of—

"(i) any guarantee by the Federal Housing Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, the Farmers Home Administration, the Veterans' Administration, or the Small Business Administration, or

"(ii) any guarantee of student loans, or

"(iii) any housing assistance payments or payments under any annual contributions contract by the Department of Housing and Urban Development.

"(B) DEBT SERVICE, ETC.—Paragraph (1) shall not apply to—

"(i) proceeds of the issue invested for an initial temporary period until such proceeds are needed for the purpose for which such issue was issued,

"(ii) investments related to debt service,

"(iii) investments of a reserve which meet the requirements of subsection (c)(4)(B), or

"(iv) other investments permitted under regulations.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) TREATMENT OF CERTAIN ENTITIES WITH AUTHORITY TO BORROW FROM UNITED STATES.—Any entity with statutory authority to borrow from the United States shall be treated as an instrumentality of the United States; provided, however, that any entity described in clauses (i), (ii), or (iii) of subparagraph (B) shall not be treated as an instrumentality of the United States.

"(B) FEDERALLY INSURED FINANCIAL INSTITUTION.—The term 'federally insured financial institution' means—

"(i) a bank (as defined in section 581),

"(ii) a mutual savings bank, cooperative bank, domestic building and loan association, or other savings institution, or

"(iii) a credit union,

the deposits or accounts in which are insured under Federal law.

"(C) AGENCY OR INSTRUMENTALITY.—The term 'agency' or 'instrumentality' shall not be construed to include the District of Columbia.

"(5) CERTAIN OBLIGATIONS SUBSIDIZED UNDER ENERGY PROGRAM.—

"(A) IN GENERAL.—An obligation to which this paragraph applies shall be treated as an obligation not described in subsection (a) if the payment of the principal or interest with respect to such obligation is to be made (in whole or in part) under a program of the United States, a State, or a political subdivision of a State the principal purpose of which is to encourage the production or conservation of energy.

"(B) OBLIGATIONS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any obligations to which paragraph (1) of subsection (b) does not apply by reason of—

"(i) subsection (b)(4)(H) (relating to qualified hydroelectric generating facilities), or

"(ii) subsection (g) (relating to qualified steam "generating or alcohol" producing facilities).

SEC. 722. ACQUISITIONS OF CERTAIN FACILITIES NOT PERMITTED.

USE OF TAX-EXEMPT BONDS PROHIBITED FOR SKYBOXES, AIRPLANES, GAMBLING ESTABLISHMENTS, ETC.—Subsection (b) of section 103 (relating to industrial development bonds) is amended by adding at the end thereof the following new paragraph:

"(15) NO PORTION OF BONDS MAY BE ISSUED FOR SKYBOXES, AIRPLANES, GAMBLING ESTABLISHMENTS, ETC.—Paragraphs (4), (5), (6), and (7) shall not apply to any obligation issued as part of an issue if any portion of the proceeds of such issue is to be used to provide any airlane, skybox or other private luxury box, any facility primarily used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises."

SEC. 723. MISCELLANEOUS INDUSTRIAL DEVELOPMENT BOND PROVISIONS.

(a) EXPANSION OF TAX-EXEMPT BOND FINANCED PROPERTY REQUIRED TO BE DEPRECIATED ON STRAIGHT-LINE BASIS.—

(1) IN GENERAL.—Subparagraph (C) of section 168(f)(12) (relating to limitations on property financed with tax-exempt bonds) is amended to read as follows:

"(C) EXCEPTION FOR PROJECTS FOR RESIDENTIAL RENTAL PROPERTY.—Subparagraph (A) shall not apply to any recovery property which is placed in service in connection with projects for residential rental property financed by the proceeds of obligations described in section 103(b)(4)(A)."

(2) CONFORMING AMENDMENT.—Paragraph (12) of section 168(f) is amended by striking out subparagraph (D) and by redesignating subparagraph (E) as subparagraph (D).

(b) AGGREGATION OF ISSUES FOR SINGLE PROJECT.—Paragraph (6) of section 103(b) (relating to exemption for small issues) is amended by adding at the end thereof the following new subparagraph:

"(P) AGGREGATION OF ISSUES WITH RESPECT TO SINGLE PROJECT.—For purposes of this paragraph, 2 or more issues part or all of which are to be used with respect to a single building, an enclosed shopping mall, or a strip of offices, stores, or residences using substantial common facilities shall be treated as 1 issue (and any person who is a principal user with respect to any of such issues shall be treated as a principal user with respect to the aggregated issue)."

(c) DEFINITION OF RELATED PERSONS IN THE CASE OF PARTNERSHIPS.—Paragraph (13) of section 103(b) (relating to exception where bond held by substantial user) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, a partnership and each of its partners shall be treated as related persons."

(d) RESIDENTIAL RENTAL PROPERTY MAY BE IN MIXED USE STRUCTURE.—Paragraph (4) of section 103(b) (relating to certain exempt activities) is amended by adding at the end thereof the following new sentence: "For purposes of subparagaph (A), any property shall not be treated as failing to be residential rental property merely because part of the building in which such property is located is used for purposes other than residential rental purposes."

