A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. KIRK. Mr. Speaker, today, I missed 2 votes. Had I been present, I would have voted the following way:

Yes on rollcall Vote No. 490, On ordering the previous question providing for consideration of S. 878, to authorize an additional permanent judgeship in the district of Idaho, and for other purposes.

Yes on rollcall Vote No. 491, On agreeing to H. Res. 814, providing for consideration of S. 878, to authorize an additional permanent judgeship in the district of Idaho, and for other purposes.

Mr. MCGOVERN. Mr. Speaker, I was unavoidably detained for rollcall votes numbers 487, 488, 489, 490, and 491. If I was present, I would have voted:

''Aye'' on rollcall No. 487; ''aye'' on rollcall No. 488; ''aye'' on rollcall No. 489; ''nay'' on rollcall No. 490; and ''nay'' on rollcall No. 491.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 5122. An act to amend the Congressional Accountability Act of 1995 to permit members of the Board of Directors of the Office of Compliance to serve for 2 terms.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 1047) ''An Act to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, to make other technical amendments to the trade laws, and for other purposes,'' agrees to a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. GRASSLEY, Mr. FRIST, and Mr. BAUCUS, to be the conferees on the part of the Senate.

The message also announced that in accordance with the return of the papers to the Senate providing for technical corrections, said corrections having been made, the Secretary be directed to return to the House (H.R. 4567) ''An Act making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes.''

The message also announced that pursuant to section 104(c)(1) of Public Law 108–199, the Chair, on behalf of the Majority Leader and Democratic Leader of the Senate, and the Speaker of the House and Minority Leader of the House, announces the joint appointment of the following individual to serve as Chairman of the Commission on the Abraham Lincoln Study Abroad Fellowship Program:

Peter McPherson.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 878.

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

There was no objection.

CREATING ADDITIONAL FEDERAL COURT JUDGESHIPS

The SPEAKER pro tempore. Pursuant to House Resolution 814 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the Senate bill, S. 878.

□ 1120

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the Senate bill (S. 878) to authorize an additional permanent judgeship in the district of Idaho, and for other purposes, with Mr. LAHOOD in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from California (Mr. BERMAN) each will control 30 minutes.

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

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

Mr. Chairman, the Judicial Conference of the United States reviews the judgeship needs of United States courts every 2 years to determine if any of the courts need additional judges. The Conference completed its last review in March of 2003, and then submitted its recommendations to the House and Senate Committees on the Judiciary. I am pleased that the bill as reported by the Committee mirrors that recommendation. Thus, these are judgeships being created based upon demonstrated need and not upon politics.

The Judicial Conference bases its recommendations on a variety of factors that indicate the needs of various courts. Most importantly, it sets a benchmark caseload standard for considering judgeship requests at 430 weighted cases for individual judges on the district courts and 500 adjusted case filings for the three-judge panels on the courts of appeal. Aside from the numbers, it also considers additional criteria, including senior judge and magistrate judge assistance, geographical factors, unusual caseload complexity, and temporary caseload increases or decreases.

Based on these criteria, the Conference's current proposal recommends that Congress establish 11 new judgeships in four courts of appeal and 46 new judgeships in 24 district courts. The Conference also recommends that five temporary district court judgeships created in 1990 be established as permanent positions. Many of these needs have existed for many years.

The other body passed Senate 878 on May 22, 2003. The Senate bill created 12 permanent district judgeships, two temporary district judgeships, and a number of bankruptcy judgeships. This version of S. 878 also converted two temporary district judgeships to permanent status.

During our September 9 markup on the legislation, the Committee on the Judiciary revised the bill in two major ways.

First, we added all the circuit and district judgeships recommended by the U.S. Judicial Conference that were not included in the Senate bill. This brings the total number of new judgeships in the bill to 58, 11 circuit court seats and 47 district court seats. In addition, four other temporary district judgeships are converted to permanent judgeships.

The Subcommittee on Courts, the Internet, and Intellectual Property conducted an oversight hearing on Federal judgeship needs last year, and we are satisfied as a committee that the submissions developed by the Judicial Conference are meritorious. I emphasize that all the judgeships in the bill before the House could more than satisfy the threshold requirements developed by the Judicial Conference.

Second, all of the bankruptcy judgeships set forth in S. 878 as passed by the other body were stricken. These will be dealt with in the context of the bankruptcy reform legislation which the House has passed and which is currently pending before the other body.

Mr. Speaker, whatever our occasional differences with the third branch, it is our responsibility to ensure that our Federal courts have the resources necessary to allow citizens to seek legal redress in civil disputes and to permit the prosecution of criminal offenses when appropriate. This is a basic function of government.

I urge the Members to support the underlying text of S. 878, as well as the amendment that I will shortly offer to ensure that this bill does not run afoul of the Budget Act, based on the CBO score that accompanies this bill.

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

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

Mr. Chairman, I rise in conditional opposition to S. 878. The reason I would oppose this bill is if the amendment offered by the gentleman from Idaho is passed by this body.

I firmly believe we should pass a judgeship bill, and I supported it, Senate bill 878, as it was reported out by the House Committee on the Judiciary. The reported bill created all new Article 3 judgeships requested by the Administrative Office of the U.S. Courts. As a result, it would provide critical assistance to many Federal district