(e) INCREASE IN AMOUNT OF CAPITAL EXPENDITURES NOT TAKEN INTO ACCOUNT WHERE THERE IS URBAN DEVELOPMENT ACTION GRANT.—Subparagraph (I) of section 103(b)(6) (relating to aggregate amount of capital expenditures where there is urban development action grant) is amended—

(1) by striking out "$10,000,000" and inserting in lieu thereof "$15,000,000", and

(2) by adding at the end thereof the following new sentence: "This subparagraph shall not apply unless the amount of the urban development action grant equals or exceeds 5 percent of the total capital expenditures on the facilities with respect to which the action grant has been made."

(f) PUBLIC APPROVAL REQUIREMENT IN THE CASE OF PUBLIC AIRPORT.—If—

(1) the proceeds of any issue are to be used to finance a facility or facilities located on a public airport, and

(2) the governmental unit issuing such obligations is the owner or operator of such airport,

such governmental unit shall be deemed to be the only governmental unit having jurisdiction over such airport for purposes of subsection (k) of section 103 of the Internal Revenue Code of 1954 (relating to public approval for industrial development bonds).

724. EFFECTIVE DATES.

(a) EXPANSION OF PROPERTY FINANCED WITH TAX-EXEMPT BONDS REQUIRED TO BE DEPRECIATED ON STRAIGHT-LINE BASIS.—

(1) IN GENERAL.—Except as otherwise provided in this section, the amendment made by section 723(a) shall apply to property placed in service after December 31, 1983, to the extent such property is financed by the proceeds of an obligation (including a refunding obligation) issued after October 18, 1983.

(2) EXCEPTIONS.—

(A) CONSTRUCTION OR BINDING AGREEMENT.—The amendments made by section 723(a) shall not apply with respect to facilities the original use of which commences with the taxpayer and—

(i) the construction, reconstruction, or rehabilitation of which began before October 19, 1983, or

(ii) with respect to which a binding contract to incur significant expenditures was entered into before October 19, 1983.

(B) REFUNDING.—

(i) IN GENERAL.—Except as provided in clause (ii), in the case of property placed in service after December 31, 1983, which is financed by the proceeds of an obligation which is issued solely to refund another obligation which was issued before October 19, 1983, the amendments made by section 723(a) shall apply only with respect to the basis in such property which has not been recovered before the date such refunded obligation is issued.

(ii) SIGNIFICANT EXPENDITURES.—In the case of facilities the original use of which commences with the taxpayer and with respect to which significant expenditures are made before January 1, 1984, the amendments made by section 723 shall not apply with respect to such facilities to the extent such facilities are financed by the proceeds of an obligation issued solely to refund another obligation which was issued before October 19, 1983.

(C) FACILITIES.—In the case of an inducement resolution or other comparable preliminary approval adopted by an issuing authority before October 19, 1983, for purposes of applying subparagraphs (A)(i) and (B)(ii) with respect to obligations described in such resolution, the term "facilities" means the facilities described in such resolution.

(b) OTHER PROVISIONS RELATING TO TAX-EXEMPT BONDS.—

(1) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this subtitle shall apply to obligations issued after December 31, 1983.

(2) OBLIGATIONS INVESTED IN FEDERALLY INSURED DEPOSITS.—Section 103(h)(2)(C) of the Internal Revenue Code of 1954 (as amended by this subtitle) shall apply to obligations issued after April 14, 1983.

(3) EXCEPTIONS.—

(A) CONSTRUCTION OR BINDING AGREEMENT.—The amendments made by this subtitle shall not apply to obligations with respect to facilities the original use of which commences with the taxpayer and—

(i) the construction, reconstruction, or rehabilitation of which began before October 19, 1983, or

(ii) with respect to which a binding contract to incur significant expenditures was entered into before October 19, 1983.

(B) FACILITIES.—Subparagraph (C) of subsection (a)(2)(A) shall apply for purposes of subparagraph (A) of this paragraph.

(c) PROVISIONS OF THIS SUBTITLE NOT TO APPLY TO CERTAIN PROPERTY.—The amendments made by this subtitle shall not apply to any property (and shall not apply to obligations issued to finance such property) if such property is described in any of the following paragraphs:

(1) Any property described in paragraph (5), (6), or (7) of section 102(g) of this Act.

(2) Any property described in paragraph (3) of section 216(b) of the Tax Equity and Fiscal Responsibility Act of 1982.

(3) Any solid waste disposal facility described in section 103(b)(4)(E) of the Internal Revenue Code of 1954 if—

(A) a State agency created on June 18, 1973, took formal action before October 19,

1983, to commit development funds for such facility,

(B) such agency issues obligations for such facility before January 1, 1987, and

(C) expenditures have been made for the development of such facility before October 19, 1983.

(d) DETERMINATION OF SIGNIFICANT EXPENDITURE.—

(1) IN GENERAL.—For purposes of this section, the term "significant expenditures" means expenditures which equal or exceed the lesser of—

(A) $15,000,000, or

(B) 20 percent of the estimated cost of the facilities.

(2) CERTAIN GRANTS TREATED AS EXPENDITURES.—For purposes of paragraph (1), the amount of any UDAG grant preliminarily approved on April 4, 1983, shall be treated as an expenditure with respect to the facility for which such grant was so approved.